

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.

AFFIRMATION OF IMRAN BAZOV, ESQ.

1. I am the Coordinator of Education Affairs at Agudath Israel of America. My responsibilities, among other things, include ensuring that yeshivas are in compliance with the plethora of state and local laws and regulations that affect them.

2. The purpose of this declaration is to recount an exchange that occurred during the New York State Education Department (NYSED) Substantial Equivalency Training that was conducted on February 14, 2019.

NYSED Substantial Equivalency Training

3. The NYSED Substantial Equivalency Training was meant to educate local district school officials and private school representatives about the requirements of the New Guidelines and their implementation. The February 14th training, which I attended, was presented by Christina Coughlin, Assistant Commissioner of NYSED's Office of School Governance, Policy, and Religious & Independent Schools, and NYSED Assistant Commissioner Renee Rider. The training consisted primarily of an overview of the Substantial Equivalency Guidance and Toolkits (the "New Guidelines") presented by Ms. Coughlin. There was also a question-and-answer session.

4. The New Guidelines contain toolkits and checklists that are supposed to clearly delineate the requirements that a private school must meet in order to be deemed substantially equivalent. The curriculum requirements are set forth in Appendix A. As it relates to high schools, Appendix A states in relevant part:

"Please review §§100.2 and 100.5 of the Commissioner's Regulations for instructional and diploma requirements, both local and Regents."

This is in stark contrast to the instructional requirements for elementary schools, which the preceding page of Appendix A sets forth with precise detail.

5. The reference to §100.2 is not a useful method of communicating to schools what curricular requirements they must meet. Section 100.2 contains thirty-seven subsections, many of which have additional subsections of their own. For instance, § 100.2 provides, *among many other things*, that "the use of State syllabus, where available, is recommended for all subjects (8 NYCCR § 100.2(b)); that students "shall have the opportunity to take Regents courses in grades 9 through 12" (8 NYCCR § 100.2(e)); that students shall have "the opportunity to complete a three- or five-unit sequence in . . . career and technical education and the arts" (8 NYCCR § 100.2(h)(1)); that

schools “shall offer students the opportunity to begin an approved sequence in the arts in grade nine” (§ 100.2(h)(2)); that schools “shall offer students the opportunity to begin an approved career and technical education sequence in grade nine” (8 NYCRR § 100.2(h)(3)); and that schools “shall offer students the opportunity to meet the learning technology standards (8 NYCRR § 100.2(h)(7)).

6. In addition, §100.2 limits the number of courses a teacher can teach, providing the “number of daily periods of classroom instruction for a teacher shall not exceed five” 8 NYCRR §100.2(i); it requires schools to implement programs and policies, including a “guidance and counseling program” staffed by “certified school counselor(s)” and to maintain written “school conduct and discipline” policies. 8 NYCRR § 100.2(j)(1)(b), (l).

7. Section 100.2 also contains many cross references to other laws, including the New York State Education Law, the Rehabilitation Act of 1973 and the United States Code. Many of §100.2’s provisions appear to be directed primarily at public schools or registered high schools, even though registered high schools are exempt from the New Guidelines. Moreover, it is not readily apparent which of Section 100.2’s provisions are intended to apply solely to public schools, such that they are not incorporated into the New Guidelines. Accordingly, it is difficult to know how Section 100.2 applies to private, non-registered high schools.

8. Section 100.5, titled Diploma Requirements, is over fifty pages long with a dizzying array of cross references to other lengthy education laws. It also contains many terms of art not clearly defined within the document and stratifies instruction requirements based on such criteria as year of entrance of a student, whether a student has a disability, the type of Regents examination taken, the type of diploma rewarded, alternative pathways for diploma requirements etc. Again, all of this with no clear differentiation between registered and non-registered high schools, such that it is difficult to know how Section 100.5 applies to private, non-registered high schools.

Ambiguity Regarding Non-Registered High Schools

9. At the training, Ms. Coughlin was asked to clarify what exactly the instructional standards are for non-registered high schools. She answered that she was not sure, and that she would have to get back to us. She was further asked why the high school portion for Appendix A only references the regulations while the middle school and elementary school portions have clearly delineated curricular requirements. Ms. Coughlin again did not have a response, and stated that NYSED would work on creating clearer instructions. To date, NYSED has not provided either an answer to the questions posed at the February 14th training or clearer instructions.

10. As the foregoing demonstrates, no substantive clarity was provided to schools about what the New Guidelines mean for non-registered high schools.

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 25 day of March 2019, at New York, New York.


IMRAN BAZOV