

STRAIGHT TALK



TEACHABLE MOMENT

AVROHOM WEINSTOCK, chief of staff at Agudath Israel of America, discusses the recent effort by Agudah and other organizations advocating for yeshivas to gather and submit comments opposing New York State's proposed regulations of the curricula at private schools.

The public comment period regarding the proposed regulations of private schools in New York closed at the end of May. How many comments were submitted from the community?

About 220,000 came in through the various Orthodox Jewish groups, including Agudah and Torah Umesorah, PEARLS, Chabad, True Torah, and Satmar-KJ. Some schools created their own portals — HALB's, for example, brought in over a thousand opposing comments.

And anywhere from 20,000 to 100,000 more were submitted directly to SED (the State Education Department). We won't know the exact number submitted until the government counts and announces it.

But it's safe to say the total will be at least 250,000, all told.

Do you have any idea how many letters were submitted by Yaffed or others who support strict government control of yeshivas?

Yaffed conspicuously didn't have a counter on their website, as we did — and it's probably not because they had hundreds of thousands of letters pouring in. And I would add that, if history is any indication, the last time there were proposed regulations and a comment period, in 2019, SED relayed to us that of 140,000 letters submitted, only a few thousand were supportive of the proposed regulations.

Yaffed had a different tactic this time. Last time, they appealed to disgruntled yeshivah graduates, people who have gone through the system. This go-round, they did not even seem to attempt that approach. They touted 150 rabbis, not of the Orthodox persuasion, who signed on. They pro-

duced a video focusing on “*tikkun olam*,” essentially saying that if you care about the environment and liberal social values, why would you not campaign for your own, unfortunate, co-religionists who are not getting an appropriate education? So it seems that they've given up on the approach of getting significant numbers of people who were actually in the system and understand what yeshivah education is, and instead felt that it'd be more fruitful to have those outside of Orthodoxy opine on what Orthodoxy ought to be doing. There are many Reform and Conservative Jews. So this was a wider swath of the population that they were addressing. We don't know yet if their approach was successful.

So there were roughly 135,000 pro-yeshivah comments in 2019 — and perhaps double that number now. To what do you attribute this massive increase?

Going into the comment period now, we had a fear that there would be “comment fatigue.” That in 2019, people were excited and motivated to comment, but now, when it happened again, it might be harder to get people engaged.

As it turned out, the first time around, there was an awareness breakthrough that had to be worked on. People didn't know what this legalese term of “substantial equivalency of education” meant. It was really a new phenomenon. I think at this point it's become far more entrenched in the community as far as understanding what's at stake. So now, we didn't have to explain the issue as much, and we were sort of starting off with those 135,000 people who were already aware and engaged and ready to comment, and then more people who had learned of this issue since 2019 said, yes, this is a concern.

The other thing that's changed — I can say this anecdot-

ally, though I don't have statistics — is that in 2019, there was a lack of understanding of where the opposition was coming from. It sounded innocuous, even beneficial to some, that “they're trying to improve education.” But this time around, as people better understand the issue, they appreciated what the opposition is actually agitating for, and that this campaign is not quite as innocuous as it was perhaps originally thought.

In 2019, the comment period was during the summer months, when many Orthodox Jews are on vacation upstate. This time, the comment period was during the school year. Do you feel that's another reason there was such a big increase in comments this year?

Absolutely. We saw schools and parents very engaged and mobilized. Pesach fell out early in the comment period, so there was a bit of a slow start, but in the second half during the school calendar, there was a lot more mobilization, leading to this unprecedented turnout.

Is someone at SED required to read every single comment?

They are required to have a proper process with which to review the comments and feedback. I can't say if they're reading every single word. There are only a few people reviewing them. But they are charged with reviewing this. And, to their credit, I have to say, in 2019, they did. They produced a robust report summarizing the different points that were raised, and we see that in fact, substantive changes were made to the proposed regulations this time around.

There's been a lot of work put in by a lot of people — Rabbanim and educators who trekked up to Albany repeatedly and worked hard to secure appointments with SED and members of the Board of Regents, to impress upon them what our community is all about. Rav Brudny, Rav Reisman, Rav Yaakov Bender, Rabbi Zwiebel, Rabbi Moshe Dovid Niederman, Yeruchim Silber, Richard Altabe, Avi Schick, and yeshivah leaders like Rabbi Moshe Schwab — a lot of really good people have been slaving at this for more than three years. Torah Umesorah and PEARLS have been great partners, and Rabbi Avrohom Fruchthandler and his team are a powerhouse.

There are also legislators who have fought for us on this issue since Day One, even though this is not a popular issue in Albany (“You're fighting for *less* education?!). I'm talking about people like Assembly members Simcha Eichenstein, Daniel Rosenthal, and Stacey Pheffer-Amato; Senator Simcha Felder; NYC Councilman Kalman Yeger, Councilwoman Inna Vernikov, Rockland legislator Aaron Wieder, and others.

Let's be clear. Obviously, we are very opposed to the currently proposed regulations. But if you look back at the first set of regulations which were proposed in November 2018,

they said that all private schools must, depending on grade, provide 7+ hours of secular studies per day in about a dozen topics, or students risk being criminally truant. After Agudah and others pushed back, a December clarification stated that only about 4 hours daily is needed. Then we brought a lawsuit in early 2019 on procedural grounds, and we won.

Then, in the summer of 2019, the proposed regulations were released under proper procedures and a comment period was opened, but because of the overwhelming number of comments opposing it, this issue was then put to bed for almost three years. And now the currently proposed regulations don't say anything about hours, and include multiple benchmarks and pathways for yeshivas to satisfy substantial equivalency which do not involve rigid local public school authority oversight. So we're in a better place. I'm not going to say we're in a great place, but we are in a better place, and we are pushing and working, and doing our best so that we are not in a place where England is right now, where schools can be shut down for not “conforming with British values” irrespective of performance. So I think there's been progress made, and we have to acknowledge the progress, and the considerable work by Rabbanim, educators, and *askanim* in getting us there, *b'siyatta diShmaya*, even while also acknowledging that there's more work to be done.

On a related note, it's important to mention that SED specifically notes on its website that “given the volume of largely negative comments [submitted in the summer of 2019], in February 2020, the Board of Regents directed Department staff to re-engage stakeholders to inform policy decisions related to the substantial equivalence of instruction in non-public schools.” So we clearly see, from their own public statement, what an effect these comments have had.

Also, it's critical to mention that even while we talk about numbers of letters, and the numbers are great, a lot of people sat down and wrote some very personal letters, whether it was about their own experiences or substantive legal or sociological points. Those certainly make more of an impression on somebody who's reading them. These substantive comments were most valuable, and have brought new solutions and concerns to the fore.

To your knowledge, are any members of the Board of Regents yeshivah graduates?

No.

The big question is, now that the comment period has ended, what are we going to see unfold over the next few months?

The Board of Regents' internal timeline says — though I can't tell you what's actually going to happen — that they expect to vote on this in September, which means that they have to go through all the comments over the course of the summer. That seems like a tall order to me. Then in the win-

ter 2023 they expect to develop guidance specifying for example, what exactly the assessments of nonpublic schools will entail — there is a lot of detail that would go into developing these regulations for the real world, even if they have been voted on and approved. Then each LSA (Local School Authority) has to identify the different schools within their boundaries. And then by December 1, 2023, schools would have to choose whether they want to develop one of the alternate pathways, or whether they want a full review by the LSA. If it's an alternate pathway, that's a relatively quick process. If it's an LSA review, that would begin in late 2023 or 2024.

If 135,000 negative comments in 2019 convinced SED to redo the regulations, do you think that double that number now will convince them to tear this up and start again?

We hope so. But it's important for people to recognize that the comments are not a vote. So even if we sent in 250,000 comments and the opposition sent in just a few thousand or whatever, it doesn't mean that the majority will "win." The vote by the Board of Regents is what matters. But of course, we hope the volume of negative comments will be influential in that vote. On the flip side, perhaps Regents members will say that they've heard a lot of these arguments before, and, essentially, "Okay, we've changed it as much as we're willing to change it, and that's it."

In 2019, the Catholic schools and the non-religious private schools joined the yeshivas in opposing the proposed regulations. This time around, there's a feeling from some in the yeshivah community that the Catholics and other private schools would satisfy the newly proposed regulations, which leaves the yeshivah community on its own here. Are you concerned that even with the increased number of negative comments, it'll be harder to fight without a broad-based coalition including the Catholics and other private schools?

I don't think the Catholics and private schools are for the regulations. They're still against it and have concerns. But their level of concern is more tempered than last time because they are likely covered under some of the alternate pathways. It's definitely helpful when fighting as part of a coalition versus fighting alone.

And that also answers, to a certain extent, your previous



Fourth- and fifth-grade *talmidim* of Yeshiva Darchei Torah taking a grand *bechinah* on the entire *sefer Bereishis*.

question: even if the relative number of negative comments is greater this time, it doesn't represent as broad a constituency, and that works against us.

I will say that there are conversations that we're having now, with different people; there are different approaches we are trying to pursue. It's not like we shut down our operation when the comment period closed. We just shifted from the comments and awareness mode to the mode of *shtadlanus*. It's just been a continuous run from one thing to the next.

Can you highlight any specific letters from individuals or professional groups that were submitted?

Various professions worked with us and organized and mobilized, to an amazing degree, to sign on to group letters. 538 lawyers, 1,320 accountants, 638 software engineers, 510 doctors and medical professionals, 2,164 college professors and educators all got together literally in the last week of the comments period. About 400 mental-health professionals wrote a beautiful letter, as well; 68 Harvard law graduates penned an eloquent opposition letter. Each of these groups submitted a letter stating how their yeshivah education prepared them for their careers.

There was also a letter from a number of *klei kodesh*. They wrote that this is the path they've chosen, and they've chosen it intentionally, and it's a beautiful way of life. And if they hadn't had a strong religious education and background, this would have been an avenue that would have been foreclosed to them. There are different ways to fulfill the American dream, so to speak, and this is theirs, and it ought to be respected.

There was a fantastic, very sharp letter from Mitchell (Moyshe) Silk, a Chassidic Jew who served as the immediate past Assistant Secretary for International Markets at the United States Department of the Treasury. People also appreciated Prof. Aaron Twerski's letter, and the letters of Rav Chaim Yehoshua Hoberman and Rav Lipa Geldwirth. Rabbi Nosson Scherman wrote a letter that was very interesting. The article jointly written by Rabbi Moshe Hauer, Executive Vice President of the OU, and Professor Michael

Helfand in the influential journal *First Things* was a critical contribution. There was also a great letter from CAPE, the Council for American Private Education, one of the largest private school umbrella groups in the country.

Many of these letters from these professionals, and in general many of the arguments made by the yeshivah community over the years, ask SED to look at outputs instead of inputs: to focus on the actual success of the community — whether economically, or in living peaceful and crime-free lives — instead of mandating a specific curriculum. Of course, none of the proposed guidelines ever addressed outputs. You've been privy to many discussions in Albany. Do you feel that SED has given any serious consideration to this argument of focusing on results rather than on curriculum?

I think those arguments have made an impression. We've made that argument during our lawsuit, and we should continue to develop it further.

But it is difficult to say, "There's less drug use in this community and therefore the schooling is acceptable." It's just not within the traditional educational rubric of things to examine. It's a different language that we're talking. Looking at X hours of teaching subject Y is something more quantifiable, and within their educational experience. I think the argument of looking at results makes sense, it's a tenable argument, but it's hard for them to digest.

Rabbi Zwiebel wrote a letter outlining Agudah's opposition to specific portions of the regulations. But first it noted the following: "Agudath Israel's mandate is to advocate for the full spectrum of Orthodox Jewish schools. That spectrum is wide, and includes yeshivas that may choose to adopt a hard line regarding LSA oversight ... For these yeshivas, tweaking the proposed regulations to make them easier to comply with may not move them off their oppositional stance, so long as they perceive LSA oversight as an unacceptable breach of

their independence. We will fully support these yeshivas if that is their position."

Some are taking a hard-line approach that no regulations will be acceptable, period. Has Agudah not told SED, "You cannot regulate our schools, period," but instead said it would work with SED to make acceptable regulations?

We're saying, and we've said this many times, that for 100 years or so, our community has been on its own, has thrived without government oversight, and we prefer it that way. We believe that parents are the best arbiters for how their children should be educated, not government.

That said, often in governmental matters, pounding the table in defiance only goes so far. The Moetzes Gedolei HaTorah and our Rabbanim have instructed us that for now, our *hishtadlus* is to lobby government; educate our *olam* as to the issues; engage in substantive conversations; and submit comments. We can always pound the table later; ideally we won't need to.

That is our approach, but we will fully support, as Rabbi Zwiebel said, every *kehillah* following its own Rabbanim and *Admorim*.

Do you have any other takeaways from the public comment period?

There are many. What our community can accomplish when unified (now go vote!); that we can never get too comfortable; and why do we only value something when it is threatened ... are a few thoughts that come to mind.

But since this is a political interview, I'll speak to that.

I've observed that politicians have a sort-of mental checklist of topics to speak about before they stand before any crowd. When speaking before an Orthodox Jewish crowd, denouncing antisemitism and extolling the need for increased security measures is always a trusty standby. Other topics may include support for Israel, opposition to BDS, and supporting growing and needy families, depending on the flavor of the Jewish crowd.

But 250,000 is a tough number to ignore. After this comment period, every politician in New York has added one more issue to their mental checklist before campaigning in any Jewish area: the right to a traditional yeshivah education.

Thank you, *Klal Yisrael*, for making that happen. ■