



Regarding Proposed FY 2020 Executive Budget
Elementary and Secondary Education

Testimony of Yaffed (Young Advocates for Fair Education)
Naftuli Moster, Executive Director

February 6th, 2019

Dear Members of the Assembly Ways and Means and Education Committees and the Senate Finance and Education Committees:

My name is Naftuli Moster and I am the founder and Executive Director of Young Advocates for Fair Education (YAFFED), an advocacy group committed to improving the state of general education in Hasidic and ultra-Orthodox Yeshivas.

For decades, New York State law has mandated that non-public schools must provide an education that is “at least substantially equivalent” to that of public schools.¹ The law describes in some detail what is required to be taught in public schools. The New York State Education Department (NYSED) has issued regulations and guidelines that articulate what “substantial equivalency” entails and how it should be enforced at the local level.²

Yet the law does not appear to have ever been enforced, condemning tens of thousands of vulnerable New York children to educational neglect at the hands of schools who knew they could get away with it. While it is often assumed that non-public schools, where parents pay tuition to enroll their children, would go above and beyond what public schools offer, this is clearly not always the case. Some private schools provide substantially less than the typical public school curriculum, in defiance of state law.

This issue is especially relevant in ultra-Orthodox schools, known as Yeshivas. More specifically, Hasidic boys’ schools tend to be the worst offenders. On average, Hasidic boys until the age of 13 receive only 90 minutes of secular instruction and then only in English and math, four days a week.³

¹ <http://www.p12.nysed.gov/sss/lawsregs/3204.html>

² <http://www.p12.nysed.gov/nonpub/guidelinesequivofinstruction.html>

³ YAFFED 2017 report - <https://www.yaffed.org/report>

And that is only after a full day of religious studies taught in Yiddish. Past the age of 13, boys receive no secular instruction whatsoever. They are cut off completely from secular studies, even as their days get extended to 12-14 hours long school days.

Consequences

The nearly-complete lack of secular instruction in schools, coupled with the strong insularity and utter lack of exposure to non-Hasidic people and customs has seriously affected these students. Many graduates complain about not being able to communicate in the English language or have any knowledge whatsoever of science and history, such fundamentals as the scientific method or the history of slavery in America.

Graduates feel limited in their choices and freedoms, and feel like strangers in the country in which they were born. They feel betrayed by the government that is supposed to look after their well-being.

Many Yeshiva graduates are unable to secure even entry-level employment because they do not have a high school diploma, nor do they possess the ability to competently communicate in English. As a result, a disproportionate percentage of Hasidic Yeshivas graduates depend on government assistance to meet their basic costs of living.⁴ Some health-related consequences may also result from the lack of secular education as well, including the current outbreak of measles in New York State.

Do parents really have choice?

There is a common misconception that parents in ultra-Orthodox communities have a choice of many Yeshivas, and that they are free to choose among a voluminous list of options. In reality, parents do not always have such a choice. Within the Hasidic community there are many sects, each of which operates their own yeshivas. Therefore, in order to remain an accepted member of the particular tight-knit community into which they were born in, parents have little choice but to send their children to schools that often do not provide basic instruction.

There are also certain communities in which there are no other schools available to Hasidic parents. For example, in New Square and Kiryas Joel, there are only a handful of Hasidic Yeshivas, all of which provide little to no secular education. For parents in the Hasidic community, public school is simply not an option for both communal and personal reasons.

Magnitude of problem

This issue isn't limited to a handful of schools. In fact, there are at least a hundred such schools, approximately 50 in New York City (mostly located in Brooklyn), with the rest spread between Monsey, Kaser, and New Square in Rockland County and Kiryas Joel and Palm Tree in Orange County.

⁴ <https://www.ujafedny.org/assets/785329>

In fact, there are approximately 55,000 children being denied an education in these Yeshivas.⁵ Let me make this clear, this does not include the many Yeshiva children who do get a proper education such as those attending Modern Orthodox, Litvish⁶, and even some Hasidic girls schools.⁷

Government funding

Another myth is that religious schools receive no government funding or only funding for books and busing. The reality is, no one seems to know how much funding religious schools get because, as religious institutions, they are not obligated to disclose their sources of funding.

Yaffed conducted the most comprehensive analysis of Yeshiva funding to date, and found that for some Yeshivas, government funding makes up two-thirds of their budget.⁸

Examples of funding available to Yeshivas include:

- Title 1 - Federal funding to help schools that serve students from low-income families meet academic standards.
- Title 3 - Federal funding to help students learn English as a second language.
- Fresh Fruit and Vegetable Program - A federal nutrition program to promote healthy eating.
- Mandated Services Aid (MSA) - State reimbursement funds for schools to implement mandatory programs such as attendance reporting, immunizations, and administration of state exams. In 2016, Yeshivas received approximately \$20 million in such funds.⁹
- Child Care Vouchers - Yeshivas receive funds from the state's Child Care Block Grant Subsidy Program. YAFFED estimates that Yeshivas in New York State received approximately \$120 million from this program.¹⁰ Additionally, Yeshivas also receive Priority 5, 6, and 7 vouchers for after-school programs.
- The state also provides Yeshivas with funding for books, transportation, and academic intervention.

Religious schools also tend to get substantial tax-deductible contributions.

Lack of transparency

In addition to the schools not voluntarily releasing their funding sources and amounts, the state and local districts have not always been transparent in how they disburse the funding. Yaffed's study required months of digging and FOIL requests to obtain data that should be readily available to the public.

⁵ YAFFED 2017 report

⁶ This term refers to non-Hasidic Orthodox Jews whose traditions can be traced back to pre-war Lithuania.

⁷ Hasidic girls schools tend to provide a superior secular education to boys' Yeshivas. The reason for this is that boys are expected to become learned Torah scholars, whereas women off became the primary breadwinner of their families.

⁸ YAFFED 2017 report

⁹ Ibid.

¹⁰ Ibid.

Our complaints

Dating back to 2012, we complained repeatedly to New York City and New York State education officials that many Yeshivas were not meeting state standards.

- In 2012, we met with and complained to the New York State associate commissioners on curriculum and school operations who were overseeing non-public schools. They promised to look into it and follow up with us, but then for a number of years there was radio silence.
- We complained repeatedly to superintendents across NYC, and in 2015 we filed a formal complaint with the NYC Chancellor signed by 52 Yeshiva graduates and parents, naming 39 Yeshivas that were not compliant. The city claimed it had launched an investigation, but dragged its feet for years. To date the city has not concluded the investigation.

City's investigation

In August 2018, more than three years after launching the investigation, the city released some information about its investigation in the form of a letter from NYC Schools Chancellor Richard Carranza to the state commissioner.¹¹ In it the chancellor made clear that our claims were mostly substantiated. The Yeshivas that allowed the city in for a site visit were making minor improvements, but improvements were nevertheless far from meeting the state's standards. Other Yeshivas refused to even let inspectors in for fear of revealing the utter lack of compliance with the state standards.

State revision of the guidelines

At long last, our complaints were heard. In 2017, Commissioner Elia began the process of revising the guidelines in order to clarify and make them less susceptible to political considerations.

NYSED said they were consulting the Commissioner's Advisory Panel for Non-Public Schools, on which a number of the religious school leaders sit. This means that, contrary to what they may say publicly, leaders of nonpublic schools had access to early drafts of the guidelines and were not blindsided by their eventual release on November 20, 2018.

Indeed, opposition in the ultra-Orthodox community appears to have been informed by this process. According to public statements by leaders of the ultra-Orthodox community, they began working with State Senator Simcha Felder to undermine the guidelines months before they were scheduled to be released.¹²

Felder Amendment

During budget negotiations in late March of 2018, Felder, who held the tie-breaking vote in a divided chamber, was caucusing with Republicans and thus held significant amount of leverage and political power. In return for his vote, Felder inserted an amendment to section 3204 of the

¹¹ <https://www.chalkbeat.org/wp-content/uploads/2018/08/Chancellor-Letter-to-SED-8.15.2018.pdf>

¹² <http://www.israelnationalnews.com/News/News.aspx/244383>

education law to exempt Yeshivas from meeting the “substantial equivalency” standard, making the forthcoming guidelines moot for the very schools that needed it most.¹³ After pushback from the Assembly, and a phone call Governor Cuomo made to the Satmar Rabbi of Kiryas Joel, a revised version of the Felder Amendment was ultimately passed.

The Felder Amendment does not specifically mention the word Yeshiva, which would on its face render it unconstitutional. Instead it provides a special carve-out to Yeshivas by limiting its applicability to schools that are 1) non-profits, 2) bilingual, & 3) have longer hours than nearly all other schools in the state.

The actual carve-out takes shape when it comes to determining whether they meet “substantial equivalency.” According to the Felder Amendment, the educational authorities must consider the benefits of religious studies, namely “critical thinking skills.” It also shifts responsibility and authority to the state for review of these schools, removing the authority from local districts, which remain responsible for all other non-public schools.

The Felder Amendment was a shameful attempt to ensure educational inequality in these schools, and held the entire legislature hostage until it could be passed prior to the budget deadline.

The final language of the Felder Amendment can be interpreted in different ways. The Yeshiva leaders were clearly hoping that it would limit the required number of subjects to 4, instead of 12, and that it would allow them to consider religious studies in place of the secular studies. Thankfully, Commissioner Elia did not adopt this reading of the law.

Revised guidelines

The state, which had been ready to release the guidelines around the time of the budget, had to revisit them in order to make them comply with the new Felder Amendment. After months of delay, the revised guidelines were finally released on November 20, 2018¹⁴.

Their interpretation of the Felder Amendment is different from what the Yeshiva leaders envisioned when they supported it. The revised guidelines continue to require Yeshivas to provide a full secular education, including all subjects that other non-public (and public) schools must teach, for similar amount of time. The revised guidelines seem to suggest that while the Felder Amendment gives the state the right to take religious studies into consideration, it does not allow for religious studies to replace significant areas of general instruction.

Our concerns

The Felder Amendment was a terrible precedent both in content and in procedure.

Content: While the NYSED interprets the Felder Amendment so that that does not deviate much from the standards for regular non-public schools, it will forever be challenged by those who

¹³ <https://medium.com/@Yaffedorg/satmar-rabbis-speech-on-new-substantial-equivalency-guidelines-c11f783ee961>

¹⁴ <http://www.nysed.gov/nonpublic-schools/substantial-equivalency>

differently interpret the meaning of the Felder Amendment. And while we applaud this commissioner who seems willing to face the fierce pressure and stand firm in insisting that all children receive a full secular education, future commissioners may choose to avoid the headache and interpret the guidelines in accord with some Yeshivas leaders who instigated the Felder amendment.

Procedure: The Felder Amendment was rammed through against the wishes of most elected officials. But Felder, at the direction of Agudath Israel and the grand Rabbi of Satmar, strategically inserted his amendment close enough to the budget deadline when there was little choice but to pass it, with no public hearings, or committee review.

Our recommendations

We urge that the Felder Amendment be repealed, or at least modified to ensure that it cannot be interpreted as a weakening of standards. We further recommend that section 3204 be strengthened to state clearly that non-public schools must provide an education that is “at least substantially equivalent” to the education provided in public schools, in terms of content *and* time-allotment.

In the absence of a change in the law, we recommend that the legislature provide NYSED with the backing and the financial support to execute rigorous reviews of non-public schools, so as to ensure that their students receive the education they deserve and are mandated to receive under the New York State Constitution.

Additional proposals we suggest include:

- Implement transparency measures on the funding provided to non-public schools. A database should be made available where a click on a given school should show how much money they receive from each available program.
- Strengthen criteria for funding for non-public schools, so that funds cannot be misused as is currently alleged by Yeshiva graduates.
- Empower NYSED and/or local districts to conduct unannounced inspections, given that Yeshiva graduates have alleged that with advanced scheduling Yeshivas have been able to stage a charade on days that inspectors came.
- Prohibit school administrators and principals who have refused to comply with state standards from running schools, even under a different name.

Thank you for this opportunity to present our concerns and recommendations to you, and I am happy to answer any questions you may have.