



New York State Joint Budget Hearings- Elementary and Secondary Education

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Chairs Krueger, Weinstein, Mayer, Benedetto, 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 representing the interests of Orthodox Jewry, 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 liberty. We are also a significant social service force, providing workforce development, affordable housing, senior centers and free meals for seniors, youth services, summer camping, and health care advocacy.

For close to 60 years, our organization has been at the forefront of 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 programs. This is accomplished through workshops and webinars,

and over 100 informational memos emailed annually to our member schools. Our staff fields hundreds of calls and emails monthly for guidance. We also conduct an annual Yeshiva Summit (or at least we did, pre-COVID), an all-day conclave attended by hundreds of school administrators, which covers a myriad of compliance topics. It is attended and addressed by elected officials, and State Education Department and other governmental personnel.

There were 390,779, K-12 nonpublic school students in New York State in 2019-20 (most recent available year), or about 14% of the total of students statewide. Of nonpublic school students, nearly 160,000 are in Jewish day schools and yeshivas, and are represented by Agudath Israel. To understand the budgetary impact: if all nonpublic school students attended local public schools, the total federal, state and local governmental cost would be 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 is \$4.1 billion. Add capital and other costs, and the bill would be far higher. So, simply put, the nonpublic school community, besides offering high quality education, also saves the state billions.

**We are all painfully aware of the havoc caused by the COVID-19 pandemic. No sector of society was spared. And that certainly applies to the schools we represent. Besides the difficulty of adjusting to remote learning while schools were closed, our schools have taken a terrible financial hit as well. As a result of COVID, both tuition collections and fundraising had major shortfalls.**

The Governor's Executive Budget Proposal allocated approximately \$30 billion for education aid. Yet nonpublic schools which, as indicated, comprise 14% of the student population, were allocated less than \$300 million (1%), and even then, primarily for services it is providing on behalf of the state and is being reimbursed for. These funds roughly correspond to the \$248 million received by New York State from the federal Governor's Emergency Education Relief (GEER) Fund, a portion of the Coronavirus Response and Relief Supplemental Appropriations Act 2021 (CRRSA Act), which legally directs those funds to nonpublic schools. This aid is actually a reduction of about 2% from FY 21 then.

The actual items cut are as follows:

### MSA (Mandated Services Aid) and CAP (Comprehensive Attendance Policy)

Combined 2021-22 MSA and CAP funding, which reimburses school for the services they provided in the 20-21 school year, is allocated in the Executive Budget at \$189 million, reduced from \$193 in 2020-21.

The Executive Summary of the Executive Budget also indicated that schools will be held harmless from aid losses due to the spring 2020 school closures.

### STEM (Nonpublic Science, Technology and Math) and AIS (Nonpublic Academic Intervention Services)

The 2021-22 Executive Budget reduced aid for Nonpublic STEM and AIS by 2%. Nonpublic STEM funding were reduced from \$30 million to \$29.4 million and AIS from \$922,000 to \$904,000. These spending reductions may be restored if the state receives requested Federal COVID relief funds.

### Busing Reimbursement to Independent Bus Vendors

Many nonpublic schools utilize independent bus vendors for transportation rather than utilizing district provided busing. During the March - June closure, these vendors continued to incur costs for insurance, lease payments and other maintenance. However, they received no reimbursement because there were no actual drop-offs and pickups.

The Executive Budget has a line item compensating school districts for these costs, but does not contain a parallel provision for bus contractors who faced identical losses.

**Our approach to these, and similar issues which may arise, are the same – we request equity. If all public-school funding to districts is cut by a**

**certain percentage, we are not asking for private schools to receive preferential treatment in this regard.**

**But if they are not, and if public schools will be held harmless for periods during which they were mandated to close, nonpublic schools should be treated no worse when requesting the tiny portion of the budget which their children are legally entitled to.**

**Conversely, if there will be aid packages to assist public schools districts that have taken a COVID “hit,” financially struggling nonpublic schools should not be left behind.**

**Indeed, it was nonpublic schools that invested most heavily toward outfitting their classrooms to enable them to safely open. This often entailed radically reorganizing the physical classrooms, practices and scheduling to make this happen. As a nation, we are witnessing the heavy toll that shutdowns and remote learning has taken on our children, from an educational as well as a physical, mental and emotional health perspective. The news of rashes of suicides among locked down, out of school children is devastating, and is spurring even school districts hardened toward closure to rethink their stances. At the same time, we are also seeing that schools can open safely and are not a source of disease spread.**

**We are proud of the fortitude and commitment that our nonpublic school principals and teachers have toward education and the wellbeing of the children. It is no doubt this fortitude and commitment that enabled them to have found ways, under the most trying of circumstances, for their schools to safely open. Therefore, if any segment of the school population should be the held harmless, it should be the segment that strived toward, and succeeded in, actually safely operating.**

## OTHER FISCAL ISSUES

### Correct the Immunization Recordkeeping Reimbursement Shortfall

In 2016, at the request of Agudath Israel, the legislature corrected a longstanding shortfall to nonpublic schools. By law, nonpublic schools must be reimbursed for the fair cost of services they perform on behalf of, or at the behest of, the state. MSA and CAP fall under this rubric.

Yet for over 30 years, **nonpublic schools** in NYC, Buffalo, and Rochester had been collecting, collating, and reporting extensive student immunization data to the state and **were being reimbursed pennies on the dollar**, receiving just **60 cents** per child *annually* for their work. Meanwhile, surveys and financial modeling demonstrated that the actual expenses incurred was closer to **\$30 per child!** Recognizing this disparity, the 2017 and 2018 enacted budgets allocated \$7 million for immunization reimbursement to substantially reduce this deficit.

Inexplicably, over the last few years, funding for immunization recordkeeping was drastically cut. As we have seen during this COVID-19 pandemic, vaccinations have become a literal lifeline. We must ensure that schools have the tools to provide the immunization recordkeeping that the state demands.

**Agudath Israel requests an allocation of the actual cost of immunization recordkeeping (estimated at \$7-9 million) in the 2021-22 state budget, to reimburse for actual costs incurred.**

### Allow Parents to Save Their Own Money for K-12 Education

In December 2017, the federal government allowed 529 tax-advantaged saving accounts to be used for K-12 education. Seeking to aid parents, one by one, states have followed. The majority of states now allow 529 accounts to be used for K-12 education.

New York, however, does not.

In fact, a parent who uses her 529 account to pay a K-12 educational expense per the federal tax law could face a tax “recapture penalty” under New York tax law for a deduction taken a decade ago. New York must not prevent parents from effectively saving their own money to pay for their children’s education.

While **Agudath Israel** supports various proposals made to help parents shoulder nonpublic school expenses, it **specifically calls on the legislature to include private and public school K-12 educational expenses in its 529 program.**

To offset the revenue loss, Agudath Israel suggests a new “twist” on this accepted savings vehicle, which can benefit both parents and the state. Given the circumstances, we suggest exploring the legality and receptivity of mandating a tiny percentage of new investments to flow toward state municipal bonds. If, say, 2% of a parent’s investments would go to municipal bonds, a safe investment, an individual’s fund allocation for investment purposes would not be substantively altered. But the change could significantly buoy the state’s finances in the aggregate, especially if a new infusion of funds arrives in the form of K-12 funds in addition to college savings accounts. This could offset any lost tax revenue, while improving education and helping parents.

### **Yeshiva Education**

Before concluding, I would like to address the general topic of yeshiva education, an important issue for New York State yeshiva parents.

In July 2019 SED proposed new regulations for nonpublic schools to comply with “substantial equivalency.” These regulations contained pages of checkboxes detailing lists of courses to teach in addition to the core subjects, including: 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 spelled out precise hourly requirements for each course of study. Per the State Administrative Procedures Act (SAPA), a 60-day comment period was required. During that period, the state received over 145,000 comments, shattering previous records of comments submitted for NYS

Regulations. The unprecedented numbers were driven by the vast, vast majority in full-throated opposition to the proposed regulations. Comments came from parents, professionals, educators, graduates and others. The reasons for disapproval were varied: that yeshivas have a long history of producing successful graduates; that the regulations infringe on religious rights; that the government is overreaching and usurping parental choice, and more.

Besides the comments from individuals, the department also received a substantial number of organizational comments in opposition. Groups opposing the regulations included Agudath Israel of America, Coalition for Jewish Values, Council for American Private Educations, Council of School Superintendents, Jewish Community Relations Council of New York, New Civil Liberties Alliance, New Yorkers for Constitutional Freedom, New York State School Boards Association, Orthodox Union and more. Letters of opposition were also sent by elected officials, including a majority of the New York City Council and State Senators.

Thus, at its February 2020 meeting, the Board of Regents resolved that, “given the wealth of comments and varying views expressed, the Department will re-engage stakeholders for further discussion on the next steps toward the common goal of ensuring all children receive the instruction to which they are entitled.”

However, before the Regents could implement these steps, we were hit with the COVID-19 pandemic, putting this plan on hold. This past October, the Regents announced that the “State Education Department would hold a series of regional meetings to engage and gather input from stakeholders in the religious and independent school community...”

Those meetings took place during November and December. Our understanding is that the Regents heard from educators, students and graduates about the excellent education nonpublic schools provide, and heard many thought-provoking suggestions as to how to properly define and ascertain “substantial equivalency.” SED has yet to release a formal summary or analysis of the regional meetings.

Agudath Israel’s position is that every child must be afforded the opportunity to receive a sound, basic education. Private and religious schools play an important role for 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, at great personal sacrifice, to ensure their children receive that education.

Agudath Israel also believes that if the state will assert itself to direct and monitor how private schools operate and what they teach - in a way that few, if any, states currently do - it must proceed with a foundational appreciation and understanding that every child and every culture is different. There is no one-size-fits-all solution. Our successful yeshivas, and the decades of successful graduates they have produced, are not so in spite of their unique educational model, **but because of it.** The religious studies portion of their day not only provides its students with a religious education that we value, but it also imbues them with an incredible work ethic, critical reading, analytical skills (often in three or more languages), love of learning, and solid moral compass.

There are many available metrics available to evaluate schools. Forming accreditation bodies to review private schools is one viable solution that has been proposed.

Our organization stands ready to work with both SED and members of the legislature to develop plans and methods to move forward on this issue. Every system has individual elements that can improve, and improvement is the goal of any responsible system. Successful dialog must begin and end with mutual respect for a system and culture that is different than public school. If our parents wanted to send their children to public school, they can readily do so, free of charge. They are looking for something different. We look forward to further guidance from SED based on the results of the regional meetings.

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