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# MEMORANDUM

UNITED STATES DEPARTMENT OF EDUCATION  
WASHINGTON, D.C. 20202

TO : Regional Civil Rights Directors  
Regions I - X

DATE: AUG 2 1965

FROM: ~~HW~~ Harry M. Singleton  
Assistant Secretary  
for Civil Rights

SUBJECT: Title IX Religious Exemptions

During the past several weeks, the Office for Civil Rights (OCR) has had formal and informal contacts with representatives of rabbinic institutions regarding OCR's requests for information involving religious tenets. The result of these contacts is a clarification of policy that may affect the religious exemption requests of institutions in your region.

Representatives of rabbinic institutions that filed for Title IX religious exemptions have indicated their belief that a request for religious tenets is a violation of the First Amendment. To avoid possible constitutional entanglements and expedite OCR's processing of these requests, OCR has clarified its policy to allow institutions to submit a statement of institution practices, as based on religious tenets, as sufficient for processing a request where information regarding the controlling organization and sections of the regulation is also provided.

Based on conversations with rabbinic institution representatives, it is not clear whether all institutions that may be affected by this policy clarification are controlled by the organizations that have been informed of this policy. Therefore, I am instructing you to send the attached letter to those institutions that are controlled by Jewish organizations and other institutions that refuse to provide religious tenets, and that have not provided sufficient information for processing their requests. You should attach to this letter a copy of the letter sent on July 19 to Rabbi Morris Sherer of Agudath Israel of America (copy attached). You should expedite the mailing of letters in order to meet the August 19 deadline for submitting religious exemption cases to headquarters. If you require an extension of this deadline, submit an extension request to Frederick T. Cioffi, Acting Director, Policy and Enforcement Service.

Attachments

Dear President \_\_\_\_\_:

The Office for Civil Rights (OCR) of the Department of Education recently forwarded a request for information to [institution name] and several rabbinic and other institutions. This request is part of OCR's effort to resolve a number of pending requests for religious exemption from Title IX of the Education Amendments of 1972.

In response to these requests, OCR received a letter dated April 16 from Agudath Israel of America (AIA) indicating its position that a request for religious tenets is constitutionally impermissible under the First Amendment of the United States Constitution. OCR recently responded to AIA outlining our responsibilities in granting religious exemptions under Title IX. Since OCR's position may affect your request for exemption, a copy of this letter is enclosed for your reference.

OCR recognizes the constitutional concerns in providing OCR with a description of religious tenets. If your institution is still interested in receiving a religious exemption, then we recommend that you submit a statement regarding religious tenets or institution practices that are based on religious tenets which you believe conflict with the regulation. This will enable OCR to act on your request by confirming that the correct sections of the Title IX regulation have been cited in your request letter. For example, a statement such as - based on our religious tenets, the institution admits only men - enables OCR to confirm that an exemption to 34 C.F.R. §§ 106.21, 106.22 and 106.23 regarding admissions and recruitment is necessary. Also, a statement indicating, for example, that based on religious tenets, only men are permitted to teach certain courses, enables OCR to take action on those sections of the Title IX regulation regarding employment that may be specified in your request letter. Without information regarding institution practices to confirm that the sections of the regulation cited in your request letter are accurate, any exemption granted by OCR would have little practical impact. OCR would be required to investigate any complaint filed against your institution, to the extent that your institution receives Federal financial assistance, if we cannot determine the accuracy of the exemption requested or subsequently granted.

I hope this letter and the enclosed copy of the letter to AIA clarify OCR's intent in issuing the information request and OCR's responsibilities in granting religious exemptions. If you have any questions, please feel free to contact me at [phone number].

Sincerely,

[Regional Director's Name]  
Regional Civil Rights Director  
Office for Civil Rights  
Region [Number]

Enclosure



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF THE ASSISTANT SECRETARY FOR CIVIL RIGHTS

JUL 19 1985

Rabbi Morris Sherer  
President  
Agudath Israel of America  
Five Beekman Street  
New York, New York 10038

Dear Rabbi Sherer:

Thank you for your letters of April 16 and July 3 informing the Office for Civil Rights (OCR) of your position regarding OCR's recent requests for information that were sent to several rabbinic institutions. These requests for information are part of OCR's effort to resolve a backlog of requests for religious exemption from Title IX of the Education Amendments of 1972.

Your understanding of OCR's position, as stated in your July 3 letter, is correct. OCR will accept a statement of institution practices, as based on religious tenets, and as believed by the institution to conflict with specified sections of the Title IX regulation, as sufficient information for OCR to process a religious exemption request where information identifying the religious organization is also included. OCR is accepting an institution's statement of tenets or practices and information regarding the controlling religious organization as fact. The following should further clarify OCR's position.

OCR has received over 200 requests for religious exemption from Title IX. Over half of those requests did not supply sufficient information for OCR to make a determination regarding an exemption. A model letter was drafted to address these many religious exemption requests containing insufficient information and this letter was sent to several rabbinic and other institutions to expedite the processing of these backlogged requests.

OCR's responsibilities in granting religious exemptions include clarifying whether an institution has cited the correct sections of the Title IX regulation in its request letter. OCR has no intention of reviewing the legitimacy of tenets of any religious organization or determining how such tenets are best practiced in an institution's education program. You are correct in your understanding that OCR will not probe into the nature and doctrinal source of the underlying religious tenets.

In your letter of April 16, you indicated that the rabbinic schools "limit admission to male students." This brief statement is more information than was provided in the original form letter requests for religious exemption forwarded by the rabbinic schools. However, this short statement provides important information to OCR in acting on an exemption request. For example,

Limiting admissions to men only based on religious tenets clarifies for OCR that an exemption is needed to 34 C.F.R. §§ 106.21, 106.22, and 106.23 regarding admissions and recruitment. Granting an exemption to §§ 106.21, 106.22 and 106.23 precludes the necessity for an exemption to § 106.31 (education programs and activities), § 106.32 (housing), or § 106.34 (access to courses). These three sections, in addition to the admissions and recruitment provisions, were specified in the form letter requests for exemption from the rabbinic schools.

I appreciate your concerns regarding constitutional entanglements in providing OCR with a description of religious tenets. Since your letters indicate that the rabbinic schools are still interested in receiving religious exemptions, I recommend that these schools submit a statement regarding institution practices that are based on religious tenets and that they believe conflict with the regulation. This would uphold the institutions' desire to ensure their rights under the First Amendment, enable OCR to meet its responsibilities in confirming that the correct sections of the regulation have been identified in the religious exemption request letters, and expedite OCR's processing of these requests. The language that you have suggested in your letter of July 3, that:

Our religious tenets require us to admit only male students to our education programs and to hire only male teachers for our educational programs. Accordingly, we seek exemption from the following regulations: . . .

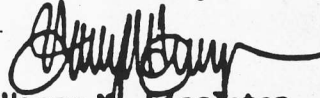
is sufficient. This language enables OCR to confirm that an exemption to 34 C.F.R. §§ 106.21, 106.22 and 106.23 regarding admissions and recruitment is necessary and, additionally, that an exemption to the several employment sections of the Title IX regulation cited in the religious exemption request letters from the rabbinic schools also is necessary. If OCR does not receive information regarding institution practices to confirm that the 13 sections of the regulation cited in the form letter requests for exemption are accurate, any exemption granted by OCR would have little practical impact. OCR would be required to investigate any complaint filed against an institution if OCR cannot determine the accuracy of the exemption requested or subsequently granted.

It is difficult to determine, based on your letters, why the rabbinic schools originally requested exemption from §§ 106.31, 106.32 or 106.34. However, I wish to clarify that if an institution presently admits or contemplates in the future admitting women on a limited basis to some programs or use institution housing on a limited basis (Title IX permits separate housing on the basis of sex), then the institution may wish to request exemption to these sections of the regulation. Otherwise, as noted above, if admissions to all programs are limited to men, then an exemption to the admissions and recruitment provisions precludes the need for exemption to §§ 106.31, 106.32 and 106.34.

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I hope this clarifies our intent in issuing these information requests and OCR's responsibilities in granting religious exemptions. If you have any questions, please feel free to contact Frederick Cioffi of my staff at 202-732-1635.

Sincerely,



Harry M. Singleton  
Assistant Secretary  
for Civil Rights

cc: Stanley Seidenfeld, Acting Regional Civil Rights Director, Region II  
Dewey E. Dodds, Regional Civil Rights Director, Region III  
Linda A. McGovern, Acting Regional Civil Rights Director, Region V  
Jesse L. High, Regional Civil Rights Director, Region VII  
Gilbert D. Roman, Regional Civil Rights Director, Region VIII