

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ALBANY

In the Matter of

PARENTS FOR EDUCATIONAL AND RELIGIOUS LIBERTY  
IN SCHOOLS; AGUDATH ISRAEL OF AMERICA; TORAH  
UMESORAH; MESIVTA YESHIVA RABBI CHAIM BERLIN;  
YESHIVA TORAH VODAATH; MESIVTHA TIFERETH  
JERUSALEM; RABBI JACOB JOSEPH SCHOOL; YESHIVA  
CH'SAN SOFER – THE SOLOMON KLUGER SCHOOL;  
SARAH ROTTENSREICH; DAVID HAMMER; ABRAHAM  
KAHAN; RAPHAEL AHRON KNOPFLER; and ISAAC  
OSTREICHER,

Index No. 901354-19

Petitioners,

For a Declaratory Judgment and a Judgment Pursuant to Article 78  
of the Civil Practice Act and Rules

-against-

BETTY ROSA, as Chancellor of the Board of Regents of the State  
of New York; and MARYELLEN ELIA, as Commissioner of the  
New York State Education Department,

Respondents.

---

**AFFIDAVIT OF AWI FEDERGRUEN**

---

1. The Commissioner of the State Education Department referenced a report released by YAFFED in her recent submission to this Court, and attached a copy of the report for the Court's consideration. The purpose of this declaration is to address the methodologies utilized to compile the YAFFED report, and the validity of the report's suggested findings.

### **Educational and Professional Background**

2. I am the Charles E. Exley Professor and Chair of the Decision Risk and Operation Division of the Graduate School of Business of Columbia University. I joined the faculty of Columbia University in 1979 after receiving my doctorate in Operations Research at the University of Amsterdam in the Netherlands. From 2002-2007, I served as the Academic Dean of the Columbia Business School. I am an expert in various areas of quantitative methodology, in particular the areas of applied probability and stochastic models, applied primarily to supply chain management, marketing and financial models. I have authored some 150 articles in the premier journals of my field and have served as Editor In Chief, Departmental Editor and Associate Editor of several of the field's flagship journals.

### **The YAFFED Report**

3. In 2017, YAFFED released a report entitled NON EQUIVALENT: THE STATE OF EDUCATION IN NEW YORK CITY'S HASIDIC YESHIVAS. The State Education Commissioner has referenced this report in her affidavit submitted in these proceedings, and a copy of the report is appended to her submission in this case.

4. Based on its title and on the fact that the State Education Commissioner cited the report in this litigation, one would expect the report to provide direct substantiation for its claims about Yeshiva day schools. It does not do that. Instead, the report meanders among various topics that are at best tangentially related to those claims.

5. The report contains three sections: (i) a "survey" to assess the level of "dissatisfaction" with respect to the secular studies at various yeshivas; (ii) the income distribution found among members of the Hasidic community; and (iii) a discussion of various state and federal funding sources available to Hasidic Yeshivas

6. As explained more fully below, the report suffers from several fatal methodological infirmities, devotes a majority of its analysis to topics that bear no relation to the issue of Yeshiva education and education standards, and utterly fails to substantiate the claim that Yeshivas do not comply with those standards.

7. In response to my earlier criticism of the YAFFED report's methodological infirmities, on November 9, 2018 a lawyer for YAFFED acknowledged to a federal court in Brooklyn that the YAFFED report "never claims to be a scientific survey."

8. Surveys, studies and reports that do not conform to basic scientific methods should not be relied upon by senior government officials, including New York State's Education Commissioner or Judges.

#### **The YAFFED Survey**

9. The report drew its conclusions about Yeshiva education from a survey that YAFFED conducted to assess the level of "dissatisfaction" among alumni and parents with respect to the secular studies education at Hasidic Yeshivas. The results of this survey are what YAFFED relies upon for its negative conclusions about Yeshiva education.

10. However, a review of the "methods" section of the report (on page 74) reveals that (i) the survey "was distributed through social media, groups of yeshiva graduates and personal networks;" (ii) garnered no more than 116 responses; (iii) of which only 44 had actually attended Hasidic secondary schools<sup>1</sup> at a Yeshiva in New York City. The report does not disclose how many distinct schools these respondents attended, but it appears to be somewhere

---

<sup>1</sup> Page 35 of the YAFFED report states "In high school, only 6 of the 44 New York City high school-level yeshiva students and graduates who responded to Yaffed's survey..."

between 22 (see the discussion at pages 33 and 36 of the curriculum at 22 schools) and 39 (the number of schools that YAFFED has identified in its public criticism of Yeshiva education.

11. That means that YAFFED obtained no more than two relevant responses per educational institution. This is a ridiculously low response level, both in absolute and relative terms. Especially since YAFFED itself concedes that there is a broad spectrum of curricular practices across the various Yeshivas in New York, the number of responses per institution is the relevant response measure.

12. For this reason alone, it would be irresponsible for anyone to attribute any relevance to these survey responses that serve as the backbone of the YAFFED report.

13. Best practices for survey sampling suggest that the survey sample be large enough to provide representative information about a population (Scheaffer, Mendenhall, & Ott, 2006). Here, the Yeshivas about which YAFFED seeks to draw conclusions educate approximately 57,000 students, annually, and therefore should be expected to have tens or hundreds of thousands of alumni. A self-selected “group” of responses from one or two of those alumni per institution is clearly insufficient to be representative.

14. It is also perplexing that a report used to draw conclusions about New York City Yeshivas was based on a survey in which the majority of the (small number of) respondents had not attended a Hasidic school in New York City, even at the elementary school level.

15. But the failures of the report do not end there. The surveyed “sample” appears to have been “constructed” in a haphazard and radically biased manner. There is no description of how the “yeshiva graduates” were selected. The “personal networks” are equally ill described but its designation suggests that the leaders of the organization solicited their “friends” on Facebook

and other social networks. It is not much of a surprise that the Facebook friends of YAFFED and its executive director share their worldview, and dislike Yeshiva education.

16. In other words, in addition to the size of the sample, it is crucial that the sampling procedure be designed to avoid biases. In a valid and professionally conducted study, a sample would be drawn randomly from the relevant populations, rather than the investigators seeking out specific individuals. The study should also correct for built in biases, for example overrepresentation by segments with extremely negative views who are far more motivated to respond than those with a neutral or positive view on the subject matter.

17. In fact, the bias of an online "survey" made available via social media is even worse in this instance, because, as the report itself acknowledges (p. 53) the Hasidic community does not actively participate online and in social media to the degree seen in other communities.

18. By distributing the survey through the narrow channel of its social networks, YAFFED oversampled those likely to agree with its worldview, and excluded the vast majority of Hasidic Yeshiva graduates and alumni. This is a classic coverage error, where the sample does not represent the population as a whole (Hill, Dean, & Murphy, 2014).

19. Internet surveys suffer from many disadvantages, in particular low response rates, and a lack of control of the environment and associated (intended or) unintended biases, see for example Table 7.1 in Malhotra (2012). A responsibly designed survey would reach out to the full alumni population of thousands of alumni in each school or a reasonably sized sample thereof.

20. Finally, the YAFFED report fails to disclose what questions were included in the survey, and whether they were forced-choice questions (e.g. yes/no), likert questions (i.e., respondents are asked to rate an item on a predefined scale), or open-ended questions allowing the investigators to draw fully subjective conclusions from the narratives. Beyond the

number of respondents, it would be pertinent to know basic demographics, such as whether those who responded were recent Yeshiva graduates or had attended Yeshiva a decade or more ago.

### **The Income Distribution Within the Hasidic Community**

21. The YAFFED report repeatedly mentions that there is poverty among the Hasidic community, presumably to convey that the Hasidic population is poorly educated and therefore ill prepared to earn an adequate income in the United States or New York City economy. For example, in its Executive Summary on page 6, the authors state that “43% of Hasidic households are poor.” The same statistic is one of five highlighted in the population profile on page 43.

22. Differences in educational levels are, of course, an explanatory variable in characterizing differences in income distributions across different population segments. However, it is only one of many. As an example, in the United States, only 63% of the eligible population is engaged in the labor force or runs its own business, see e.g. Statista (2017). This percentage prevails even in the current economy with historically low unemployment rates. Many individuals choose to stay outside the labor force or to engage in part time jobs, for a large variety of reasons, even though they have the skills and training to be gainfully employed, on a full time basis. This consideration applies, a fortiori, to the Hasidic community where many assign the highest priority to engaging in Jewish studies, tending to the religious needs of their community and to raising their (indeed, typically, very large) families. For many, these values take precedence over the pursuit of high or even merely comfortable income levels.

23. However, even to the extent that income distributions *are* used as a proxy for the adequacy of educational systems, it is **absolute** income levels that should be considered, rather than how these levels compare with federally specified poverty levels. The latter increase rapidly with household sizes, and, as stated repeatedly in the YAFFED report, itself, household

sizes are very large in the Hasidic community. For example, the 2018 Federal Poverty Guidelines set the poverty threshold income at \$12000 for single individuals, and in excess of \$55,000 for families with 9 children, see, for example, FAMILIESUSA(2018)

24. The US Census Bureau reports on income distributions in the 59 Community Board Districts in New York City. Its source is the 2010-2014 American Community Survey 5-Year Estimates > People :Income & Earnings: income/Earnings.

25. What this data demonstrates is that the Williamsburg and Borough Park Districts -- where the vast majority of New York City Hasidic families reside -- rank in the top or second quartile of the 59 districts, respectively.

26. More specifically, Williamsburg has the 14<sup>th</sup> largest percentage of males with an annual income in excess of \$100,000, and Borough Park has the 27<sup>th</sup> largest in this ranking. The two districts assume very similar positions when ranking the districts by the percentage of males with an annual income in excess of \$ 50,000. The percentages are computed with respect to the total population of males, 18 years or older.

27. These rankings are all the more remarkable when taking into consideration that:

- (a) In the Hasidic community, young male adults typically wait till their late twenties or beyond before starting their professional careers, this to engage in full time Jewish studies. This segment of the population has zero or close to zero income from wages, salaries or business profits.
- (b) In the Hasidic community with its very high birthrates, the age bracket between 18 and 30 represents a very large percentage of the total population of individuals 18 years and older.

28. To summarize my conclusion: the income distributions in Williamsburg and Borough Park, far from signaling inadequate educational preparation, compare favorably with the majority of New York City community board districts.

### **Government Funding Available to Yeshivas**

29. The YAFFED report devotes 15 pages to a discussion of various federal and state funding available to Yeshivas. It is entirely unclear how this information sheds any light on the question whether the Yeshiva curricula comply with New York State standards, the stated concern of the report and this litigation. The report's Executive Summary characterizes the government funding as "exorbitant sums of public funding despite their private status."

30. The impression conveyed by this section of the report is that it is meant to paint a picture of a population that is a burden on taxpayers. Once again, however, the report's findings are not supported by the discussion on which it relies, leading to a fundamentally misleading conclusion.

31. Title I-III funding is identified as, by far, the single largest source of federal funding available to yeshivas. The report asserts that Hasidic yeshivas "receive tens of millions of these Federal funds" but provides no substantiation for this assertion.

32. Most importantly, even if the unsubstantiated funding numbers were to be accepted at face value, they represent, at most, an average of several hundred dollars per Yeshiva student in New York. (The report puts the total Titles I - III funding for all non-public schools in New York City at \$127 million. But there are 110,000 Yeshiva students in New York City, as compared to a total nonpublic school enrollment of more than 250,000.).

33. Contrast this with the cost for each public school student. Data obtained from the U.S. Census Bureau reveals that New York State public schools received a total of \$25,730 per

student from federal, state and local governments in the 2016 fiscal year. See Table 11 in the "2016 Annual Survey of School System Finances", conducted by the US Census Bureau.

34. Parents who enroll their children in religious schools are subject to the same school and other taxes as families that utilize the public schools, and do not receive any tax benefit (neither a credit nor a deduction) for the religious school tuition they pay. This means that state and local government, and hence the taxpayers, achieve a net savings of at least \$25,000 per student, as a result of the privately funded Yeshiva system.

35. Since there are more than 110,000 children educated in Yeshivas in New York City, the cost savings to New York City and State is estimated to exceed \$2.75 billion annually, or \$27.5 billion over each decade. And there are an additional 55,000 students enrolled in New York Yeshivas outside of New York City. This means that the total statewide savings achieved by state and local governments as a result of the Yeshiva system exceeds \$ 4 billion annually.

I declare under penalty of perjury under the laws of the State of New York that the foregoing is true and correct to the best of my knowledge.

Executed this 28<sup>th</sup> day of March 2019, at New York, New York.

  
AWI FEDERGRUEN

  
**THAO H. PHAN**  
NOTARY PUBLIC, STATE OF NEW YORK  
NO. 01PH6133193  
QUALIFIED IN NEW YORK COUNTY  
MY COMMISSION EXPIRES SEP 12, 21