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RE: Substantial Equivalence Inquiry

Dear Commissioner:

I am writing to follow up on my letter dated August 15, 2018 (the "August Letter"), to describe the steps that the New York City Department of Education ("DOE") has taken to look into a complaint it received (the "Complaint Letter"). The Complaint Letter alleged that 39 yeshivas located in New York City were not providing substantially equivalent instruction, as is required by Section 3204 of the New York State Education Law. A copy of my August Letter is attached to and incorporated by reference in this letter. As is described below, the DOE and the schools in question have accomplished a great deal thus far. The DOE has visited all of the schools within the scope of the inquiry, and has examined curricular materials where provided the opportunity to do so. Many of the schools have taken steps such as implementing new or updated curricula, even though we are, consistent with the current (and other) guidance of the State Education Department ("State Ed"), still in the middle of the applicable process for almost all of the schools. Moreover, we have made this progress despite a regulatory framework that has changed repeatedly over the last several years.

In April 2018, Education Law § 3204(2) was amended to provide that the Commissioner, not the local school district, would determine whether certain nonpublic schools are providing substantially equivalent instruction, and to add to the substantive criteria by which those schools would be evaluated. Then, as you know, in November 2018, State Ed revised its long-standing Guidelines for Determining Equivalency of Instruction in Nonpublic Schools ("State Ed Guidelines"). Following the issuance of this new guidance, State Ed embarked on a statewide training program, and specifically directed local school districts to not conduct substantial equivalence inquiries until relevant personnel had taken the training. The DOE of course followed this directive, and DOE personnel attended several State Ed trainings. Then, in April 2019, the new guidance was struck down by the Supreme Court, Albany County. As you know, State Ed subsequently proposed a new Commissioner's Regulation to codify what had been the new guidance and the regulation is pending. In the meantime, State Ed has reposted on its website the guidance that had been in effect prior to the invalidated guidance.

Therefore, in light of the currently unsettled status of the State Ed Guidelines and regulations, for this second stage of the inquiry the DOE's analysis (since my August Letter) has been guided by the relevant provisions of the Education Law, as discussed below.

Since August 2018, the DOE has visited an additional 13 yeshivas, including three high schools. At this time, the DOE has visited all 28 schools that are properly within the scope of the substantial equivalency inquiry initiated by the Complaint Letter. As I discuss at the end of this



letter, it appears, based on what we have learned to date, that these schools represent a range of development, from a few schools that provide substantially equivalent instruction to several that are underdeveloped in their efforts toward that goal. In addition, the DOE observed a range of professional and curricular development. Significantly, as described below, the organization PEARLS has developed and expanded, over the course of this inquiry, secular curriculum materials it has made available to yeshivas in mathematics, English Language Arts, and STEM. I intend to strongly encourage PEARLS to continue its efforts and to encourage these schools to take advantage of PEARLS's materials.

As I explained in the August Letter, throughout this process our goal has been, and continues to be, to assess the issues raised in the Complaint Letter and, where warranted, to work collaboratively with school leadership to help ensure that non-public schools provide substantially equivalent instruction. We firmly believe that the most productive path to meaningful, sustained improvement is through collaboration. We have sought to balance the rights of parents and private organizations while upholding the legal requirement that nonpublic schools provide instruction substantially equivalent to that provided in the public schools.

I say this fully cognizant of the important constitutional backdrop to this inquiry, the argument, in particular, that the parents of yeshiva students may exercise their religion and may direct the religious upbringing of their children free from governmental interference. The law, however, does not require an all or nothing approach in this situation, but rather also obliges the DOE to ensure that the instruction provided to children attending the yeshivas at issue satisfies certain minimal standards. We believe we have acted to protect the vital interest of the students in question in obtaining substantially equivalent instruction, while still respecting the First Amendment rights at stake, rights that, in this case, are rooted in the rich history of yeshiva education in this country and abroad.

The remainder of this letter is organized as follows: After a review of the law and guidance applicable to substantial equivalence inquiries, I provide a summary of the process followed by the DOE to date in response to the Complaint Letter. I then summarize what the DOE saw in the visits to the yeshivas and their responses to a survey the DOE sent to each of them. Finally, I summarize the DOE's initial thoughts about the schools, based on what we have learned so far.

This process is not over, and the DOE intends to continue its efforts regarding these schools. If State Ed has any guidance to provide, or alternative approach that we should take, we would of course welcome it and follow it.

1. Substantial Equivalence Law and Guidance

A. Law

New York State law requires that nonpublic schools provide instruction that is substantially equivalent to that provided in public schools in the city or district. Specifically, Education Law § 3204(2) applies to all nonpublic schools in New York State and requires that "instruction given to a minor elsewhere than at a public school shall be at least substantially equivalent to the instruction given to minors of like age and attainments at the public schools of the city or district



where the minor resides." It also requires that, with limited exception, instruction must be in English and textbooks must be written in English. <u>Id.</u>

Relevant to the question of substantial equivalence, Education Law § 3204(3)(a) sets forth the course of study for public schools. This course of study requires, for the first eight years of full-time public day schools, "instruction in at least the twelve common branches of arithmetic, reading, spelling, writing, the English language, geography, United States history, civics, hygiene, physical training, the history of New York state and science." Beyond the first eight years, the course of study "shall provide for instruction in at least the English language and its use, in civics, hygiene, physical training, and American history, including the principles of government proclaimed in the Declaration of Independence and established by the [C]onstitution of the United States."

As you know, in April 2018, Education Law § 3204(2) was amended (the "Amendments") to add skill-based factors (such as textual analysis and critical thinking skills) in the determination of whether nonpublic schools that meet certain criteria (including that each is a non-profit corporation; has a bilingual program; and has an extended school day for specified hours and days) are providing substantially equivalent secular instruction. See Education Law § 3204(2)(ii) and (iii). These Amendments further provide that, with respect to schools that satisfy these criteria, it is the Commissioner (and not the DOE) who shall determine whether these schools are providing instruction that is substantially equivalent to the instruction given to minors of like age and attainments at the public schools of the city or district where the minor attending a nonpublic school resides (see Education Law § 3204(2)(i) and (v)).

B. Guidance

The long-standing State Ed Guidelines were based on the statute as it existed prior to the Amendments. After the statute was amended in April 2018, State Ed issued updated guidelines in November 2018, incorporating the changes created by the Amendments and providing checklists and toolkits to guide school districts in conducting substantial equivalency reviews (the "November State Ed Guidance"). In response to three lawsuits filed by nonpublic schools—the New York State Association of Independent Schools and several independent schools; Parents of Educational and Religious Liberty in Schools ("PEARLS") and several religious schools and individuals; and the New York State Council of Catholic School Superintendents and several Catholic schools—in New York State Supreme Court, Albany County, the November State Ed Guidance was struck down by the Court. The Court held, in part, that the November State Ed Guidance introduced new legal requirements that were not in the law and therefore constituted rulemaking, rather than guidance, and, as a result, was subject to the procedures of the New York State Administrative Procedure Act, including the public comment process.

Following the Albany Supreme Court's decision, the State Education Department proposed a new Commissioner's Regulation that codified the November State Ed Guidance, and posted the proposed regulation for public comment. The public comment period expired at the beginning of September 2019 and the proposed regulations are pending.



In light of the fact that the November State Ed Guidance was invalidated, and the proposed Commissioner's Regulation has not yet been voted upon, during this stage of the DOE's substantial equivalence inquiry the DOE's analysis has been guided by the requirements in the Education Law, including Education Law § 3204.

2. The Complaint Letter

As detailed in my August Letter, the Complaint Letter was signed by 52 people describing themselves as "parents of current students, former students and former teachers" ("Complainants") of one or more of the 39 yeshivas listed in the letter. The Complaint Letter was addressed to the community district superintendents of community school districts 13, 14, 15, 17, 20, 21, and 24. It alleged that the named yeshivas "are not providing an education that meets the requirement of substantial equivalence" and "at the listed yeshivas, English and mathematics are taught from around age 7 to age 13, for an average combined time of only 90 minutes and on only four days a week. Other secular subjects are not taught at all, let alone in English. At these yeshivas, English instruction for boys stops at age 13. Girls generally receive a better secular education than boys but, we are still concerned that it is not sufficient to prepare them for their futures." The Complaint Letter requested that the DOE "look into substantial equivalence of the education offered at yeshivas on the attached list."

A. Steps Taken by the DOE to Investigate the Complaint

Shortly after receiving the Complaint Letter, the DOE commenced an inquiry into the allegations. The specific steps taken by the DOE are chronicled in the August Letter (see Sections 2.A and 2.B on pages 4-14). These steps included, among other things, meetings of the Senior Deputy Chancellor with the superintendents of the districts where the listed yeshivas were located ("the impacted districts"), meetings of DOE and the Nonpublic Schools Standing Committee ("Standing Committee") to inform them of the complaint, meetings of superintendents of the impacted districts with leaders of the yeshivas named in the Complaint Letter to discuss the allegations in the letter and the process and requirements for DOE's substantial equivalency inquiry, and requests that each yeshiva school leader send to the DOE materials describing the secular curricula taught at their schools and the qualifications of teachers providing secular instruction.

In addition, the DOE met with complainants to determine whether the allegations in the Complaint Letter constituted a "serious concern" under the State Ed guidance. The DOE conducted both a small group meeting and individual interviews with complainants who either had attended or whose children attend or had attended yeshivas listed in the Complaint Letter. At the small-group meeting, former students and parents of current students described the secular instruction they or their children received in yeshivas. Most said that the boys' schools provide secular instruction in English and math for at most 90 minutes a day (with no secular instruction on Fridays) until the boys reach the age of 13 and that, after students reached the age of 13, no secular instruction was provided. In total, individuals who were interviewed provided information about 11 of the schools named in the Complaint Letter. A summary of the information provided by individual complainants interviewed is provided on pages 4 to 5 of the August Letter.



Upon the conclusion of the interviews with the complainants, and consistent with the State Ed Guidelines, the DOE resumed and expanded dialogue with representatives of the yeshivas named in the Complaint Letter. As previously stated, the DOE believed then, and continues to believe, that the fastest, most sustainable path to school improvement, as well as the path to the deepest change, is via collaboration and community engagement. Toward this end, the DOE met with leaders of the yeshiva community to discuss the instruction being provided at yeshivas, including the content of the curricula taught and reforms that were being planned by leaders and educators in the yeshiva community. These meetings are discussed in the August Letter on pages 5 to 9. Among the reforms discussed was the implementation of new, more rigorous secular studies curriculum, as described on pages 6 to 7 of the August Letter, and below.

Leaders from the yeshiva community informed the DOE that they were collaborating to develop and adopt new curricula in English Language Arts ("ELA") for fourth through sixth grades and in mathematics for first through third grades. This effort was being organized by the nonprofit organization Parents for Educational and Religious Liberty in Schools ("PEARLS"). In September, yeshiva representatives provided the following summary of the curricular initiatives that have been generated by PEARLS over the past several years:

- As of the beginning of the current school year (*i.e.*, 2019-2020), the PEARLS curriculum includes:
 - o Math
 - PEARLS worked with Sadlier Oxford on the preparation of a Yeshiva edition of their Mathematics series, and developed related lesson plans for first through sixth grades.
 - o English Language Arts
 - PEARLS developed ELA materials for third through fifth grades.
 - o <u>S</u>TEM
 - PEARLS developed a STEM Troopers curriculum and textbook for fifth grade. It was introduced for the current school year.
- Expected additions for the 2020-2021 school year:
 - o Math
 - PEARLS hopes to release lesson plans and guides for seventh and eighth grade mathematics, for use in conjunction with the Envision math series.
 - English Language Arts
 - PEARLS will release ELA materials for sixth grade, including a student edition, a teachers edition, and lesson plans.
 - o STEM
 - PEARLS will expand the STEM Troopers series to include sixth grade.

In addition, as described in the August Letter, a professor who made a presentation on behalf of the yeshiva community has argued that many of the higher order thinking skills embedded in the Common Core Learning Standards are covered through the study of the Talmud. As I said in the August Letter, a strong argument has been made that Judaic Studies can be a powerful context in which to cultivate critical thinking and textual analysis skills. While critical thinking and textual analysis skills may be taught in the context of Judaic Studies, the DOE team was unable, in the visits described below, to evaluate for individual schools the degree to which secular topics



and/or critical thinking skills were covered through this religious study primarily because those classes were not taught in English. Moving forward, we would seek to revisit the schools with an interpreter or with an educator who understands the relevant languages in order to assess this instruction not done in English.

B. Analysis of the Schools Listed in the Complaint

While the Complaint Letter listed 39 schools, it listed two addresses related to one of the schools, United Lubavitcher Yeshivoth. Consequently, the DOE included both sites of the school in its inquiry, for a total of 40 sites. ¹ The DOE independently researched and verified information regarding all 40 sites, reviewing information within the DOE's Office of Non-Public Schools, visiting sites, and accessing data on the NYSED SEDREF portal. Twenty-eight of the sites listed in the Complaint Letter are properly within the scope of the inquiry. Twelve of the sites are outside the scope of the inquiry for the reasons listed in the chart below.

SCHOOLS LISTED IN COMPLAINT OUTSIDE THE SCOPE OF INQUIRY

YESHIVA	DISTRICT	ADDRESS	COUNTY	ZIP	FINDINGS
Lubavitcher		770			Site was visited and is Central
Central	21	Eastern	Brooklyn	11213	Lubavitcher Headquarters, not
Headquarters		Parkway			a school.
Mesivta Eitz		1577 48th			Providing instruction to
Chaim	20	Street	Brooklyn	11219	students who are beyond high school.
Yeshiva/Mesivta Bais Yisroel	20	5407 16th Avenue	Brooklyn	11219	High School is registered with State Ed.
Yeshiva And Beth		4102 16th			Providing instruction to
Hamedrash Shaarei	20	Avenue	Brooklyn	11204	students who are beyond high school.
United Talmudic		74-10 88th			Providing instruction to
Academy	24	Street	Queens	11385	students who are beyond high school.
United Talmudic		5411 Fort			Site was visited and houses
Academy	20	Hamilton	Brooklyn	11119	Pre-K program.
		Parkway			
Yeshiva Torah		236 Marcy			Site is a nutrition center.
V'Yirah	14	Avenue	Brooklyn	11211	
Yeshiva Toras		5506 16th			Site is no longer in operation.
Chesed	20	Avenue	Brooklyn	11204	
Yeshiva Moushulo		7914 Bay			Site is no longer in operation.
**	21	Parkway	Brooklyn	11214	a
Yeshiva Minchas	20	4706 14th	D 11	11010	Site is no longer in operation.
Elazar	20	Avenue	Brooklyn	11219	G:
Yeshiva Ketaneh	1.5	695 6th	D 1-1	11015	Site is no longer in operation.
Haite d Tolomadia	15	Avenue	Brooklyn	11215	Citaa ricitad and ita
United Talmudic	1.4	82 Lee	Duoglala	11211	Site was visited and it was
Academy	14	Avenue	Brooklyn	11211	determined to be a butcher shop, not a school.

¹ Other schools in the above list had multiple sites, but gave only one address per site.

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C. School Visits

Since receiving the complaint, the DOE has visited all 28 of the sites that were within the scope of the substantial equivalence inquiry. The DOE conducted 13 of those visits since the DOE's August Letter.

After I sent the August Letter, in November 2018, State Ed issued updated guidance for school districts concerning substantial equivalency inquiries. This updated guidance reflected and incorporated the changes to the Education Law made by the Amendments, and included checklists, toolkits and implementation guidance. State Ed instructed school districts to hold off on making school visits until administrators who would be participating in substantial equivalency inquiries had received formal training from State Ed on the updated guidance. DOE requested to have its administrators trained on the earliest possible date. On December 20, 2018, a team from DOE went to State Ed's offices in Albany to receive the first of several trainings on the updated guidance. DOE administrators participated in subsequent trainings on February 7 and February 14, 2018. Once DOE administrators had received training on the new guidance, DOE conferred with yeshiva leaders to agree upon dates, at mutually convenient times, to conduct the remaining school visits.

At school visits, DOE superintendents, senior administrators, and attorneys met with school leaders to learn about the history and mission of each school, and its instructional program, and then visited classrooms where Jewish Studies and secular subjects were being taught. Classroom visits included secular as well as Judaic Studies classes, which were taught in English, Yiddish, Hebrew, or Aramaic, or a combination thereof. A list of the schools visited, including dates of visits, is below:

YESHIVA	ADDRESS	BOROUGH, STATE, ZIP	DATE OF VISIT
Yeshiva Bnei Zion	1533 48th Street	Brooklyn, NY 11219	March 7, 2017
Yeshiva Talmud Torah Toldos Hillel	35 Hewes Street	Brooklyn, NY 11249	March 23, 2017
Yeshiva Chasan Sofer	1876 50th Street	Brooklyn, NY 11204	March 29, 2017
Yeshiva Kehilath Yakov	206 Wilson Street	Brooklyn, NY 11211	May 8, 2017
Yeshiva Machzikei Hadas	1601 42nd Street	Brooklyn, NY 11204	May 9, 2017
Yeshiva Karlin Stolin	1818 54th Street	Brooklyn, NY 11204	May 15, 2017
Yeshiva Bnos Malka	600 McDonald Ave	Brooklyn, NY 11218	November 7, 2017
Bais Ruchel Elementary	241 Keap Street	Brooklyn, NY 11211	November 8, 2017
Yeshiva Torah V'Yirah	110 Throop Avenue	Brooklyn, NY 11206	November 8, 2017
United Lubavitcher Yeshivoth	841 Ocean Parkway	Brooklyn, NY 11230	November 28, 2017
Yeshiva Beth Hillel	1623 44th Street	Brooklyn, NY 11204	November 29, 2017
Yeshiva Boyan	1205 44th Street	Brooklyn, NY 11219	November 30, 2017
Yeshiva Yesode Hatorah	1350 50th Street	Brooklyn, NY 11219	December 4, 2017
Yeshiva Ahavas Israel	2 Lee Avenue	Brooklyn, NY 11211	December 6, 2017



Yeshiva Mosdos Chasidei	1373 43rd Street	Brooklyn, NY 11219	December 11, 2017
Yeshiva Bnei Zion	4206-10 15th Avenue	Brooklyn, NY 11219	October 17, 2018
Yeshiva Kehilath Yakov	4706 10th Avenue	Brooklyn, NY 11219	October 18, 2018
Yeshiva Torah V'Yirah	1275 36th Street	Brooklyn, NY 11218	October 23, 2018
Yeshiva Bnei Shimon Yisrael	18-30 Warsoff Place	Brooklyn, NY 11205	October 30, 2018
Yeshiva Talmud Torah Tiferes Bunim	5202 13th Avenue	Brooklyn, NY 11219	November 5, 2018
Yeshiva Mosdos Chasidei Square	105 Heyward Street	Brooklyn, NY 11206	November 8, 2018
Yeshiva Talmud Torah Of Kasho	324 Penn Street	Brooklyn, NY 11211	November 19, 2018
Yeshiva Oholei Torah	667 Eastern Pkwy	Brooklyn, NY 11213	November 20, 2018
Congregation Ohr Menachem	1729 President Street	Brooklyn, NY 11213	November 20, 2018
Bais Ruchel High School	64-84 Harrison Ave	Brooklyn, NY 11211	March 11, 2019
Lubavitcher High School	885 Eastern Pkwy	Brooklyn, NY 11213	March 27, 2019
Yeshiva Chemdas Yisroel	1149 38th Street	Brooklyn, NY 11218	May 7, 2019
Kerem Shlomo Yeshiva Talmud Torah Bnei Shimon	215 Hewes Street	Brooklyn, NY 11211	May 8, 2019

D. Survey

As described below, as a follow-up to the school visits, the DOE sent a letter with a survey attached to each of the 28 yeshivas to request additional information about the secular instruction provided. The letter to elementary/middle schools requested information about the secular subjects taught and the grades in which this instruction is provided. It also requested sample lesson plans and a sample curriculum for the subjects listed in Education Law § 3204(3)(a)(1). For high schools, the letter requested sample lesson plans and a sample curriculum for the subjects listed in Education Law § 3204(3)(a)(2).

3. General Observations

A. School Visits

In total, the DOE team visited 143 classrooms in 28 yeshivas (25 elementary/middle schools and 3 high schools). Some of these visits included Pre-K and Kindergarten classrooms (5) that are outside the purview of this investigation. The summary below analyzes the 138 classroom visits related to grades one through twelve.

(i) Elementary/Middle School (Grades 1-8) – 126 Classroom Visits

<u>Language of Instruction</u>: English or a combination of English and Yiddish was the language of instruction in 83 classes, and Yiddish was the language of instruction in 43 classes. In 76 classes, secular content was taught in English or in a combination of English and Yiddish. In seven



classes, Judaic Studies was taught in English or in a combination of English and Yiddish. For some of these classes, secular studies was embedded in the Judaic Studies classes. Two classes in secular subjects were taught in Yiddish: a first grade STEM class and a second grade math class.

<u>English Language Arts ("ELA")</u>: DOE representatives visited 41 ELA classes in the Elementary/Middle School yeshivas. PEARLS curricular materials or other secular texts were used in 12 ELA classes. The ELA lessons that were observed covered a range of content areas, including: phonemic awareness, word recognition, use of plurals, sequencing of ideas in preparation for essay writing, use of transitions, and grammar. In addition, several of the Judaic Studies lessons included academic vocabulary in English.

<u>Mathematics</u>: DOE representatives visited 22 mathematics classes; five of these classes were using the PEARLS curriculum and another eight were using other secular math texts written in English, such as Houghton Mifflin's Singapore Math and Pearson's MCP Mathematics. The other classes used either teacher-created handouts or no supplemental materials. The math lessons that were observed covered grades one to eight and focused on a variety of topics including: addition, subtraction, place value, multiplication and division, exponents and scientific notation, decimals and fractions, and prime numbers.

Science: DOE representatives visited eight science classes, seven of which were in yeshivas for female students. The science lessons observed were in grades one to seven and covered a range of topics, including robotics, density and weight, transmission of sound waves, the human skeletal system, and the circulatory system. Some of the lessons included experiments.

History/ Social Studies/Geography: DOE representatives visited one history, two social studies and one geography class. The classes were taught in English and covered a range of subject matter, including the Revolutionary War, the Lewis and Clark Expedition, the Louisiana Purchase, and the identification of continents.

<u>Health and physical education</u>: DOE representatives observed one physical education class at one yeshiva for male students, which involved students engaged in stretching and calisthenics.

<u>Judaic Studies</u>: Judaic Studies were taught in 45 (or 36%) of the elementary/middle grade classes observed. The lessons in these classes were conducted in Yiddish, Hebrew, Aramaic, English, or a combination of languages, and many focused on excerpts from religious texts, including the Torah and Talmud. Some of the Judaic studies classes incorporated secular content into the lessons: two included content in civics, one incorporated mathematical concepts, and two incorporated scientific content.

<u>Curriculum Development</u>: At the majority of the schools visited, school leaders expressed a commitment to expanding students' exposure to secular instruction and to improving instruction. Some schools stated that their lessons were guided by a curriculum map and a scope and sequence that incorporated formative assessments to inform student progress and keep families apprised of student progress.



Professional Development: Of the 25 elementary/middle schools visited, approximately one-third stated that they provide ongoing professional development and, in at least two schools, DOE observed Generation Ready coaches in the classroom. Several schools had a staff member who provided ongoing staff development. One school leader stated that the educational philosophy of the school was shaped by the work of education experts such as Carol Dweck, a Stanford University psychologist renowned for her work in social-emotional learning. Another school leader spoke of the importance of applying proven classroom practice techniques that have been developed for English as a New Language (ENL) students, as the majority of their students enter school speaking only Yiddish.

(ii) High Schools (Grades 9-12) – 12 Classroom Visits

DOE representatives visited three high schools.

One of these high schools stated that they did not offer any courses in secular subjects. During the visit, the DOE team did not observe any instruction in secular subjects. As is described below, the school stated that it uses Jewish Studies texts in all aspects of the curriculum and that, within Jewish Studies, ELA, mathematics, social studies, civics, science, hygiene/health, physical education, and art are covered.

In the second of the three high schools, school administrators stated during the introductory meeting with DOE representatives that the following secular subjects are taught at the school by one teacher: English, mathematics, science (environmental science), and history. However, the DOE representatives did not observe any secular subjects being taught during their visit to the school; the visit occurred midday, at the time arranged by the school, while secular instruction more commonly occurs at these yeshivas in the afternoon. Furthermore, as is described below, the school also stated that ELA/writing skills, mathematics, social studies, civics, science, health/hygiene, physical education, and arts are taught through Jewish Studies classes.

In the third high school, DOE representatives observed classes in English, mathematics, science, history, philosophy, and ethics. The language of instruction in these classes was English. As described below, the school stated that it taught the following secular subjects: ELA, US History and Government, Global History, Algebra, Geometry, Earth Science, Living Environment, Physical Education, Health Education, and Music/Art. Both during the presentation to the DOE representatives and in the survey, the school stated that students take NYS Regents examinations.

B. Surveys

As mentioned, the DOE's Office of Non-Public Schools sent to each school a letter on June 19, 2019 with a survey asking questions about secular subjects taught and requesting curricular materials, such as a sample curriculum for one grade level of a subject contained in Education Law § 3204(3)(a)(1). The DOE received responses to the survey from all of the schools; some provided a greater degree of information than others. The DOE will follow up seeking additional information.

In some cases, schools provided grade information accompanying their submission (e.g., the



particular grades for the submitted curriculum). In many cases, however, the schools simply listed that they provided instruction in a particular subject and did not specify grade level or provide curriculum.

Following is an analysis of the survey results related to grades one through twelve.

(i) <u>Elementary/Middle School (Grades 1-8)</u>

<u>English Language Arts ("ELA"):</u> All 25 elementary/middle schools stated that they provide instruction in English Language Arts. They all submitted sample curricular materials, the majority of which included grade specific information in the form of curricula overviews.

<u>Mathematics</u>: All 25 elementary/middle schools stated that they provide instruction in mathematics. They all submitted sample curricular materials, the majority of which included grade specific information in the form of curricula overviews.

<u>Science</u>: Seventeen elementary/middle schools stated that they provide instruction in science. The majority submitted sample curricular materials with grade information, which included lesson plans and curricular overviews.

<u>Social Studies:</u> Fifteen elementary/middle schools stated that they provide instruction in social studies. All submitted sample curricular materials comprising curricula overviews with grade specific information.

<u>Civics:</u> Twelve elementary/middle schools stated that they provide instruction in civics. Seven schools provided sample curricular materials; five schools provided curricular materials.

<u>History:</u> Thirteen elementary/middle schools stated that they provide instruction in US History and eight stated that they provide instruction in New York State History. Seven schools provided sample curricular materials in US History comprising lesson plans and curricular materials with grade specific information. Seven schools also provided sample materials in New York State History comprising lesson plans and curricular materials with grade specific information.

Health, Hygiene and Physical Education: Five elementary/middle schools stated that they provide instruction in health and hygiene and three elementary/middle schools stated that they provide instruction in physical education. The majority of the schools provided examples of curricular materials.

(ii) <u>High Schools (Grades 9-12)</u>

All three high schools visited by the DOE team responded to the survey.

One high school submitted documentation stating that they use Jewish Studies texts in all aspects of the curriculum, and within Jewish Studies, they cover the following subjects: ELA, mathematics, social studies, civics, science, hygiene/health, physical education and art. They also submitted learning standards related to the ninth grade.



The second high school submitted documentation stating that all subjects are covered through their overarching Jewish Studies curriculum. They further stated that through classes in Jewish Studies in such areas as Bible Studies, the Talmud, Jewish Law and ethics, the following subjects are covered: ELA/writing skills, mathematics, social studies, civics, science, health/hygiene, physical education and the arts. They also submitted learning standards related to the aforementioned subjects.

The third high school stated that they taught the following secular subjects: ELA, US History and Government, Global History, Algebra, Geometry, Earth Science, Living Environment, Physical Education, Health Education and Music/Art. It further stated that the school follows a Regents curriculum and administers the Regents examinations with eligible students receiving a Regents diploma. Subsequent to sending its survey response, the school sent a copy of an State Ed Annual Regents Report for the following subjects: Common Core ELA, Common Core Algebra I, Global History Transition, Living Environment, Physical Education, Earth Science, and US History and Government. For this school, certain questions remain arising from State Ed's BEDS code. Under separate cover, DOE will request guidance from State Ed about this school.

4. Actions Taken and Next Steps

After conducting site visits and receiving survey responses, the DOE made a preliminary assessment based on the information it has, directionally indicating each school's level of compliance with the law on substantial equivalence of instruction.

In conducting this evaluation, DOE representatives reviewed notes taken during each school visit, and the survey responses provided by the schools. Taken together, this process involved evaluating whether the school, when taken as a whole, provides instruction that is substantially equivalent to (not necessarily exactly equal to) the following:

- Demonstrably provides instruction in the key content areas, including instruction in English, listed in Education Law §3204 for public schools, namely:
 - For the first eight years, instruction in at least arithmetic, reading, spelling, writing, English language, geography, US history, civics, hygiene, physical training, science and New York State history; and
 - o Beyond the first eight years, instruction in at least the English language and its use, civics, hygiene, physical training and American history including the principles of government proclaimed in the Declaration of Independence.
- Demonstrates practices supporting the provision of substantially equivalent instruction, including school-level goal setting, the use of textbooks and instruction in English, and the provision of relevant professional development.
- Provides instruction by competent teachers.

Based on this process, the DOE has made preliminary assessments of the extent of the substantial equivalence of instruction in the schools within the scope of the inquiry, for the purpose of sharing these initial assessments with the schools. These assessments may be subject to change upon further dialogue, evidence provided by the schools, visits, or other collaboration.



These categories should be viewed as directional feedback as part of an ongoing process, not as conclusions. The DOE's hope is that collaboration with, and progress by, the schools will continue and that all schools will either provide further evidence that they are already providing substantially equivalent instruction, or will change their practices so that they are providing substantially equivalent instruction. The DOE's purpose here is to provide State Ed with a general overview of its initial assessments, based on the first round of visits.

A. <u>Eleven of these schools are providing substantially equivalent instruction or are</u> well-developed in moving towards providing substantially equivalent instruction.

Two of the schools are currently considered substantially equivalent and one is on the verge of becoming substantially equivalent. These schools provided evidence of the following:

- School level goals and planning included classroom instruction across many grades and subjects aimed at substantial equivalency. School leaders articulated a desire to create structural coherence across all grades in equivalent instruction.
- School uses textbooks in English for most relevant subject areas.
- School leaders support teacher pedagogy through relevant professional development.
- Instruction in English was observed in many classrooms. Curricula and academic tasks are planned and supported through ongoing professional development.

Eight of the schools currently exhibit a range of proficiency in meeting the substantial equivalency requirements of Education Law § 3204.

These eight schools demonstrated the following:

- School leaders communicated goals and classroom instruction that include instruction in several content areas and grade levels aimed at substantial equivalency. School leaders articulated a desire to expand efforts across all grades and content areas.
- In addition to English Language Arts and mathematics, the school uses textbooks in English for several of the relevant content areas and classroom instruction in English was often observed.
- Across several classrooms, teaching practices are coherent (*i.e.*, are aligned to relevant curricula and reflect an articulated set of beliefs about how students learn best).
- Curricula and academic tasks are planned to integrate relevant content areas. The teaching of relevant content is observable in several classrooms across grades.

B. Twelve of the schools are developing in their provision of substantially equivalent instruction.

These schools showed the following:

 School leaders discussed goals that include aspects of substantially equivalent instruction but such instruction was not consistently observed across all grades and subject areas.



- School leaders and faculty were in the process of integrating elements of relevant curricula, including some instruction in English, and textbooks in English for at least English Language Arts and mathematics.
- In some classrooms, teachers were adapting their practice to better align to substantially equivalent instruction.
- The integration of relevant subject areas, such as math and English Language Arts, the use of English textbooks in the relevant content areas, and English as the language of instruction were limited.

C. <u>Five of the schools are underdeveloped in demonstrating or providing evidence of substantially equivalent instruction.</u>

These schools showed the following:

- School-level goals and action plans for achieving substantially equivalent instruction were not articulated or did not appear to be implemented in classrooms.
- School leaders and faculty did not demonstrate implementation of relevant curriculum, such as in English or mathematics.
- There was no evidence that English is consistently used as a language of instruction (for example, textbooks were not written in English).
- Across classrooms, teaching practices did not appear geared toward achieving substantially equivalent instruction.
- Instruction and academic tasks are not at all aligned to providing substantially equivalent instruction.

At this point, the DOE has met with school leaders, has visited the schools at mutually convenient times, and has reviewed materials and data related to instruction. The DOE has noted the successful work going on in some of the schools, as well as the important progress some schools have made in implementing new curricula. The DOE believes the yeshivas named in the complaint can make further progress while maintaining their religious and intellectual traditions.

The DOE stands ready to continue its collaboration with the schools. The DOE is sending letters to each of the 28 schools visited, communicating the information, observations, and findings specific to each school. In each letter, the DOE is requesting, where applicable, a high level timeline for next steps by January 15, 2020. The DOE proposes to meet with schools from January through June 2020, and proposes that the schools with the greatest gaps begin addressing them as early as March 2020. Due to the varying levels of equivalency demonstrated at different schools, the timeframes may differ for individual schools, but the DOE believes it is possible for all schools within the scope of this inquiry to achieve substantial equivalency within three years. The five underdeveloped schools have a particularly long way to go. The DOE recommends that these schools make immediate improvements, with the understanding that early progress may be incremental. DOE also believes that many of the schools can demonstrate or attain substantially equivalent instruction significantly earlier than this timeframe. It should be noted, however, that substantially equivalent instruction does not necessarily require that a school meet each and every item contained in the Education Law.



Moving forward, this effort will be led by Bernadette Fitzgerald, the Senior Executive Director of DOE's Office of Non-Public Schools. Ms. Fitzgerald has been with DOE for over 20 years, serving as an elementary school teacher, literacy coach, assistant principal, and principal (for seven years). During her tenure as principal, she was selected as a Cahn Fellow, selected as a Teachers College Reading & Writing Project principal mentor, and chosen to be a mentor for the NYC Leadership Academy's Aspiring Principals Program. While Ms. Fitzgerald has been involved in this inquiry since moving into her current position, we believe that her leadership will be particularly important as this effort moves into its next phase, where collaboration in the service of student instruction is at the core of the work.

As previously stated, the DOE believes that collaborative efforts are the best path to support schools in providing substantially equivalent instruction. Curricular improvements already have been made at many of the schools included in the inquiry, and the DOE is ready to continue working collaboratively to ensure that additional improvements are made. For schools where the steps forward may be particularly challenging, such as in the high schools, we invite the schools to suggest creative approaches regarding how to achieve substantial equivalence.

Conclusion

In any school, the work of school improvement requires sustained effort over time by all stakeholders in a school community. The DOE recognizes and applauds the significant progress made as a result of the proactive steps many schools have taken. The DOE is committed to working collaboratively with the schools to assist them as they continue on the path of providing improved instruction. As mentioned, we would seek to revisit the schools with an interpreter or with an educator who understands the relevant languages in order to assess instruction in classes not taught in English.

As described herein, the DOE intends to continue its efforts regarding these schools. If State Ed has any guidance to provide as to whether the Amendments apply to these schools, please let us know. In addition, if State Ed has any other guidance to provide, or alternative approach that we should take, again please let us know.

Please do not hesitate to contact me if you have questions.

Sincerely,

Richard A. Carranza

Chancellor

cc: Avi Schick