



Hasidic Parents Want Better Schools. New York Should Help Them Rather than Punish Them

Incentivizing better Orthodox schooling is less legally fraught, more politically appealing, and more likely to succeed in practice than forced regulation.



Young yeshiva students in the 1990s in Williamsburg, Brooklyn, New York. *Andrew Lichtenstein/Corbis via Getty Images.*

OBSERVATION

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The ongoing debate over whether and how to reform yeshiva education in New York is often presented in stark terms: it seems everyone is either a hostile critic or a loyal defender of the hasidic system. In the recent New York City mayoral election, for example, the Democratic primary candidate Andrew Yang received unusually early and enthusiastic endorsements from hasidic leaders after committing to a hands-off approach toward regulating yeshiva education. Then, a new PAC, Voters for Substantial Equivalency, paid for one million robocalls, many of which accused Yang and now Mayor-elect Eric Adams of having “made deals with ultra-Orthodox rabbis in exchange for the hasidic bloc vote.” The callers further claimed that Yang and Adams would

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“allow tens of thousands of children to be denied an education in even basic math, science, and American history.”

The fact that all this is taking place in an environment in which anti-Semitic attacks are on the rise has not helped matters; many Hasidim understand criticism of their schools simply to be another form of anti-Semitic harassment. But, as [Eli Spitzer noted in a recent column for this magazine](#), both defenders and critics would do well to stop portraying education as a zero-sum game. The current state of argument, Spitzer explains, obscures real concerns on both sides.

For those who would like to see meaningful change in the simply Hasidic education system, entering into a pitched and highly public battle is a losing strategy. Critics of Hasidic schools, most notably members of the Young Advocates for Fair Education (YAFFED), have spent years working with state and local officials to force Hasidic Jews to improve secular instruction. If they succeed in the legislature, they are very likely to be challenged in court—and, as I argue in greater detail below, they are almost certain to lose.

This approach is also unnecessary, as there is a real convergence of interests between New York State and the Hasidic community. Hasidim would benefit from the improved economic opportunities tied to quality instruction in certain subjects and, naturally, so would the state. By working incrementally with Hasidic leaders, state and city officials can implement reasonable incentives for reform, without facing any litigation challenges. And while there will undoubtedly be pushback against the use of such incentives in private schools, this seems to be the only real way for the state to accomplish a legitimate policy goal, that of enabling more Hasidic children to be employable upon graduation.

The question of whether and to what extent states may interfere with the education offered in private schools is longstanding and complex. This is partly reflected in New York State law, which dictates that instruction in private schools “must be substantially equivalent to the instruction given at the *local* public school [emphasis added],” but offers little specific guidance beyond providing a list of subjects to cover. The requirement to match the standards set at any given local public school, rather than a set of state metrics, muddies the waters; after all, educational standards vary greatly from one public school to another, especially in a city as large and diverse as New York. This makes the task of determining what constitutes “substantial equivalence” complicated, and can make the work of groups like YAFFED, who want all Hasidic schools to meet specific educational benchmarks, that much harder.

Another point to consider is that, when cases regarding regulation of private education have come before the Supreme Court, they have often been resolved in favor of private schools or parents. Notable examples include *Meyer v. Nebraska*, a 1923 case that overturned a Nebraska law prohibiting all foreign-language instruction, including in private schools. The 1925 case *Pierce v. Society of Sisters*, which overturned an Oregon referendum requiring all school-age children to attend state public schools, is also frequently invoked as a precedent in court rulings. An oft-

quoted passage from *Pierce* asserts that the “child is not the mere creature of the State; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations.”

With few exceptions, this trend of granting parents significant discretion in the education of their children has held steady, at least in cases that have reached the Supreme Court. Of particular relevance for advocates of Hasidic schools, though, is the 1972 case *Wisconsin v. Yoder*, which concerns the rights of Amish parents to refuse to enroll their children in either public or private school after eighth grade.

Three Amish fathers—Jonas Yoder, Wallace Miller, and Adin Yutzy—were convicted of violating Wisconsin’s compulsory school-attendance law, which requires parents to send their children to a formal public or private school until the age of sixteen. The Supreme Court of Wisconsin, and later the U.S. Supreme Court, found that the Wisconsin attendance law violated the free-exercise clause of the First Amendment, since it interfered with Amish religious beliefs and practices without sufficient justification. The majority opinion also cited “the Court’s holding in *Pierce* . . . as a charter of the rights of parents to direct the religious upbringing of their children.” The Amish families were permitted to withdraw their children from formal schooling, with no expectation that they would provide a “substantially equivalent” alternative.

Yoder casts a long shadow. Any state that undertakes to regulate religious schools may encounter intense constitutional litigation focusing on this case. Hasidic communities in particular share important traits with Amish groups, which could help strengthen their arguments should a case come to court.

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In *Yoder*, the Supreme Court listed several characteristics of the Amish community. First, the Court noted that they are “successful and self-sufficient,” and that they “have an excellent record as law-abiding . . . members of society.” Next, the Court observed that they “have demonstrated the sincerity of their religious beliefs” as well as “the interrelationship of belief with their mode of life” and “the vital role that belief and daily conduct play in [their] continuing survival.” The Court also agreed that the Amish respondents had sufficiently demonstrated both that the Wisconsin education law posed a threat to their way of life, and that the Amish community’s alternative, informal education system was adequate for their needs. In part because of this, the Court concluded that it was “incumbent on [Wisconsin] to show with more particularity how its admittedly strong interest in compulsory education would be adversely affected by granting an exemption to the Amish.”

Hasidic communities in New York meet at least some elements of this description. They are sincere in their beliefs, which interrelate with their mode of life and which play a vital role in their

continuing survival. However, while ḥasidic education is in some ways more Westernized and analytic (and thus more transferable to other fields) than the farming life of the old Amish, the ḥasidic community is also more dependent on government assistance. In other words, it is less clear that they are self-sufficient and that their education system is adequate for their needs.

In the event that litigation involving *Yoder* as precedent does arise in the context of ḥasidic education, one of two outcomes seems likely. In the first, Ḥasidim will seek to demonstrate that their education system is substantially equivalent to that of local, likely low-performing, public schools. In the second, ḥasidic groups may seek a religious exemption akin to that of the Amish community in Wisconsin, and go on to adopt an informal education system with virtually no government assistance or oversight. If they are pushed to demonstrate their self-sufficiency, ḥasidic groups might point to the similarly low income levels of their non-ḥasidic neighbors and their own community's general law-abidingness and cohesion.

In short, even if ḥasidic parents fail to demonstrate that they provide a "substantially equivalent" education for their children, the Supreme Court may defer to their right to direct their children's religious upbringing. Such an outcome could be transformative in a way that neither Ḥasidim nor their opponents really want: it might prompt the community to withdraw from the formal school system entirely, as the Amish do. Ḥasidim might receive an exemption from state education requirements, but scant government support for their schooling needs (including security funding, meals for poor children, and so forth). Alternatively, the Court might conclude that the state should simply stop interfering with ḥasidic education standards, leaving things more or less as they are now.

Yoder is of a piece with other cases that accord significant leeway to religious groups. As recently as July 2021, the Court in *Amos v. Fillmore* ruled that a county could not require a local Amish community to implement modern sanitation systems. Also in 2021, in *Fulton v. Philadelphia*, the Supreme Court unanimously agreed to exempt a Catholic adoption agency from a requirement to grant adoptions to same-sex couples. All of the above suggest that aggressive attempts to regulate ḥasidic education will fail if challenged in court. Such efforts will also cost a good deal of time and money, and are likely to exacerbate tensions between ḥasidic communities and their critics. In the end, they may further deter Ḥasidim from improving their secular-education standards. But it does not follow that sincere education reformers, working in good faith with state and community leaders, must give up.

Litigation challenges aside, any strategy that pits parents and teachers against education reformers seems doomed. At the very least, reforms would be more likely to succeed if parents and teachers joined the effort. And even if the education activists in this case were to get everything they want—that is, even if ḥasidic schools were forced to alter their curricula to avoid state sanctions—Ḥasidim would justifiably resent the changes. As long as reformers behave as if they are campaigning against the caretakers and educators of children whose lives they wish to improve, they are unlikely to make real inroads.

This is a shame, as there is a real convergence of interests between New York State and the ḥasidic community. In discussions with ḥasidic leaders and parents, I have observed that many would welcome better secular instruction in their schools, albeit in targeted skills such as math, computer science, or English language, rather than in subjects that emphasize secular value systems. And since private schools save New York a great deal of money—according to one estimate, ḥaredi yeshivas save the state \$2.75 billion annually—the government has good reason to help strengthen ḥasidic schools. In the long run, of course, improved economic opportunities for New York’s ḥasidic communities will also help New York State.

Interestingly, the poverty among Ḥasidim partly explains why ḥasidic schools have not improved secular education to the extent that many parents would like. The ḥasidic community prides itself on a high birth rate, which means that even in families with annual income levels of over \$100,000, there is little money available to pay tuition for the many children. Because of this, ḥasidic schools often offer lower tuition than other Orthodox schools, and consequently provide poorer secular-studies programs.

Of course, there are some ḥasidic schools that pride themselves on the total absence of any secular education, but these constitute a small minority. Most ḥasidic schools are simply poorly funded and thus poorly staffed. When resources need to be triaged, of course, these schools prioritize programs that are more central to their *raison d’être*: Jewish life and education. Nevertheless, it is important to understand that the ḥasidic community is not monolithic. Many parents, school leaders, and even whole ḥasidic sects would welcome better secular education in English, computer science, math, and the many other technical skills needed to thrive in the American workforce today—if there were an affordable and targeted way to provide it.

This much is apparent from the data: when New York City recently examined ḥasidic schools, it found that not a single ḥasidic boys’ school taught art, but many provided instruction in math, science, English, and history. Moshe Krakowski, a professor at Yeshiva University and a leading scholar of ḥaredi education systems, noted that there are over 200 ḥasidic schools in New York, and that the city investigation focused on only 28. Among those, eleven provided “substantially equivalent instruction or [were] well-developed in moving towards providing substantially equivalent instruction,” while twelve were “developing in their provision of substantially equivalent instruction.” The remaining five were underdeveloped. This spectrum reflects the diversity of the community, which the state would do well to acknowledge. It should also seek to craft tailored policies that respond to this reality.

It is important to note that modern technology has made the ḥasidic community more open to educational advances. Technology can allow ḥasidic schools to participate in substantive and relatively inexpensive educational programming while remaining culturally and socially sheltered. Recorded classes (which can be subtitled in Yiddish or Hebrew) or live Zoom courses, among other online education options, can be easily provided within a cloistered ḥasidic school system and offered in a way that suits the culture of the community. Online classes also allow for

more oversight by teachers and parents, who can screen the content in advance to ensure there is nothing religiously objectionable.

In determining the best way to introduce changes in the ḥasidic education system, activists and lawmakers should take a long view. Rather than push for reforms that may ultimately result in ḥasidic groups taking their children off the educational “grid,” as the Amish do, they should work with community leaders. The state can offer educational opportunities that would appeal to large swaths of the ḥasidic community. In this way, it could encourage incremental improvements that may, over time, become more appealing to more Ḥasidim.

To start, New York can connect financial assistance to teaching requirements. This is completely constitutional. Even as the state cannot force children into public schools if their parents object to sending them, no state is obligated to support financially any particular religious educational institution (just as it need not support an Amish farm). New York might then require ḥasidic schools to offer certain online classes in order to receive the full amount of a particular grant, e.g., funding for playground equipment. The state might also offer additional support to ḥasidic schools that adopt certain kinds of math curricula, or that limit class sizes for secular subjects. It could provide payments for schools whose students reach certain proficiency levels in English, geometry, or computer science. The government might also provide Internet access in specific classrooms, or purchase parental safeguards for schools that agree to online programming (as many ḥasidic schools may be wary of allowing students broad Internet access). The opportunities are virtually endless; vocational training programs may also work very well.

There is room to be creative; not everything needs to be tied to financial reward. The COVID-19 pandemic launched a new wave of online educational programming, which the state might offer to ḥasidic schools for free. After all, the state already loans textbooks to private schools, and this would not be much different. If done in a manner that acknowledges ḥasidic practice and beliefs, there is great opportunity to enhance the educational and economic openings available for this community, in a way that avoids rancor or litigation. It could help people struggling with poverty and, in the long run, it would benefit New York State. That should be kept in mind; both the state and the Ḥasidim stand to gain from improving secular education in yeshivas.

Of course, these proposals will generate pushback, and I suspect it will come from three angles. First, public-school leaders understandably resent money or other resources being channeled to private schools, particularly to induce them to do that which they believe the schools ought to be doing anyway—providing a substantially equivalent education.

Three counterarguments might be provided. First, it is no secret that public schools *often fail* to provide effective instruction in reading and math, especially for students who speak English as a second language (as many ḥasidic children do). Second, if the long-term goal is to create an employable workforce in the state, rather than merely assist public schools, such aid is a relatively low-cost

and efficient way to achieve that. It would produce better results than either the status quo or a “Yoder-ized” future. Finally, private schools subsidize public education, since the taxes of private-school parents go toward funding public schools, though it is a service they do not use. Allowing some of these tax contributions to be redirected toward private schools, especially for targeted, religiously neutral purposes, is not intuitively unfair or even bad for the public schools; it is still much less expensive and burdensome than the alternative of sending all children to public school.

Others may worry that ḥasidic school leaders will accept the “carrots,” i.e., the financial aid, but will fail to implement properly the educational improvements that are a condition of receiving that support. This is a real concern in any number of government programs. There is welfare fraud, military procurement fraud, and Medicare fraud—and no one can say with certainty that there will be no fraud in ḥasidic education programs. But there is also no reason to believe that the fraud in these programs would be any worse than in any other valuable governmental assistance program. It would be the job of the proper government office in New York’s Education Department to ensure that ḥasidic schools deliver on the promises they make.

Finally, there are those who simply oppose ḥasidic education on the grounds that they disagree with the ḥasidic way of life, or parts of it, and wish to force the dissolution or at least the reformation of their community. I have no good answer to this group other than to point again to the Court outcomes in *Yoder* and *Pierce*. Those who are looking for a fight, or who seek to regulate or fine ḥasidic schools out of existence, may instead worsen the lot of the children they are seeking to help.

Ultimately, carrots are preferable to sticks. In a time when anti-Semitism is on the rise and Ḥasidim are justifiably wary of attacks on their way of life, the state should proceed with caution and good will. An incentive system is less legally fraught, more politically appealing, and, most importantly, more likely to succeed.

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