

Here, it is undisputed that the NYCHRL exempts “distinctly private” clubs and benevolent orders. (*Gifford*, 707 NYS2d at 723-724). Similarly, in instances where the NYCHRL applies to private entities, it exempts some religious activities but not others. (*See, e.g.*, N.Y.C. Admin. Code § 8-107(12)). These distinctions alone, to say nothing of the NYCHRL’s other exemptions, require strict scrutiny under *Tandon*. And Plaintiffs’ desired goal—forcing Yeshiva to make “cultural changes” to its religious environment and “make a *statement*,” *supra* 7 (emphasis added)—cannot satisfy what strict scrutiny requires: a compelling governmental interest pursued in the least-restrictive way. “The First Amendment ensures that religious organizations ... are given proper protection as they seek to teach the principles that are so fulfilling and so central to their lives and faiths, and to their own deep aspirations to continue the family structure they have long revered.” (*Obergefell v Hodges*, 576 US 644, 679-680 [2015]).

C. Plaintiffs’ NYCHRL claims violate the Free Speech Clause.

The Free Speech Clause prohibits compelling a private party “to be an instrument for fostering public adherence to an ideological point of view.” (*Wooley v Maynard*, 430 US 705, 715 [1977]).

Here, this is exactly what Plaintiffs want. They admit—both in their briefing and in public interviews—that the point of this lawsuit is to force “cultural changes” onto Yeshiva and send a different “statement” than the one Yeshiva’s Torah values produce. *Supra* 7. The First Amendment prohibits courts from imposing “what shall be orthodox in . . . religion . . . or force citizens to confess by word or act their faith therein. If there are any circumstances which permit an exception, they do not now occur to us.” (*W. Virginia Bd. of Educ. v Barnette*, 319 US 624, 642 [1943]); (*see also Hurley v Irish-American Gay, Lesbian & Bisexual Group*, 515 US 557, 579 [1995]) (government “is not free to interfere with speech for no better reason than promoting an approved *message* or discouraging a disfavored one, however enlightened either purpose may strike the government”) (emphasis added).

D. Plaintiffs’ NYCHRL claims violate the Assembly Clause.

The Assembly Clause protects the freedom of private organizations to form their members in ways of life that are “indispensable to the effective and intelligent use of the processes of popular