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**Regarding Proposed FY 2021 Executive Budget
Elementary and Secondary Education**

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

February 11, 2020

Honorable Members,

Since 1894, New York State has mandated that all nonpublic schools provide an education that is “at least substantially equivalent” to that of public schools.¹ But for many decades the State Education Department neglected to adequately enforce this law. In their defense, it wasn’t unreasonable to assume that private schools, where parents pay thousands of dollars to send their children despite having the option to enroll in a free public schools, would go above and beyond the minimum requirements set out by New York State law and State Education Department regulations. Consequently, SED may have believed enforcement was unnecessary.

Unfortunately, this was a costly oversight that resulted in tens of thousands of children being denied their human right to an education.

While it is true that most private schools, including many Yeshivas or Jewish Day Schools meet or exceed the minimum threshold of “substantial equivalency,” this is not the case for many ultra-Orthodox and Hasidic Yeshivas, especially in Hasidic boys’ schools.

Most Hasidic boys’ schools offer just 90 minutes of secular instruction to their students per day, only four days a week, and only for a few of the elementary and middle school grades. The secular education usually consists of just English and arithmetic, and even that is not taken seriously and is often taught by unqualified and incompetent teachers.

¹ <http://www.p12.nysed.gov/nonpub/guidelinesequivofinstruction.html>

It only gets worse from there. In most Hasidic boys' high schools, students are completely deprived of secular instruction. Instead, they spend between 12-14 hours a day studying exclusively Judaic studies, none of which is taught in English, and receive zero instruction in subjects such as English, math, science, social studies, or any other subject required to be taught in schools.

This assessment has now been confirmed by New York City Department of Education, which released an interim report to this effect in August of 2018 and a final report in December of 2019, stating that 26 out of 28 Yeshivas that were investigated did not meet the lowest threshold needed to constitute a school, that is they did not meet "substantial equivalency."²

The truth is, we didn't need the DOE to take 4 & ½ years to tell us this. It has been alleged for decades. Reporters, academics, documentarians, and autobiographers have confirmed the same exact thing.³

This isn't some small group of underperforming schools, and it isn't affecting an insignificant number of children. On the contrary, there are over one hundred Hasidic schools across the state, and the Hasidic school age population doubles every 15 years. Please do not mistake my alarm about depriving kids of an education with alarmism about Hasidic population growth. I am the middle child of a Hasidic family with seventeen kids, and although it certainly presented some difficulties, it is a true blessing to my life.

But we must vigorously insist on remediation to an issue so serious and so consequential.

There was a reason for requiring all children to receive a "substantially equivalent" education. Education is the foundation for children's growth and success. And ensuring a substantially equivalent education ensures a level playing field for children in this great state.

The consequences of this lack of education are palpable. Poverty rates in the Hasidic community are exceptionally high, as is dependence on government assistance.⁴ Again, I want to stress that expressing these thoughts should in no way be seen as a criticism

² <https://www.politico.com/states/fi?id=0000016f-1fc6-dc86-ab7f-bfeed3d50000>

³ Over the last several years, this issue has been extensively documented. On Yaffed's website, we maintain a non-comprehensive list of articles and reports about the issue. See <https://www.yaffed.org/media>

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

or a mockery of people who genuinely must rely on government assistance. But it is unconscionable and unfair to preordain a life of dependence on government assistance onto children, when a path to self-sufficiency is so accessible.

Critics often point to “failing public schools” as a way of telling the public and policymakers to “clean up their own house first,” so to speak. But one crucial difference is that even the worst failing public school in the entire state offers instruction in English and in math and in science, and in social studies. Yet we have dozens of Hasidic and ultra-Orthodox Yeshivas that offer zero secular education, including in the above-mentioned subjects.⁵ How is this a credible comparison?

The truth is, our opponents have resorted to a campaign of misinformation and even intimidation. Some Yeshiva leaders have sought to conflate the highly performing Yeshivas and day schools with the failing ones, and used the performance of the good ones to provide cover for the failing ones.

Some leaders have branded anyone who criticizes the failing education an antisemite, and that’s a charge nobody wants to face.

But silence is not an option. Intimidation must not prevent us from ensuring that all schools are held to the same minimum standard, so that tens of thousands of children are no longer denied a basic education.

In addition to misinformation and intimidation, Yeshiva leaders have used connections they have gained in good faith from members of this body and elsewhere in government to persuade officials to delay action and to stonewall progress. You may recall when Senator Simcha Felder held up the entire state budget in 2018 until he got what he wanted, a budget amendment seeking to weaken standards for yeshivas, on behalf of Agudath Israel and other Yeshiva representatives.

More recently we learned from a New York City Department of Investigation (DOI) report that Mayor Bill de Blasio delayed an interim report that was due in the summer of 2017 until August of 2018 because, somehow, Yeshiva leaders managed to hold

⁵ See our 2017 report <https://www.yaffed.org/report>. In December 2019, the New York City Department of Education concluded that 26 of 28 schools they investigated in response to our complaint were not meeting substantial equivalency standards <https://www.politico.com/states/new-york/albany/story/2019/12/19/city-only-2-of-28-yeshivas-probed-meet-basic-education-standards-1234094>

mayoral control hostage unless his administration agreed to delay the report long enough for the Felder Amendment to pass.⁶

These are just a few that we know of. I don't think it's conspiratorial to believe there may be other cases that have yet to be uncovered.

In November of 2018, SED rolled out new guidelines to enforce substantial equivalency requirements across the state. The guidelines were subsequently and successfully challenged in court on the grounds that the state needed to release new regulations. These regulations were announced on May 31, 2019, and a public comment period was held over the summer.

Yeshiva leaders often tout the 140,000 comments submitted in opposition to the regulations as evidence of how unpopular they are. Besides the fact that all laws, whether they are popular or not, should be properly enforced, this is a misleading narrative. In the weeks leading up to the conclusion of the comment period, an intense and well-funded campaign of misinformation was launched against the state's efforts, including references to the Holocaust and imagery of yeshiva walls being pierced with bullets and *seforim*, Jewish holy books, being burned.⁷ Schools sent letters home to parents telling them their children's educational records would be made public, or that the state was effectively taking over administration of the school.⁸ Many of these claims were outright false, many others deeply misleading. In reality, these schools - like most private entities - did not want to deal with state regulations that were previously ignored by SED.

Honorable members, this is an issue impacting every New Yorker - regardless of whether they are personally affected by educational neglect. The consequences of allowing the status quo to continue will be suffered by all.

This is an issue as clear as night and day. On the one side there are people who are defending decades old violations of the law, and they are now using those decades of violating the law as a precedent to continue the state's acquiescence. On the other side we have Yeshiva graduates and parents and good people everywhere who want to make sure children in New York State have access to the education to which they are entitled under the law and the New York State constitution.

⁶ https://www1.nyc.gov/assets/doi/press-releases/2019/dec/DOISCIJointStatementRelease12_18_19.pdf

⁷ <https://forward.com/news/longform/436106/secular-education-yeshivas-yaffed-pearls-substantial-equivalency-holocaust/>

⁸ <https://www.ita.org/2019/08/20/opinion/why-are-elite-jewish-day-schools-standing-in-the-way-of-a-better-education-for-yeshiva-kids>

What exactly are we asking for?

We respectfully ask that the State Legislature ensure that all students attending non-public schools receive a proper education by:

- Providing SED with adequate funding to implement the “substantial equivalency” regulations. Otherwise the law remains meaningless. It is like setting speed limits but having no mechanism at all to enforce the limit.
- Working to strengthen the law, so that we don’t encounter continuous evaders and law-breakers who find increasingly creative ways to deprive kids of an education.
- Enacting legislation to require that all schools receiving any funding, no matter how much or how little, and no matter for what program, must certify that they are “substantially equivalent.” SED should then be empowered to deny funding from any school that cannot confidently say they are meeting the extremely modest requirements of the substantial equivalency law. This is the most impactful action you can take right now.

School funding is geared to schools, not to other institutions. And to be a school in a non-public setting requires achieving “substantial equivalency.”

If any other interest group came before you and demanded funding with no oversight, they would be laughed out of the room - and rightly so. There is no reason the nonpublic school sector should be able to both take advantage of taxpayer resources while at the same time evade basic oversight to ensure they are compliant with state laws and regulations.

I respectfully ask the honorable members to consider these proposals as they contemplate the upcoming state budget.

Thank you!

Naftuli Moster
Executive Director
www.yaffed.org

