



## New York State Joint Budget Hearings - Elementary and Secondary Education

February 8th, 2023

Testimony of Rabbi Yeruchim Silber<sup>1</sup>

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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.

### **Background:**

My name is Yeruchim Silber, and I represent Agudath Israel of America. We are a 100-year-old national grassroots organization representing the interests of Orthodox Jewry. With headquarters in Manhattan and offices in Washington DC and 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, youth services, summer camping, and health care advocacy.

For over 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 advocacy, our Education Affairs department helps our schools navigate the maze of applicable laws, regulations and government programs. We also host an annual “Yeshiva Summit”<sup>2</sup> which covers a

<sup>1</sup> Much of this testimony is based on the research of my Agudath Israel colleague Avrohom Weinstock Esq.

<sup>2</sup> See <https://yeshivasummit.org/>



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myriad of compliance topics. It is attended by hundreds of school administrators and addressed by elected officials and State Education Department personnel.

### **Nonpublic Schools are a Good Investment for the State of New York**

Agudath Israel speaks on behalf of the more than 163,000 students attending Jewish day schools and yeshivas in New York State. Those students represent more than 40% of the 382,510 K-12 nonpublic school students in New York State in 2021-22,

If all nonpublic school students attended public schools, the annual cost to federal, state, and local governments would be over \$12 billion. The Governor's Executive Budget Proposal allocates over \$34 billion for education aid. Yet nonpublic schools which comprise 15% of the student population, were allocated approximately \$350 million (just over 1%), and even then, primarily for reimbursement of services they provide on behalf of the state, as well as for various non-education ancillary services like security, transportation and others.

I would like to take this opportunity to outline some of the highlights of the nonpublic school aid budgetary items.

### **Save Mandated Services Reimbursements**

Originally passed in the 1970's, MSA (Mandated Services Aid) and CAP (Comprehensive Attendance Policy) reimburses schools for services they provide at the behest of the state such as attendance taking, pupil data, testing and similar items.

The Executive Budget allocated \$193 million for the combined 2023-24 MSA and CAP programs.

This is the third consecutive budget that MSA and CAP have been funded at this level and there is a growing concern that with increased costs the current allocation may not be sufficient. Furthermore, the executive budget language states that funds appropriated **shall represent fulfillment of the state's obligation for aid payable in the 2023-24 school year**. The state is liable for the entire cost of these services, yet this language is an attempt to shortchange the schools in the case where the costs are higher than the allocation.

*Agudath Israel calls on the Legislature to remove this language and keep the full liability intact.*

### **NPSE (Non-Public School Safety Equipment Grant)**

This year's budget, as last years, allocates \$45 million for this program and expands the usage to critical capital needs that enhance safety of school facilities. However, sadly hate crimes keep increasing. In New York City alone, there were 263 hate crimes reported in 2022, more than doubling the 121 antisemitic crimes reported in 2020 and soaring past the 196 incidents reported in 2021<sup>3</sup>. Schools, especially Jewish schools that are more at-risk of being attacked, are forced to increase spending on security needs. Many nonpublic schools are in aging facilities that require extensive repairs in order to enhance student safety, and could not do so without the help of an NPSE grant.

The per student allocation for the NPSE is just over \$100, but still well below that of our neighboring state of New Jersey which has a security allocation of \$175 per nonpublic school student. Protecting our children from hateful attacks must be prioritized, and the NPSE program is a proven vehicle to accomplish that purpose. *We therefore ask the Legislature to increase to this program to a minimum of \$60 million.*

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

The 2023-24 Executive Budget allocates \$70 million for Nonpublic STEM up from \$58 million in FY23, and \$922,000 for AIS which is at the same level as FY 23 While we are certainly satisfied with the STEM funding increase, *we are requesting at least a 3% increase in AIS which would bring it to close to \$950,000.*

### **Securing Communities Against Hate Crimes Grant**

The 2023-24 Executive Budget allocates once again \$25 million for this very important program which allows nonpublic schools, Day Care centers, community facilities, and summer camps to apply for competitive grants of up to \$50,000 for capital needs to secure facilities at risk for hate crimes. *Agudath Israel strongly supports this allocation.*

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<sup>3</sup> <https://www.timesofisrael.com/police-data-shows-antisemitic-incidents-in-nyc-more-than-doubled-over-last-2-years/>

## Correct the Immunization Recordkeeping Reimbursement Shortfall

A number of years ago, 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 (localities where schools themselves rather than district nurses are responsible for the recordkeeping) 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, two recent 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. Child Vaccination rates which had fallen during the COVID-19 pandemic have still not risen to pre-pandemic levels. According to recent surveys, the percentage of U.S. children entering kindergarten with their required immunizations fell to 93% in the 2021-22 school year, 2 percentage points below recommended herd immunity levels of 95%.<sup>4</sup> In light of those numbers, Government should send a message by prioritizing this funding and do its utmost to ensure that schools have the resources to collect and report immunization data for every student.

*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.*

## Support Universal School Lunch

Students experiencing hunger struggle to focus, have lower attendance than their peers, and are at greater risk of mental and physical health problems. School meals are one of the farthest-reaching anti-hunger programs for school-aged children, yet the free and reduced-price payment structure leaves many behind. Additionally, the

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<sup>4</sup> <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2023/01/12/child-vaccination-rates-already-down-because-of-covid-fall-again>

schools represented by Agudath Israel serve kosher food which has its own unique needs.

*Agudath Israel supports S.1678 Hinchey/A.1941 Gonzalez-Rojas which provide for free breakfast and lunch for all students.* In light of the recent expiration of federal waivers, supporting universal meals issued during the pandemic it is more important than ever to ensure every schoolchild in New York has access to proper nutritious meals.

### **Yeshiva Education**

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

First, to be clear, Agudath Israel does not operate any schools. Our role is one of advocacy, guidance, and representation. There are over 500 yeshivas and Jewish day schools across New York State, nearly all of whom are independent entities with their own board and administration. They are not all monolithic. Many yeshivas are among the highest scoring schools in regent exams across the state. Others may place more of an emphasis on Judaic studies. But the one common denominator among all yeshivas is that the vast majority of their graduates lead successful lives. There are tens of thousands of professionals, business people, entrepreneurs and religious leaders. In communities populated by yeshiva graduates, there is almost no violent crime or illegal drug usage. It would be fair to say that the prime reason for the exponential growth of the orthodox Jewish community over the last 75 years is due to the success of the yeshiva system.

Twice over the last four years the New York State Education Department (NYSED) has attempted to regulate yeshiva education by redefining the more than 100- year-old statute requiring private schools to be substantially equivalent to the education in public schools. In 2019 SED proposed new regulations which 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, the vast majority in opposition, shattering previous records of comments submitted for NYS Regulations. 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. Ultimately, SED scrapped those proposed regulations due to the fierce opposition. However, in March of 2022, the Board of Regents proposed a new set of regulations. After another comment period, this one generating over 350,000 comments, the Board ultimately voted to adopt these regulations in September 2022. These regulations propose multiple “pathways”, including school registration, accreditation, assessments and more. But ultimately, each Local School Authority (LSA) is responsible for assuring that each nonpublic school in their area is in compliance with substantial equivalency regulations.

While SED has yet to release full guidance, a number of serious issues have been raised over the new regulations, many of which were reflected in the vast number of comments. Among them are:

- The complaint process is open to all which includes people with no direct standing to a particular school
- It even allows complaints to be filed by anyone against schools that already met approved pathways such as those that offer regents exams or are accredited, which then triggers a full review.
- The Commissioner has interpreted the law to allow her full and total autonomy over approval of yeshivas as she recently overrode New York City’s determination of equivalency in a school that was the subject of a complaint
- Among the reasons the Commissioner overrode that determination is because they showed no evidence of instruction in patriotism, citizenship, the NYS constitution, NYS history, highway safety and traffic regulations, instruction around alcohol, drugs, tobacco abuse, and detection of certain sexual cancers. Unlike public perception, the equivalency requirement goes well beyond Math, English, Social Studies, and Science.
- Many requirements are subjective judgement calls (e.g. "competent" teacher, "makes progress" academically).

In recent months there have been a series of stories in the media targeting Orthodox Jews and Yeshivas, including 13 one-sided stories in the New York Times. These stories by the “paper of record” were based on innuendo, selective interviews, and cherry-picked data. For instance, in an 8,000-word piece published last September 11<sup>th</sup>

(of all days) The Times insinuated that yeshivas were “flush with cash” having received \$1 billion in public funds. In reality those funds were over 4 years (while public education receives over \$30 billion annually) and included such items as COVID relief, transportation, meals and child care. Furthermore, the article alleged with scant evidence that corporal punishment is rampant in yeshivas. While any case of corporal punishment is one too many, the article referenced only a dozen claims over five years. At the same time according to an Albany Times Union investigation <sup>5</sup>, from January 2016 through June 2021, the NYC Department of Education’s office of Special Investigation received **16,671** complaints alleging corporal punishment in public schools.

This disparity was succinctly described by Assemblyman Simcha Eichenstein in a New York Sun op ed:<sup>6</sup>

Corporal punishment is not a feature of Hasidic schools. And if it happened as an aberration, decency demands not painting an entire school system with it. In the past few months alone, a Brooklyn public school teacher was convicted of targeting children to have them send sexually explicit videos of themselves. In the same period, a Queens gym teacher was arrested after being videotaped beating a 14-year-old; and a Long Island public school teacher was charged with raping a 15-year-old he was tutoring in his home. Sensational stories can always be found by someone digging for dirt. Never, though, would I ever say that it is common for public school teachers to be child pornography watchers, pedophiles, physically abusive or rapists. Why does the Times refuse to extend the same basic integrity to Hasidic schools?

Yet despite this obvious disparity, when the Times Union report regarding the prevalence of teacher-on-child violence emerged, the Times reporter attempted to link it back to his own article, posting “our reporting found it still happens in **many** Hasidic Jewish schools. And, according to this new investigation, it also happens in **some** NY public schools.” (emphasis added)

The Times also set up an online portal for people to submit comments regarding their yeshiva education. Yet despite numerous positive comments that were submitted, The Times chose to totally ignore them and focus only on the negative comments.

There is also a general misconception that is highlighted by some of the reporting that there is rampant poverty in the Hassidic community. These are based on metrics that

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<sup>5</sup> <https://www.timesunion.com/news/article/corporal-punishment-new-york-schools-17459890.php>

<sup>6</sup> <https://www.nysun.com/article/all-the-news-about-yeshivas-that-the-times-deems-unfit-to-print>

are deeply flawed. Hassidic communities tend to have large families. So, for example, a family with seven children whose parents jointly earn \$94,000 annually would be eligible to receive reduced priced lunch. But that \$94,000 is 33% higher than the median U.S. income of \$70,784.<sup>7</sup> Poverty rates also do not take into account the age of the earner. As described in a Wall Street Journal<sup>8</sup> opinion piece describing the exclusively Hasidic community of Kiryas Joel, New York: Younger workers earn less on average than older ones, and Kiryas Joel is a youthful community. Eighty-two percent of adults in Kiryas Joel are under 45, compared with 47% of adults in New York state. According to 2017 census data, the median income for 25-year-old married male household heads in New York state was \$37,200 – less than half the \$78,700 median income for comparable 45-year-olds. While the poverty rate for 18- to 34-year-old Kiryas Joel residents is 52%, it's only 16.8% for those 60 and over – lower than the 18% rate for New York City

Yeshiva graduates also do well by objective financial measures: According to a 2021 Pew Research Study<sup>9</sup>, 22% of Orthodox Jewish Households earned more than \$150,000 compared to 8% of the general public and only 26% of Orthodox Jews earned less than \$50,000 compared to 48% of the general public. Furthermore, in the Hassidic sector, median household income was \$102,000 – far better than the median U.S. income of \$70,784.<sup>10</sup>

What has become clear is that due in part to this incessant media barrage, there has been an unfair misconception of Orthodox Jews and the schools or yeshivas they attend. In an attempt to set the record straight Agudath Israel has launched a campaign called Know Us. In recent weeks we have placed billboards in high visibility areas of Manhattan as well as other advertisings in varied media to highlight this campaign. We have a dedicated website at [www.knowus.org](http://www.knowus.org) as well as a Twitter account @Knowus\_. We urge you to go to our site or follow us on Twitter and judge for yourself.

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

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<sup>7</sup> <https://www.census.gov/library/publications/2022/demo/p60-276.html>

<sup>8</sup> <https://www.wsj.com/articles/dubious-stats-fuel-attack-on-jewish-schools-11576107404>

<sup>9</sup> <https://www.pewresearch.org/religion/2021/05/11/economics-and-well-being-among-u-s-jews/>

<sup>10</sup> <https://nishmaresearch.com/assets/pdf/REPORT%20-%20Nishma%20Research%20-%20The%20Finances%20>