



New York State Joint Budget Hearings - Elementary and Secondary Education

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Agudath Israel of America

Chairs Krueger, Weinstein, Mayer, Benedetto, and members of the committees:

My name is Avrohom Weinstock, and I thank you for the opportunity to testify before you on behalf of Agudath Israel of America and, more broadly, on behalf of the larger NYS Jewish school community.

Agudath Israel is a national nonprofit representing the interests of Orthodox Jewry. Founded in 1922 and headquartered in Manhattan, it has chapters in Washington, DC, and in states across the country.

Orthodox Judaism views education not simply as a means of attaining a job, but as a medium with which to pass on a cherished set of values and way of life. By extension therefore, Agudath Israel places special import on its education advocacy. Agudath Israel is also active in ensuring religious liberty protections, workforce development, bolstering affordable housing, creating community senior centers, providing youth services and summer camping, and in health care advocacy.

There were 382,644, K-12 nonpublic school students in New York State in 2020-21 (most recent year available), and approximately 2.4M public school students. Thus, nonpublic school children comprise nearly 14% of NYS students.

From a budgetary perspective, at a cost of approximately \$26,000 to educate each public school pupil, New York's 382,644 nonpublic school students save taxpayers nearly **\$10 billion annually**. Add capital and other costs, and the savings are greater still.

Put another way, the Governor's Executive Budget proposal allocated approximately \$31 billion for education. While the proposal contained several meaningful increases from previous years, at less than \$300 million allocated to nonpublic schools, this means that 14% of the student population will receive 0.96% of the total budget. Moreover, the majority of the 0.96% of funds allocated to nonpublic schools are primarily for mandated services, or *reimbursement to schools for services schools provide on behalf of the state*.

Fundamentally, nonpublic school education stands for the idea that while public schools always provide a quality option, different children and families may require different educational environments. Parents should be able to offer the environment they believe will work best for each child.

Thankfully, while the future is never certain, NYS appears to be in a very different place today than the previous two years, when the virus was ravaging. From a financial perspective, last year the state was facing a budget gap of over \$15 billion. Last week, Governor Hochul's budget projections were very positive through 2027, due to a combination of incoming federal funds and excellent receivables. Agudath Israel was pleased to learn that the state has fully funded Foundation Aid, so public schools have the entirety of funding they have requested for this for years.

Now is the time to take bold action to ensure that both public and nonpublic schools have the resources necessary to best educate our children in a safe, secure environment.

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

Agudath Israel continues to advocate that schools be held harmless from aid losses due to unanticipated COVID related school closures for 2022-23 MSA and CAP funding.

NPSE (Non Public-School Safety Equipment Grant)

Unfortunately, security, especially for visibly Jewish individuals, has been an increasing concern in recent years. While we do not understand the source of this violent hatred, it is apparently a reality that we must be prepared for. We are acutely reminded of it with each passing week, and with every news report.

Agudath Israel strongly supports the Executive Budget's expansion of the NPSE program to \$45 million for this year, and allowance of enhanced flexibility for school safety needs.

We urge the legislature to retain this important provision in the enacted budget.

Securing Communities against Hate Crimes Grant

The FY 2023 Executive Budget again allocates \$25 million for this 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. The recent incident at the House of Worship in Colleyville, TX is a stark reminder of the need to properly secure all facilities.

Agudath Israel supports this allocation.

Mathematics, Science, & Technology Teachers in Religious & Independent Schools Grant (MST)

The FY 2023 Executive Budget allocates \$55 million for aid for Nonpublic MST, up from \$40 million in FY 2022.

Agudath Israel supports the increase to this program.

Instructional Aid

The amounts allowed for the loan of library materials, textbook, software, and hardware aid has not been updated in decades.

The State Education Department has advocated increasing these amounts this year to account for inflation and other real-world changes.

Agudath Israel supports these reasonable and long-awaited updates.

Correct the Immunization Recordkeeping Reimbursement Shortfall

In 2017, 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, for the last few years, funding for immunization recordkeeping was drastically cut. As we have seen during this COVID-19 pandemic, vaccinations can be critical. We must ensure that schools have the tools to provide the immunization recordkeeping the state demands.

Agudath Israel requests an allocation of the actual cost of immunization recordkeeping (estimated at >\$8 million) in the FY 2023 state budget, to reimburse 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. 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.

Agudath Israel calls on the legislature to include private and public school K-12 educational expenses in its 529 program, at least at the high school level.

In addition, Agudath Israel suggests requiring that a small percentage of each new investment be invested in state municipal bonds. If, say, 1% of a parent’s investments were invested in 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. This would net a win for state coffers, parents, and children.

Yeshiva Education

Before concluding, an important issue for New York State yeshiva parents is the concern of heavy-handed oversight and control of yeshiva education.

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.

While, of course, the place of government to regulate nonpublic school is a nuanced conversation that deserves a larger discussion than could be had here, a few general principles should be top of mind when considering this issue.

- During the mandated 60-day comment period, the state received 145,000 comments, shattering previous records of comments submitted for NYS Regulations. Nearly all comments received, we are told, were strongly opposed to the new, heavy-handed 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.

In addition to the comments from individuals, the department received a substantial number of organizational comments in opposition. Groups opposing the regulations included Agudath Israel of America, Council for American Private Education, 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 numerous State Senators.

- Critics have pointed out that, in a 50 state survey of government regulation of private and nonpublic schools, not a single state was found to approach the suggested level of micromanagement and oversight the 2019 Regulations imposed.
- Thus, NY, one of the minority states not providing any tax credits, vouchers, savings accounts, etc. for nonpublic school parents, was simultaneously proposing that it be an outlier in the degree and pervasiveness of nonpublic school oversight. Not that the provision of a school voucher would necessarily justify heavy-handed regulation, but the contrast was noteworthy.
- With limited exceptions, the courts have long favored parental autonomy and have broadly deferred to religious freedom over narrow governmental control over how parents ought to raise their children. These are fundamental freedoms and part of the American experience. Cultural and religious diversity - a hallmark of New York - are built upon allowing a varied religious and private schools experience. Diversity is a powerful strength of New York we ought not squelch.
- By several metrics, the majority of nonpublic schools perform as well as, if not better than, the majority of public schools. Changing an entire system to approach homogeneity based on certain exceptions allegedly found, should be approached with caution.

- Indeed, if parents wanted an experience that mirrored that provided in public school, they would send their children there for free. That is precisely the point of nonpublic schools - to provide an experience not attainable otherwise.

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.”

Those meetings took place during November and December 2021. The Regents heard from educators, students and graduates about the education nonpublic schools provide, and heard many thought-provoking suggestions as to how to properly define and ascertain “substantial equivalency.”

Based on those meetings the Board of Regents is producing a framework for equivalency that reportedly uses “multiple pathways,” including registration, accreditation, testing and other methods which measure outputs and production. It is anticipated that the regulations governing these multiple pathways will be released in either February or March, at which time the requisite period will be allowed for comments. We look forward to reviewing these regulations when they are released, and are encouraged by this updated approach, which better balances the competing concerns raised.

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 such schools, and pay substantial tuition fees, at great personal sacrifice, to ensure their children receive that education. 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.**

While we await the release of the updated Regulations, we urge the general principles above to frame such an important discussion.

Thank you again for this opportunity to testify. We look forward to working with you to achieve positive results for all children across the state.