

Agudath Israel Applauds Ruling to Revisit Constitutionality of Michigan Nonpublic School Program

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Agudath Israel of America expressed optimism in light of Tuesday's [Michigan Court of Appeals' ruling](#) ordering the Court of Claims to revisit its decision on the state's nonpublic school reimbursement program.

In her original decision, Court of Claims Judge Cynthia Diane Stephens said the program violates the state constitution's "Blaine amendment" language prohibiting direct or indirect aid to nonpublic schools. The \$2.5 million program to reimburse nonpublic schools for state mandates that pertain to the health, safety, and welfare of their students has been included in state budget bills since 2016. The multi-year effort was led by the Michigan Catholic Conference and the Michigan Association of Non-Public Schools, who were joined by Agudath Israel of America and other nonpublic school advocates.

In a 2-1 decision, the Michigan Court of Appeals disagreed with Judge Stephens and said that each of the "actual costs" for which a nonpublic school may be reimbursed under the challenged legislation should be examined separately using a new three-prong test. The test ensures that the action or performance is 1) merely incidental to teaching, 2) does not constitute a primary function necessary for a nonpublic school to exist, and

3) does not involve excessive religious entanglement.

“This decision should at least allow some health, safety, and welfare mandates to be reimbursed by the state,” said Rabbi A. D. Motzen, Agudath Israel’s national director of state relations. “But we will continue to advocate that the courts overturn state Blaine amendments themselves, which were a product of bigotry specifically targeting religion and its adherents.”

The nation’s first mandated services program was established by the New York State Legislature in 1974, thanks to the pioneering efforts of the late Agudath Israel leader Rabbi Moshe Sherer and other nonpublic school advocates.