

**TO: URJ Congregations**

**FR: Central Conference of American Rabbis and Union for Reform Judaism**

**DT: November 1, 2018**

**RE: Memo to congregations and rabbis on the acceptance of governmental security grants**

---

In the wake of the tragedy that has befallen America and our Jewish community--the murder of 11 members of the Tree of Life Congregation in Pittsburgh-- congregations are reassessing the steps they have taken and can take towards enhancing security. The question has arisen as to the status of the URJ's past recommendations urging congregations to avoid government funding for such purposes and instead seek private funding as part of their efforts to enhance security at our congregations. ([See our 2004 memo to rabbis, presidents, and temple administrators here](#)).

In light of the current situation in America, without changing our long-standing church-state positions or our concerns about government funding to houses of worship and parochial schools, **we are suggesting that it is appropriate if congregations decide to pursue government funds for such purposes** and the URJ will assist in facilitating those who wish to do so.

Three core values are at play in this decision.

1. In Talmudic Jewish law, there is an important concept of Hora'at hasha'ah, the urgent needs of the moment (Yebamot 90B, commenting on Deut. 18). The principle holds that urgent exigencies can justify the suspension of, or ignoring, an otherwise valid law, even a Torah law. Similarly, the rule of pikuach nefesh, that in order to save a life almost any law can be violated, speaks to us as well. As a halachic rule, it applied only when there was a specific life or lives and action is necessary to avoid imminent harm. But the moral concept can appropriately be applied to much broader threats to life.

Hora'at hasha'ah is a concept similar to the familiar "compelling interest" limitation in American law that can justify limiting First Amendment rights in the face of compelling government interests (albeit, since the Establishment Clause does not deal with exercise of fundamental rights by people but only with a limitation on the government, for technical reasons, the "compelling interest" limitation does not apply to the Establishment Clause).

2. The URJ has long recognized that three issues of church-state funding-- disaster relief, security funding and historical landmark funds -- are more on the cusp of appropriate government funding of religious entities than other forms of funding for religious entities. They involve circumstances that are, in the main, not created by or under the control of the religious entity. They focus on structures, not on programs, worship, education, nor the related salaries of religious leaders carrying out such activities. (And under the recent [Trinity Lutheran Supreme Court decision](#), the Supreme Court has suggested that property not connected with religious activities can receive government funding). In the security funding situation, such funding is closely related to the well-established permissibility of police and fire protection for religious structures and activities (the security funding is, of course, aimed at ameliorating the very dangers police and fire protections are aimed at addressing). And while some security funding will go to the hardening and protection of the physical structure of sanctuary/school buildings,

much of any new costs go to hardening the exterior areas. (Note: federal funding is not available for payment for private protective personnel substituting for police).

3. The URJ is not changing its position on the constitutional questions at stake in security funding at this point. The High Court has never ruled on the three areas identified above as “on the cusp,” including security funding to pervasively religious entities like houses of worship and parochial schools. In addition to our substantive concerns -- that government money leads to government rules, regulations, monitoring, and auditing and religion’s reliance on government -- a key part of our objection in the past was strategic, i.e. to protect the core issues of church-state separation. Proponents of aid to parochial schools would cite the arguments for security funding in their arguments for funding parochial education and other religious entities. Those concerns remain and the URJ and CCAR will address how we balance these constitutional and policy issues when they arrive in the courts and certainly at the Supreme Court.

When the law on existing governmental programs, including government funding, is unclear, there are good arguments for and against accepting such funding -- until the issues are resolved by the courts. Under the circumstances of living at a time when threats against synagogues, as manifested by the tragic Tree of Life synagogue killings, are intensifying, we continue our long-standing recommendations that synagogues take thoughtful steps towards effective protection and [are committed to do all we can to assist in such efforts](#). However, in accordance with the important concept of hora’at hasha’ah --while we continue to urge the use of non-government funds wherever available (e.g. from Jewish federations, foundations and individuals), we believe that if such funding is not available or sufficient, it is appropriate for our synagogues and Jewish day schools to seek and use government grants to enhance security.