

New York State Joint Budget Hearings- Elementary and
Secondary Education

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Testimony of Rabbi Yeruchim Silber

Director of New York Government Relations

Agudath Israel of America

Good afternoon Chairs Weinstein, Krueger, Benedetto, Mayer and members of the committees - thank you for this opportunity to testify before this joint committee hearing.

My name is Yeruchim Silber and I represent Agudath Israel of America. We are a national organization founded in 1922 with headquarters in Manhattan, a full time office in Washington DC, and 8 regional offices across the country. Our prime areas of advocacy are in education and religious liberties. We are also a major social service provider, in areas such as workforce development, affordable housing, senior centers, youth services, summer camping, and health care advocacy.

For close to 60 years our organization has been in the forefront advocating for the nonpublic school community, specifically for yeshivas and day schools in the orthodox Jewish community. In addition to our advocacy, our education affairs department

helps our schools navigate the maze of applicable laws, regulations and government sponsored programs. This is done through workshops, seminars, and webinars, in addition to over 100 informational memos emailed annually to our member schools. Our staff fields hundreds of calls and emails monthly for guidance on these issues. Last October we held our second Yeshiva summit, an all-day conclave attended by nearly 300 school administrators, which covered a myriad of compliance topics and was addressed by prominent elected officials, SED commissioner Elia as well as other personnel from the State Education Department and other government entities.

According to the latest numbers available, there are over 410,000 K-12 nonpublic schools students in New York State or about 13.4% of the total number of students statewide. Of that number over 160,000 are in Jewish Day schools and yeshivas the vast majority being represented by Agudath Israel. To understand the budgetary impact - if all those students attended local public schools, the total cost between federal, state and local governments would be enormous with a conservative estimate being over \$10 billion annually based on the number of students and the average cost per child of education in New York State. And the Jewish school portion would be likely be close to \$3 billion. So simply put, the nonpublic school community besides offering high quality education, also saves the state billions and billions of dollars.

But before I get into funding issues, I would like to address the entire topic of yeshiva education.

In 2015 a group of former, possibly disgruntled, yeshiva students sent a letter to the NYC Department of Education listing 39 schools that allegedly did not offer education that was substantially equivalent to public schools as required by NYS education law 3204. These former students claimed they were not given a proper secular education and thus were lacking proper tools for advancement in higher education.

In response the schools formed a group called PEARLS (Parents for Educational and Religious Liberty in Schools). In its mission statement PEARLS call itself a “yeshiva education organization committed to providing a holistic formation anchored on academic excellence integrated with intensive religious instruction while protecting the rights of parents to guide their children in making choices”

From 2015 through 2017 PEARLS and its affiliated groups including Agudath Israel (which sits on PEARLS executive leadership board) worked with the NYC DOE to arrange visits to the schools referenced in the letter to determine their academic standards as well as working with major textbook

publishers to publish culturally sensitive textbooks for use in the yeshivas in an effort to upgrade their curriculums. These texts were ultimately approved by DOE for use in the NYSTL lending program and thousands of these books have been printed and distributed.

In an effort to bring clarity to this entire issue, last March as part of the budget package this body passed an amendment to Education Law 3204 as an attempt to clarify the substantial equivalency clause. This amendment which became popularly known as the “Felder amendment” was an attempt to define “Substantial Equivalency” with an educationally sound, outcomes based, holistic look at the entire Yeshiva day. It provides non-negotiable standards in math, science, english and social studies. Implemented as designed, it would have been a solid baseline for secular education for yeshivas in New York State as well as to take into account the “entirety of the curriculum” which includes studies that provide academically rigorous instruction that develops critical thinking skills.

Contrary to claims that the Felder amendment watered down educational standards, our position and that of many others is that it actually strengthens the academic standards in the yeshivas by providing a set of standards in core subjects that all schools must adhere to.

As this was going on, we were told by NYSED that Commissioner Elia was developing substantially equivalent guidelines for all nonpublic school to ensure they were in compliance.

This past November SED did release the guidelines which were frankly surprising in their rigidity and in their “one size fits all” approach to equivalency. Furthermore the guidelines were released with no public comment period. That despite stakeholders being informed that what would be released would be a pilot project with time for all stakeholders to comment.

The Guidelines contain pages of rigid checkboxes which contain lists of courses to teach, in addition to the core subjects which include: visual arts, theater, media arts, career development, occupational studies, physical education, family science, consumer science, patriotism, tolerance, worthy uses of leisure time, and more. They also spell out exact hourly requirement for each course of study.

In the 120 years that this law has been on the books there has never been this type of intent to micromanage private and religious schools.

Last month federal court Judge Leo Glasser, in a decision dismissing a challenge to the Felder amendment, ruled that Commissioner Elia had no legal requirement to require of Yeshivas anything other than what the Felder Amendment clearly spells out. The Substantial Equivalency Guidelines released by SED mandated a standard for Yeshivos/non-public schools significantly different and more rigid than legally required.

Agudath Israel's position is that every child must be afforded the opportunity to receive an excellent education. Private and religious schools play a very important role to parents who choose to provide their children with both a religious and secular education. Parents have a legal right to choose these schools and pay substantial tuition fees, often at great personal sacrifice to ensure their children receive that education. And in fact those schools provide a superb education.

As we all know Regents exams are an established standardized exam, graded primarily by multiple choice, and are a time-tested assessment of student knowledge, occurring close to the conclusion of a student's K-12 career. Pursuant to a FOIL request, the results of every school in the state, in every subject, was obtained. The results are astounding.

- a. Private schools, overall, scored demonstratively better (76.7 overall average) than public schools (73.3).

- b. Jewish schools scored significantly better (**80.3**) than other private schools (75.7) and public schools (**73.3**).
- c. Jewish schools outperformed across every category of Jewish schools tested: Ultra-Orthodox (80.0); Hassidic (80.7); Modern Orthodox (80.2); and Other Jewish Schools (84.9).
- d. Moreover, if one were to take the top 25 performing schools or districts in all 14 Regents subjects reported, **207 of the top 350** spots are filled by Jewish schools. This, notwithstanding that they obviously only comprise a small percentage of total students in the state.

Moreover studies have shown the value that religious education offered in yeshivas contributes markedly to critical thinking skills in compliance with many state standards.

In the last 75 years we have seen tremendous growth in Jewish life, and particular Orthodox Judaism in both this state and across the country. In 1944 there were approximately two dozen Jewish schools in New York State with no more than 5000 students. Today there are 165,000 students enrolled in more than 400 Jewish schools across the state. There is little doubt that the tremendous growth of this community is in direct correlation to the growth of the yeshiva and day school movement.

Our position remains that when regulation of private schools exceeds health, safety, and a sound basic education, as these do, they also exceed governmental authority.

We believe that guidelines should be based on cultural sensitivity and embrace the balance that the yeshiva system has created over the years which is what we believe intention of the Felder amendment was. More importantly, guidelines should focus on outputs and real educational results instead of focusing on inputs like hours of instructions. And they certainly should not be guided by disgruntled former students or opinion makers in the media.

It is also ironic that many of the leading voices calling upon extra government intrusion into yeshivas are often the same ones opposing all forms of funding granted to those schools.

And now permit me to address some issues around funding. Last year New York State allocated about \$300 million to the nonpublic school sector primarily for mandated services. While it is certainly appreciated it doesn't come anywhere near actual costs. Parents of schoolchildren, a good deal of them with large family size, many low and middle income working families struggle mightily to pay their tuition. In most religious families, where public school is not an option school, tuition is often the

largest household expense after housing. Many times parents are forced to make a choice between their tuition payment and a new pair of shoes for a child, and sometimes even between tuition and an electric bill. And so we are asking for funding in a number of items:

Immunization Mandate- For over 30 years New York State reimbursed nonpublic schools in NYC, Buffalo, and Rochester for complying with a mandate to keep extensive student immunization records at the rate of .60 per pupil, a rate set in 1984. A comprehensive survey undertaken by Agudath Israel in 2016 demonstrated that the actual cost was closer to \$30 per pupil. In both the 2017-18 and 2018-19 enacted budgets the legislature allocated \$7 million to properly fund this mandate. This allocation did not appear in the executive budgets. Agudath Israel once again requests this allocation in the 2019-20 enacted budget.

Increased Security Funding for Non-Public Schools and other Religious Institutions: Hate Based Crimes are a rising troubling phenomenon in this country, and Jewish targets are particularly vulnerable. Fresh in our minds are the Pittsburgh massacre at the Tree of Life synagogue and closer to home a number of disturbing attacks targeting those of the Jewish faith. In fact anti-Semitic hate crimes in New York have risen by 90% over

the last 3 years. To combat that trend the governor has proposed in the executive budget \$25 million for competitive grants under the Securing Communities against Hate Crimes program. **Agudath Israel advocates for these grants to include summer camps as well as houses of worship.**

Last year the legislature allocated \$15 million for nonpublic school safety and security which translates into approximately \$37 per child. New Jersey, our neighboring state, passed a law this year approving a \$150 per student allocation for security doubling the previous rate of \$75 per child. **We call upon the legislature to double the level of security funding for nonpublic schools to \$30 million which would calculate to approximately \$75 per student.** New York schoolchildren are certainly no less vulnerable than any others and certainly deserve that protection.

Tuition Relief-529's- Last year an exciting opportunity presented itself in the form of the 529 tax deduction. 529 accounts are specialized accounts set up to encourage savings for college education by making withdrawals from those accounts tax free. The 2017 federal tax law enacted expanded 529 accounts to cover K-12 as well. In New York State the principal contributed to the plan is also deductible for state income taxes. Last year the State Senate voted for New York State 529 accounts to cover K-12 education, however the Assembly did not. We call upon both houses to enact this

legislation this year. This would be a huge opportunity for working families in New York who send their children to nonpublic schools to earn a well-deserved tax deduction. This is all the more beneficial when New York State residents are no longer able to deduct state and local taxes (SALT) on their federal tax returns. Let's provide them with other options for tax deductibility to recoup those lost with the recent federal tax law.

And while on this topic let me take a moment to refute a common misconception about 529- that this is a giveaway to the rich. In truth it is completely the opposite. We are not talking about interest earned after many years of monies being invested. The state allows the principal deposits to be tax deductible. Any working family who pays tuition can use a 529 account and receive their deduction.

Funding for Capital Needs/ Energy Efficiency Projects: Many religious and other non-public schools are facing a crisis with their facilities, particularly for energy efficient technologies that can help schools finance their costly projects such a boiler replacement/repairs as well as save energy. Agudath Israel is calling for a major appropriation for critical capital projects as well as revolving loan fund to provide seed money to initiate energy efficient projects.

Thank you again for this opportunity to testify and we hope we can together achieve positive results for all schoolchildren across the state.