



UNITED STATES DEPARTMENT OF EDUCATION

THE SECRETARY

In the Matter of

**BETH JACOB HEBREW
TEACHERS COLLEGE**

Respondent.

Docket No. 96-77-SP
Student Financial
Assistance Proceedings
PRCN: 199620212347

DECISION OF THE SECRETARY

Background

Beth Jacob Hebrew Teacher's College, (Beth Jacob), is a not-for-profit institution established in 1956. In 1979, in an effort to provide educational services for the increasing number of Russian immigrants, Beth Jacob created its Jewish Culture Program. The purpose of the program was to facilitate the acculturation of Russian immigrants into various orthodox Jewish communities.

Procedure & Issue

On July 9, 1996, Judge O'Hair rendered his decision in In re Beth Jacob Hebrew Teachers College, Docket Nos. 94-43-ST and 94-80-ST, finding: 1) Beth Jacob is properly accredited by a nationally recognized accrediting agency; 2) Beth Jacob's Religious Education Program prepares students for gainful employment in a recognized occupation; 3) Beth Jacob's Jewish Culture Program does not prepare students for gainful employment in a recognized occupation; and 4) Beth Jacob may participate in the student financial assistance programs authorized under Title IV of the Higher Education Act and should not be terminated. On August 12, 1996, these findings became the final decision of the Department. The only remaining issue was whether or not Beth Jacob must repay the U.S. Department of Education (Department) the Pell Grant funds disbursed for students participating in the ineligible Jewish Culture Program.

On March 17, 1997, Judge Slippen issued an Initial Decision on the issue of liability, ordering Respondent to repay all Pell Grant funds disbursed during the review period. In response to this decision, Respondent appealed to the Secretary. On February 27, 1998, Judge Slippen's decision was remanded for further consideration. On July 10, 1998, Judge Slippen issued a Remand Decision, clarifying and affirming his Initial Decision.

Rule of Law & Respondent's Argument

The applicable statutes provide in pertinent part that:

Postsecondary vocational institution. For the purpose of this section, the term 'postsecondary vocational institution' means a school (1) which provides an eligible program of training to prepare students for gainful employment in a recognized occupation....
20 U.S.C. § 1088(c)(1997)

The term "institution of higher education" means an educational institution in any State which ... provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation....
20 U.S.C. § 1141(a) (1997)

The applicable regulation, 34 C.F.R. § 600.2 provides that a recognized occupation is defined as:

[A]n occupation that is: (1) Listed in an 'occupational division' of the latest edition of the Dictionary of Occupational Titles, published by the U.S. Department of Labor; or (2) Determined by the Secretary in consultation with the Secretary of Labor to be a recognized occupation.

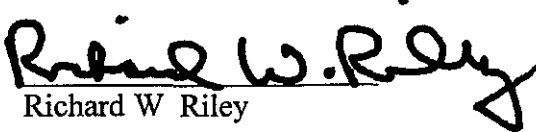
On appeal, Respondent argues that 20 U.S.C. §§ 1088(c) and 1141(a) require an eligible program to generally prepare students for gainful employment, without compelling the program's training to prepare students for employment in a specific occupation. Beth Jacob's Appeal Brief to the Secretary, p.22. Respondent further contends that these statutes have been newly interpreted to include a specificity requirement and that this new requirement was retroactively applied in the instant case. Therefore, Respondent asserts that it may not be held liable for the Pell Grants disbursed under its Jewish Culture Program.

Findings

Under the authority of 20 U.S.C. §§ 1088(c), 1141(a), and the definition provided in 34 C.F.R. § 600.2, an eligible institution must provide training in a specifically identifiable occupation. An eligible program may not merely provide training that may generally improve the employability of its students. *See Sara Schenirer Teachers Seminary*, Docket. No. 94-49-ST (June 21, 1995), *aff'd* (Sept. 14, 1995). Although Respondent presented plausible arguments, to affirm its position could compromise the integrity of federally funded vocational education. Therefore, I agree that Respondent's Jewish Culture Program does not meet the standard of an eligible vocational program. The specific facts of this case, however, do not warrant the imposition of financial liability.

Therefore, in accordance with my discretionary authority, I hereby reverse the finding of financial liability and impose a *fine* in the amount of \$50,000.00

Washington, DC
October 13, 1998


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Richard I. Slippen
Administrative Judge
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