



UNEDUCATED: SUBSTANTIAL EQUIVALENCY AND HASIDIC YESHIVAS

APRIL 2021

“ *A well-rounded education doesn't undermine one's religious freedom, it enhances it.* **”**

-Rabbi Ysoscher Katz

INTRODUCTION

YAFFED was founded in 2012 with the goal of addressing the problem of educational neglect in many of New York's Haredi yeshivas. The problem is simple. Tens of thousands of students currently attend schools operating in New York that refuse to provide a basic education in English, math, science, and social studies. Yet, in the time since YAFFED began its vocal advocacy on the issue, government action has been minimal and elusive. The reaction by New York officials to the complete disregard for teaching a basic education to thousands of New York children has been distressingly slow, allowing institutions responsible for educational neglect to organize an effective obstruction campaign. Today, the problem persists and we continue to wait for meaningful government action.

New York State Education Law §3204 says: "Instruction given to a minor elsewhere than at a public school shall be **at least substantially equivalent** to the instruction given to minors of like age and attainments at the public schools of the city or district where the minor resides...."

The law is unambiguous, yet many school children are being deprived of the education to which they are entitled under the law. This reality is possible only because of the state's persistent inaction and failure to approve a substantial equivalency enforcement mechanism. Without an enforcement mechanism in place, Haredi yeshivas and schools are not being held accountable to the law. Many are not complying with the law. That is a fact. The impact of this violation is clear. Poverty, dependence on government assistance, and the inability to discern fact from misinformation, are the unfortunate and detrimental consequences of an uneducated population.

In September 2017, YAFFED released a report titled "Non-Equivalent: The State of Education in New York City's Hasidic Yeshivas." For the first time the issue was detailed publicly with data and explanations of relevant laws and regulations. Unfortunately, the years since the release of the report have been characterized by half starts and backroom political deals by regulators and elected officials that, along the way, hijacked New York State's budget negotiations, engaged in shady political deals with City Hall to slow down NYC Department of Education (NYC DOE) oversight, and subsequently forced the City to endure the public embarrassment of said deals coming to light through an official investigation of City Hall and the Mayor of New York by the New York City Department of Investigation.

A TIMELINE OF DELAYS AND OBSTRUCTION

- 
- July 2015** ● **Formal Complaint is Filed and Investigation is Launched**
Yaffed files a formal complaint with the NYC DOE that is signed by 52 yeshiva graduates and parents. The complaint lists 39 yeshivas from which the signatories either graduated or had children attending that were known not to provide an adequate secular education (and thus were in blatant violation of state law). The DOE quickly announces an investigation into the claims made in the complaint.
- June 2016** ● **NYC DOE Misses First Deadline for Update**
Despite having 11 months to investigate, the DOE misses its own deadline to provide a substantive update on the investigation into the 39 yeshivas it launched the year before.
- August 2017** ● **NYC DOE Misses Another Deadline to Release Report**
Over two years after the initial investigation was launched, the DOE misses its second self-imposed deadline to provide an update.
- September 2017** ● **Yaffed Releases its Report "Non-Equivalent"**
After two years of unexplained delays from the NYC DOE, Yaffed releases its own expert-written report on the educational neglect taking place in Haredi yeshivas across New York. The report is the first substantive effort to document the issue. Meanwhile, the DOE acknowledges it has only visited six of the yeshivas under investigation.
- December 2017** ● **New York State Reviews Substantial Equivalency Guidelines**
The New York State Education Commissioner tells a conference of private-school leaders that the NYSED is "clarifying guidance that says children in these schools must receive a substantially equivalent education to students in public schools."

TIMELINE CONTINUED

March 2018

Amendment to New York State Education Law §3204 – ‘The Felder Amendment’

In the last week of State budget negotiations, a Democratic senator, caucusing with the Senate Republicans, hijacks negotiations with the aim of adding an amendment to New York State Education Law §3204 which would exempt yeshivas from having to meet substantial equivalency. In the final budget, an amendment is adopted that effectively only applies to Haredi yeshivas. Far from providing an exemption from government oversight as originally intended, the amendment shifts substantial equivalency determinations from the local school district to the Commissioner of the New York State Department of Education.

August 2018

NYC DOE Chancellor Issues First Update on Investigation

On August 16th, over three years after the yeshiva investigation was first launched, NYC DOE Chancellor Richard Carranza issues a letter to the state acknowledging that the city had only gained access to around half of the yeshivas named in the 2015 complaint. Fifteen of the yeshivas involved had refused entry to the city.

November 2018

First Issuance of Revised Guidance by the NYSED

On November 20th, the NYSED issues updated substantial equivalency enforcement guidelines entitled “Substantial Equivalency Review and Determination Process.” The guidelines are proposed to ensure that non-public schools are in compliance with New York State’s statutory educational requirements. The Department stated in the introduction to the guidelines: “This update reflects current law...and provides guidance and resources to support public school officials and leaders of non-public schools in meeting their respective responsibilities related to substantial equivalency requirements.”

TIMELINE CONTINUED

April 2019

Lawsuits Filed by Yeshiva Leaders and their Partners

Three separate lawsuits - by yeshivas, the Archdiocese, and the New York State Association of Independent Schools (NYSAIS) - are filed in Albany County Supreme Court challenging various aspects of the updated guidance. The updated guidance as put forth by the NYSED is rendered null and void by the Albany County Supreme Court. The decision was made on the grounds that the proposed guidelines should have been released as regulations and were thus in violation of the State Administrative Procedures Act.

Summer 2019

The NYSED Releases Regulations

The NYSED releases new proposed regulations on May 31st. The language of the regulations reflects the language used in the 2018 guidance. As stated by the NYSED, "The purpose of the proposed regulation is to provide guidance to local school authorities (LSAs) to assist them in fulfilling their responsibilities under Education Law §3204, 3205, and 3210 in determining whether students in nonpublic schools are receiving instruction that is at least substantially equivalent to the instruction being provided to students of like age and attainments at the public schools." The proposed regulations are discussed at the June 2019 meeting of the Board of Regents. As per State law, the NYSED publishes the proposed rulemaking on July 3rd and thereby opens a mandated public comment period. This period for public comments ends September 3rd.

December 2019

DOI Investigation Concludes

On December 18th, the Commissioner for The New York City Department of Investigation and Special Commissioner of Investigation for the New York City School District release a report following their agencies' "joint investigation of the New York City Department of Education's inquiry into whether the education provided at certain Hasidic yeshivas was 'substantially equivalent' to

TIMELINE CONTINUED

that provided in public schools,” finding that the NYC Mayor and State legislators’ representatives had engaged in “political horse-trading” to significantly delay a crucial Department of Education interim report. The deliberate one-year delay of the report was to “bolster legislative support for continued mayoral control over the DOE, which was a significant legislative priority for the Mayor’s Office.”

December 2019

Release of City Hall Report

One day after the DOI report investigation wrapped up, the DOE Chancellor releases a letter addressed to the New York State Education Department Commissioner which in effect concluded the investigation into yeshiva education by the City of New York. The investigation found that 26 out of 28 yeshivas the city investigated were woefully out of compliance. The Chancellor required that all 26 of the noncompliant yeshivas supply a remediation plan by January 15, 2020. Later reports show that many did not provide one. In addition, the DOE did not notify parents that the schools their children attend do not provide basic instruction as required by law.

February 2020

The NYSED Regulations – Stalled

After the completion of the public comment period as set out by State administrative law, a discussion of the public comments occurs at the meeting of the New York State Board of Regents. In their presentation, the NYSED staff state: “Given the wealth of comments and varying views expressed, the Department will re-engage stakeholders for further discussion on the next steps.”

TIMELINE CONTINUED

October 2020

Stakeholder Meetings Begin

On October 27th, the NYSED announces that it is holding "Regional Stakeholder Meetings." Six such meetings are held between November 17th and December 9th. For each of five regions across the state, a virtual meeting is held to include public and nonpublic school stakeholders, members of the Board of Regents, and Department staff. A sixth meeting is also held for current students, parents, and alumni. A report of these stakeholders meetings has not been released to the public and no further action has been taken by the Board of Regents to date regarding the proposed regulations.

Today

Further Delays

The NYSED once again delays in presenting a report to the Board of Regents. In the meantime, the futures of yeshiva students hang in the balance.

In rare moments of honesty, Haredi yeshiva leaders admit to denying children a basic secular education:

“*In our yeshivas, we have a dual program of instruction with many hours of the day-most of the hours of the day-devoted to limudei kodesh [religious studies] and only a relatively small amount of time devoted to limudei chol [secular].*”

-Rabbi Chaim Dovid Zwiebel

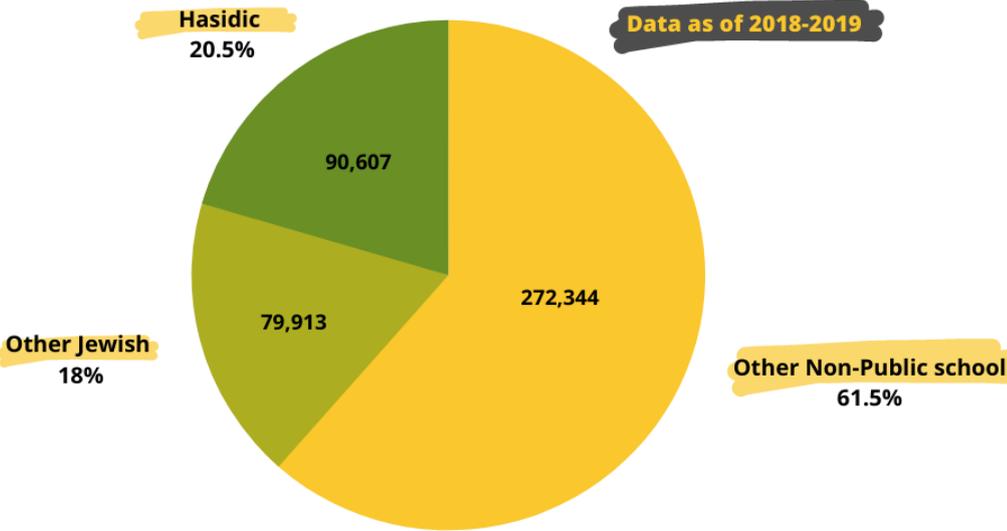
Executive Vice President, Agudath Israel of America

“*And the truth is, we either had very little secular studies or none at all.*”

-Satmar Grand Rabbi, Kiryas Joel

DATA

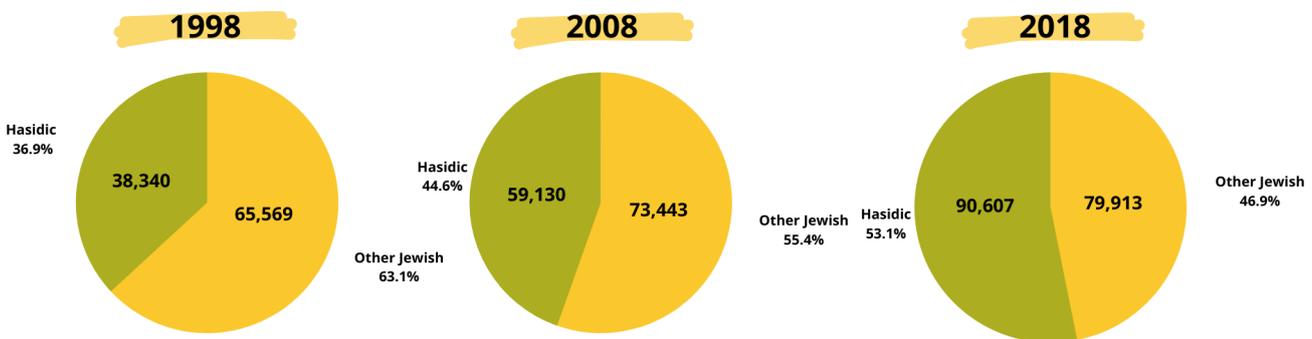
New York State Enrollment in Non-Public Schools



This illustration shows the Jewish non-Hasidic (18%) and Hasidic (20.5%) portions of New York State’s non-public school population in comparison to the other non-public school portion (61.5%).

Sources:
 "A Census of Jewish Day Schools in the United States 2018-2019" Mordechai Besser, AVI-CHAI Foundation, https://avichai.org/knowledge_base/a-census-of-jewish-day-schools-2018-2019-2020/
 NYSED Information and Reporting Services: <http://www.p12.nysed.gov/irs/statistics/nonpublic/home.html>

New York State Enrollment in Jewish Non-Public Schools



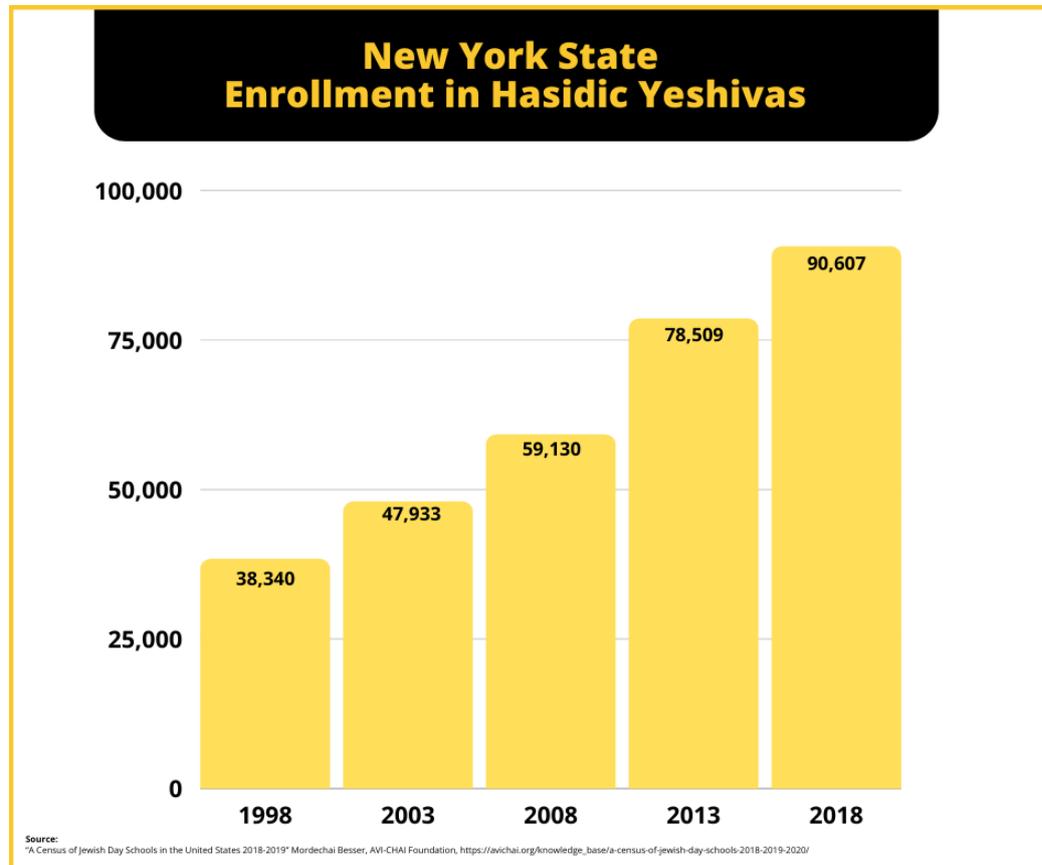
Source:
 "A Census of Jewish Day Schools in the United States 2018-2019" Mordechai Besser, AVI-CHAI Foundation, https://avichai.org/knowledge_base/a-census-of-jewish-day-schools-2018-2019-2020/

This illustration shows the growth of the Hasidic school population as a share of the total Jewish non-public school population from 36.9% in 1998 to 53.1% in 2018. As the charts indicate, whereas the non-Hasidic school population increased by 14,344 students from 1998 to 2018, the Hasidic school population saw an increase of 52,267 students.

DATA CONTINUED

This illustration shows the increase in the Hasidic school population from 1998 to 2018. As indicated, the number of students at Hasidic schools has increased an average of 24% every five years.

See Yaffed's [2017 Report projections](#) that by the year 2030, 30% of Brooklyn's school-age population will be Hasidic.



Students at 127 "Orthodox Jewish" schools in total participated in the 2019 grades 3-8 state ELA and math tests.

19.5% scored proficient in math*

(66 schools had one or more grades where 0% of test takers scored proficient)

***compared to 46.7% in NYS public schools**

19.7% scored proficient in ELA*

(53 schools had one or more grades where 0% of test takers scored proficient)

***compared to 45.4% in NYS public schools**

The NYC DOE investigated 28 yeshivas. Students at 7 of these participated in the 2019 grades 3-8 state ELA and math tests.

3.09% tested proficient in math

0.17% tested proficient in ELA

DATA CONTINUED

Public funds appropriated in the 2021-2022 NYS Enacted Budget for Non-Public Schools

| | |
|---|-------------------|
| Approved Learning Technology Programs | \$2.3 million |
| Nonpublic school aid | \$115.652 million |
| Additional nonpublic school aid | \$77.476 million |
| Academic intervention for nonpublic schools | \$922,000 |
| Nonpublic school STEM | \$40 million |
| Universal Pre-Kindergarten | \$105 million |
| Immunization record keeping for nonpublic schools | \$1 million |
| Federal money for nonpublic schools from the CRRSA | \$250.114 million |
| Federal money for nonpublic schools from the American Rescue Plan Act | \$250.114 million |
| Nonpublic school safety and security grants | \$15 million |
| Securing Communities Against Hate Crimes grants | \$25 million |

Note that these figures do not represent the entirety of public aid received by non-public schools as there are also appropriations made by the local government and certain federal aids that are not represented in the State Enacted Budget.

Additionally, because of a lack of transparency, school-level figures are not readily available, so we do not know how much of this public aid is received by the schools represented in this Report.

RECOMMENDATION

YAFFED calls on the New York State Education Department and the Board of Regents to pass the proposed regulations on substantial equivalency as quickly as possible. Substantial equivalency is the law, and it is the job of these state officials to ensure that it is enforced. Properly implemented, substantial equivalency regulations have the power to ensure that New York's tens of thousands of Haredi yeshiva students receive a sound basic secular education.

Should the state choose to further revise its proposed regulations in light of the recently held stakeholder meetings, the final regulations must ensure that the right of every child in New York State to a basic education will be protected, regardless of what type of school they attend.

Regulations shall include the following essential components:

SUBJECTS

First, there must be clarity on what subjects are required to be taught in private schools in order for them to achieve a status of substantial equivalence. The current controversy is not due to Haredi yeshivas failing to teach minor aspects of the standard curriculum because they are uncomfortable with it. What has been alleged by students and parents, and confirmed in subsequent reporting, is that dozens of Haredi yeshivas are not providing adequate instruction in basic subjects such as English, math, the sciences, and social studies.

TIME ALLOTMENT

Next, the state must clearly outline the expectations for time allotment to each subject; this particular issue was left unresolved in the November 2018 release of revised guidelines, which led to confusion and attempts by opponents of state action to exaggerate the requirements. The general consensus appears to be that the minimum time allotment should be around 3.5 hours of secular instruction per day.

INSPECTIONS

The state should strongly consider enabling unannounced inspections, which have so far not been part of the proposed regulations. Arranged visits and announced inspections simply do not provide an accurate picture of the everyday functioning of these institutions. Like restaurants and other establishments, nonpublic schools should be subject to occasional unannounced inspections. This should certainly be the case for schools with a record of noncompliance with substantial equivalency.

REMEDATION

Finally, a speedy and transparent remediation process is necessary for schools found to be noncompliant. The current language of the regulations allows for a process that is much too lengthy and unwieldy. The education of so many children can't be held in limbo while education authorities and school administrators move at a snail's pace to come into compliance.

“ Every child in New York State is entitled to a high-quality education. By proposing these regulations, we are moving through the public process to ensure that students attending nonpublic schools receive substantially equivalent instruction. We remain steadfast in our commitment that all New York's children leave school with the knowledge they need to succeed in life. **”**

-Betty Rosa as Board of Regents Chancellor