



New York State Joint Budget Hearings - Elementary and Secondary Education

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Testimony of Rabbi Yeruchim Silber

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Chairs Krueger, Pretlow, 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. Founded in 1922 to serve as Orthodox Jewry's umbrella organization, Agudath Israel is the arm and voice of American Orthodox Jewry. With national and DC offices, and regional branches serving the entire country, Agudath Israel-sometimes referred to as The Agudah-advocates for its constituents at federal, state, and local levels. The Agudah and its many divisions provide social, educational, and youth services to its constituents, continuing a century-long tradition of championing the evolving needs of Orthodox Jewish life in America.

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 Summit¹ which covers a

¹ <https://yeshivasummit.org/>



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

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

According to the most recent data from the New York State Education Department,² there were 185,583 students enrolled in Jewish affiliated schools in New York State, accounting for about 44% of the 20,892 students enrolled in nonpublic schools statewide. Furthermore, in New York City, Long Island, and Westchester over 100,000 students were enrolled in schools that are ideologically affiliated with Agudath Israel, although we respond to inquiries and serve all schools across the ideological spectrum.

If all nonpublic school students attended public schools, the annual cost to federal, state, and local governments would be close to \$15 billion. The Governor's Executive Budget Proposal allocates over \$37 billion for education aid. Yet nonpublic schools, which comprise approximately 15% of the student population, were allocated about \$425 million (just below 1.5% of the total allocation), and even then, a large portion of those funds were primarily for reimbursement of services they provide on behalf of the state, as well as for various non-education ancillary services such as security or transportation. To put it in simpler terms, the entire non-public school budget allocates just over \$1000 per pupil.

Now I would like to take this opportunity to outline our budgetary priorities.

NPSE (Non-Public School Safety Equipment Grant)

Last year's budget saw a large increase in the NPSE from \$45 million to \$70 million, based primarily on efforts by non-public school advocates. For that we are thankful to the governor and the legislature. The current budget retains that allocation. However, sadly hate crimes keep increasing. In New York City alone, 496 hate crimes

² <https://www.p12.nysed.gov/irs/statistics/nonpublic/>

were reported for the first three quarters of 2024, with 276 of those targeting Jewish victims.³ This represents a significant increase from 325 incidents in 2023, 263 incidents reported in 2022 and 96 in 2021. Moreover, according to the Audit of Antisemitic Incidents of 2023 released by the ADL (the Anti-Defamation League) there were a total of 1218 incidents up from 580 in 2022.⁴ Many of these numbers are directly attributable to the aftermath of the October 7th 2023 Hamas attack in Israel. Schools, especially Jewish schools that are more at-risk of being attacked, are forced to increase spending on security needs. In addition, many nonpublic schools are in aging facilities that require extensive repairs in order to ensure student safety and could not do so without the help of an NPSE grant.

For most schools, enhanced security is no longer an option or a luxury. It is now a necessity. Many of the schools represented by Agudath Israel have as much as 90% of their students on scholarship; oftentimes schools are faced with the difficult choice whether to enhance their students' education or their security.

Late last year, close to 100 members of the Legislature signed on to letters asking Governor Hochul to double the NPSE to \$90 million. **We firmly supported that request, and we now ask the legislature to increase NPSE in the enacted budget to the \$90 million originally asked.**

Securing Communities Against Hate Crimes Grant

The Executive Budget allocates \$35 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 that are at risk for hate crimes. **Agudath Israel strongly supports this allocation.**

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<https://app.powerbigov.us/view?r=eyJrIjoiYjg1NWl3YjgtYzkyOS00Nzc0LTkwMDAtNTgzM2I2M2JmYWE1liwidCI6IjJiOWY1N2ViLTc4ZDEtNDZmYi1iZTgzLWEyYWZkZDdjNjA0MyJ9>

⁴ <https://www.adl.org/sites/default/files/pdfs/2023-03/ADL-2022-Audit-of-Antisemitic-Incidents-2021.pdf>

Mandated Services Reimbursements

Originally passed in 1974, MSA (Mandated Services Aid) and CAP (Comprehensive Attendance Policy) reimburse schools for services they provide at the behest of the state such as attendance taking, pupil data, testing, and similar items.

For the 2021-22 and 2022-23 school years the state allocated \$195 million for MSA. However, that left a shortfall of millions of dollars for each year. As a result, schools were not fully reimbursed for the services they had already performed. Last year the budget allocated over \$239 million for MSA-CAP claims, which was intended to make up the two-year shortfall as well as fund all of the 2023-24 reimbursements. This year's budget allocates \$228,380,000. We have yet to determine if this will be sufficient to reimburse schools for the current year's expenses. **We will further apprise the Legislature as we get more clarity as to the actual needs.**

Support Universal School Meals

Students experiencing hunger often have difficulty focusing in school, 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 students behind. Additionally, the schools represented by Agudath Israel serve only kosher food which has many requirements and higher costs.

Agudah has been an active member of a [statewide coalition](#) advocating for universal free school meals. **The executive budget calls for full funding of Universal School meals for all and Agudath Israel strongly support that.**

Correct the Immunization Recordkeeping Reimbursement Shortfall

Among the list of mandated services that according to statute, are supposed to be reimbursed by the state, is the cost of immunization recordkeeping.

For over 30 years, nonpublic schools have been collecting, collating, and reporting extensive student immunization data to the state. In return for their efforts and expenses, the schools were being reimbursed pennies on the dollar, receiving just 60 cents per student annually for their work. Surveys and financial modeling estimate that the current cost is \$9.56 million or over \$30 per student.

The appropriation for immunization recordkeeping reimbursement has been \$1 million for the last six budget cycles, which is far below the actual cost.

Child vaccination rates, which fell during the COVID-19 pandemic, have still not risen to pre-pandemic levels. Considering this, the government should send a message emphasizing the importance of vaccination by prioritizing this funding and doing its utmost to ensure that schools have the resources to collect and report immunization data for every student.

We respectfully request that the actual cost be included in the full list of mandated services and not as a separate appropriation, enabling schools to be fully reimbursed for their work.

Due Process for Children with Special Needs

Under New York State law, all children have the right to receive special education services when a need is demonstrated. The needs of children attending nonpublic schools are outlined in their Individualized Education Services Plan (IESP). These services are typically provided by the local school district. However, some localities, primarily New York City, have failed to meet their obligation to provide services directly, and parents are therefore forced to file a due process complaint with an Independent Hearing Officer to obtain entitled services on the open market and

pursue reimbursement. Upon a review of the evidence and circumstances, Independent Hearing Officers have overwhelmingly ruled in favor of parents, and children have received services in this manner.

Last May the Board of Regents proposed an amendment to Section 200.5 of the Regulations of the Commissioner of Education eliminating the right to due process. After intense advocacy, the Regents adjusted the proposed amendment and on July 15 adopted an emergency amendment that, while not eliminating the right to due process, severely restricted it. As a result, there has been a near total collapse of the private special education provider market. Months into the school year, thousands of children were still without services. In December, New York City offered to grant services, but in order to accept parents had to sign a waiver severely restricting their rights. Senator Hoylman-Sigal has introduced legislation (S.1325) that among other things, removes the restrictions placed upon parents signing these waivers. Agudath Israel strongly supports this legislation and urges its passage. However, it is only a fix for the current school year and does not address all the underlying factors.

Last October, Agudath Israel, joined by 10 parents,- such as a mother from Harlem whose child has cerebral palsy, now deprived of her aid to push her wheelchair and help use the bathroom, and a Hispanic family whose child has spina bifida – filed suit in Albany Supreme Court, contending that the amended regulation violates the plain meaning and intent of the state law; the state’s own prior guidance; a long line of decisions; and decades of practice. Moreover, the state passed a change of this magnitude on an “emergency” basis without public comment, violating the State Administrative Procedure Act. Given the amendment’s immediate and irreparable harm, Agudath Israel requested that the court issue a Temporary Restraining Order (TRO) to halt its implementation. Within a matter of days Judge Kimberly O’Conner did grant a TRO to pause the implementation. While the case now awaits a final judicial resolution, Agudath Israel urges the legislature to enact legislation protecting and restoring the rights of all children ensuring that they have access to proper services.

Solve the East Ramapo School District by adjusting the Foundation Aid Formula

Issues around the East Ramapo Central School District (ERSCD) have come before this legislature now for years. This district is unique in that only about 25% of school age children attend local public schools, while the majority attend non-public school primarily yeshivas.

Every child in ERSCD, whether attending a public or a private school, should have access to a quality education and receive essential services such as safe transportation to and from school. Public school students, like those in private school, deserve to be educated in well maintained school buildings. East Ramapo is unique in that most of its students attend yeshivas and other private schools and state law requires that those students are provided with certain basic services. This leaves the district with less room in their budget for their public school students and forces them to make difficult decisions at times. Sadly, many of the public school advocates, including some outside agitators, have often reverted to antisemitic tropes and false accusations of racism which only serve to further divide people and do nothing to improve the education of students in the district.

At least twice over the last decade, the legislature has attempted to intervene by requiring a state monitor to oversee the district and then in 2021, to grant the monitor veto power. Despite those good faith efforts, the districts fiscal problems have persisted.

Last August, after the voters of the district passed a 1% increase in their school taxes, Commissioner Rosa intervened and unilaterally imposed an additional 4.38% levy on the district taxpayers. Part of her reasoning was that the district was facing a \$20 million deficit. The legality of this unprecedented action is still being looked into, but in the interim it has affected every local taxpayer.

Then this past November, it was announced that the district actually had a \$30 million surplus. In light of that Agudath Israel issued a statement that it was bewildered at this report and called on the Commissioner to consider rescinding this tax levy.⁵

Agudath Israel has long argued, that the root of the East Ramapo problem is the Foundation Aid formula which is fundamentally flawed and at fault here. It does not account at all for nonpublic school students, even though the district is required to

⁵ <https://agudah.org/from-severe-deficit-to-30m-surplus-agudath-israel-questions-next-move-in-east-ramapo>

supply certain services to all children. Given the unique demographics of East Ramapo, where most children attend yeshiva, the district has, naturally, experienced budgetary shortfalls.

And indeed, in the Rockefeller Institute Study on Foundation Aid, they explicitly write that income wealth per capita should be based not just on numbers of public school students but on total school age population.⁶ **We urge the legislature to follow this recommendation and adjust the formula accordingly.**

Thank you again for this opportunity. I look forward to working with you and your legislative colleagues as we move forward in the budget process.

⁶ <chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://rockinst.org/wp-content/uploads/2024/12/2024-12-Foundation-Aid-Report.pdf>, page 14