



Yeshiva University

RELATIONS AT YESHIVA UNIVERSITY

DEPARTMENT OF PUBLIC RELATIONS

500 WEST 185TH STREET, NEW YORK, NEW YORK 10033-3201 • (212) 960-5285 FAX (212) 960-0043

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Dear Colleague:

I attach for your information a fact sheet that has been prepared to answer some of the questions that are most commonly asked about the gay student clubs at several of the University's graduate schools. Please feel free to share it with other colleagues and friends as you deem appropriate.

Very truly yours,

David M. Rosen
Director

FACTS ABOUT GAY STUDENT ORGANIZATIONS AT YESHIVA UNIVERSITY

1. I've read that there are "gay student clubs" at some of Yeshiva University's graduate schools. Is this true?

Yes. A handful of students at two graduate schools have formed organizations -- sometimes referred to as "clubs" -- to discuss issues of concern to the gay community.

2. Which schools have these clubs? How many students are involved? What do they do?

Gay student clubs exist at Benjamin N. Cardozo School of Law and Albert Einstein College of Medicine. Informal groups with similar interests have met sporadically at Wurzweiler School of Social Work and Ferkauf Graduate School of Psychology. The student bodies of these graduate-level, professional schools are co-educational and diverse ethnically, religiously, and racially. Altogether about three dozen out of YU's 5,000 students are involved. Their activities generally involve informational and educational meetings. They do not proselytize. These groups have existed for years but went largely unnoticed prior to the recent spate of distorted media reports.

3. Do gay clubs exist at any of YU's undergraduate colleges and Jewish studies schools? Are the students in these programs affected by the gay clubs?

There are no gay clubs at any of YU's undergraduate schools, at its graduate schools in Jewish studies and Jewish education, or at its affiliated Rabbi Isaac Elchanan Theological Seminary. Students at these schools are not affected in any way by the gay clubs.

4. Given the strong prohibition against homosexual behavior in Jewish law, why does YU permit gay groups on campus?

Yeshiva University is subject to the human rights ordinance of the City of New York, which provides protected status to homosexuals. Under this law, YU cannot ban gay student clubs. It must make facilities available to them in the same manner as it does for other student groups. (See questions 9, 10, and 11 for further discussion of ordinance.) In addition, the accreditation rules that apply to certain graduate schools prohibit discrimination based on sexual preference.

5. Does the fact that gay student clubs exist on the YU campus mean that the University endorses homosexual behavior or gay clubs?

No. The New York City ordinance states explicitly that institutions acting in compliance with the law are not thereby endorsing homosexual behavior or organizations involved with gay issues; Yeshiva University emphatically does not do either. Also, strictly speaking, the University administration does not officially recognize or approve any student club; this is done by elected student governments.

6. Has President Lamm expressed his views on homosexuality and gay student clubs?

Yes, on a number of occasions. In an article in the 1974 Encyclopedia Judaica Yearbook titled "Judaism and the Modern Attitude to Homosexuality," Dr. Lamm said, in part: "Judaism does not accept the kind of thoroughgoing relativism used to justify the gay life as merely an alternative life-style... Under no circumstances can Judaism suffer homosexuality to become respectable. Clearly, while Judaism needs no defense or apology in regard to its esteem for

neighborly love and compassion for the individual sufferer, it cannot possibly abide a wholesale dismissal of its most basic moral principles on the grounds that those subject to its judgments find them repressive..." The article, the full text of which is available upon request, expresses Dr. Lamm's considered repudiation of homosexual conduct as utterly immoral and his belief that as individuals, homosexuals should be treated with dignity and compassion. He has reaffirmed these views on a number of recent occasions.

In addition, during this past year, Dr. Lamm has released to several newspapers a statement saying: "As an Orthodox Jew, I cannot and do not condone homosexual behavior, which is expressly prohibited by Jewish law. But as president of a nondenominational institution that must accommodate people who reflect a wide range of backgrounds and beliefs, it is my duty to assure that the policies and procedures of Yeshiva University conform to the applicable provisions of secular law, even in the rare instances in which these may offend my own religious beliefs and personal convictions."

7. Does Yeshiva University provide any direct financial support for the gay clubs?

No. As required by law, YU provides access to facilities such as meeting rooms. It does not appropriate a single penny of University funds to support gay clubs. The clubs may be eligible to receive small appropriations from the student governments of their respective schools, which generally amount to several hundred dollars per year. The money for such appropriations comes from student activity fees that appear as discrete items on student term bills. Once collected by the University on behalf of student governments, student activity fees are turned over in a lump sum to duly constituted student government groups. These groups, and not the University, determine how to spend the money. Thus, these are student funds and not University funds.

8. Isn't the distinction between student activity fees and University funds just a matter of semantics?

No. Courts have recognized the distinction a number of times, most recently in the 1995 U.S. Supreme Court decision in *Rosenberger v. Rectors and Visitors of University of Virginia*.

9. I am told that the New York City Human Rights Law may exempt religious and religiously-controlled institutions from the requirement that homosexuals be afforded equal treatment. If this is true, why doesn't YU seek such an exemption and ban the gay clubs?

The statute provides a religious exemption that may apply under certain circumstances. YU's General Counsel and Weil Gotshal & Manges, special counsel engaged to review this issue, have conducted an exhaustive review of the ordinance and applicable case law. They have concluded that the University could not use this provision to ban the clubs, and no credible legal argument to the contrary has been presented. The attorneys firmly believe that YU would not qualify for a religious exemption, based on its charter and its actions over the course of decades, including representations that have been made concerning the University's legal status as a nondenominational institution. In addition, the ordinance states that in order to receive an exemption permitting discrimination against members of a protected group, the discrimination or preference asserted must be "calculated to promote the religious principles" for which a particular organization is established or maintained. In an analogous case in Washington, D.C., the U.S. Court of Appeals determined that Georgetown University (which, unlike YU, is legally

organized as a religious institution) must permit gay clubs despite the Catholic Church's opposition to homosexuality. Merely permitting the clubs to exist does not constitute an endorsement of homosexual behavior, the Court found, and therefore does not undermine the Church's religious beliefs. Thus, even if YU was a religious or religiously-controlled institution under the law, it is highly improbable that it could ban gay clubs.

10. Even if the chances of obtaining a religious exemption are remote, why not request one anyway? What do you have to lose?

A. There is no simple way to obtain an exemption or even an advisory opinion concerning eligibility for an exemption. If the University were to assert an exemption and ban gay clubs, this would almost certainly result in protracted litigation and ugly demonstrations involving supporters and opponents of gay rights from the New York City area and possibly the nation at large. The normal day-to-day activities of the University would be disrupted, and regardless of the outcome, the confrontation would be harmful and destabilizing to the institution. Seeking an exemption on religious grounds could also trigger action by government agencies and other organizations, including possible suspension of state funding, as well as inquiries from accrediting bodies. Given these risks, and the remote possibility of success, seeking an exemption would be imprudent and destructive.

11. Some critics have alleged that by retaining nondenominational university status rather than claiming status as a religious institution, and seeking to ban gay clubs, YU has "sold out" its moral principles for money. Is this true?

No, the allegation is false. YU has not, by virtue of any of its actions, abandoned moral principles on the issue of homosexuality. As noted previously, YU does not approve of homosexual conduct and does not endorse or directly fund gay clubs. Its policy in regard to the gay clubs is to do what the law requires -- no more and no less. And there is no Halakhic imperative that requires the University to violate the city law.

12. What is the relationship between Yeshiva University and Rabbi Isaac Elchanan Theological Seminary, and how do they contribute to the Jewish and general communities? RIETS is the religious, Torah affiliate of YU. Each entity has its own charter. The relationship forged between YU and RIETS over the years has been mutually advantageous. Each side of the house has grown and flourished. The many thousand alumni of YU and RIETS have made and continue to make invaluable contributions to the rabbinate, Jewish education, and Jewish scholarship, as well as to the arts, sciences, and professions. Torah learning today is at an all time high in terms of the number and quality of students and the level of faculty scholarship. And the work and standing of the graduate schools continue to grow, placing YU in the front ranks of American higher education.

Together, YU and RIETS make a unique and vital contribution to the Jewish community and society at large. It is absurd to demand that YU risk destroying all that it has created -- and thereby endanger the interests of its students, its faculty, and their families -- by disobeying a law that bars it from interfering with the activities of a handful of gay students whose presence on campus is hardly noticed.

13. I read in the *New York Times* that Notre Dame has banned gay student clubs? How come they can do this and YU cannot?

Notre Dame is located in South Bend, Indiana, which does not have a gay rights law. YU is located in New York City, which has such a law.

14. If YU is legally not a religious entity, how come it is permitted to serve only kosher food, close libraries and other facilities on Shabbat, and not schedule classes on Jewish holidays.

A great many of YU's students, faculty, and staff are observant Jews. Under applicable law, the University makes every effort to meet the needs of this constituency and remain true to the history and traditions of the institution. The law permits University to serve any kind of food it wishes (as long as the same food is available to all students) and to establish whatever operating hours it chooses for its facilities (as long as the hours are the same for all students). The law does not permit the University to deny gay groups access to meeting rooms when other students groups are allowed use of these facilities.

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