

IN THE MATTER

OF THE

Appeal of NAFTULI MOSTER and YOUNG ADVOCATES FOR FAIR EDUCATION ("YAFFED") from action of the New York City Department of Education regarding substantial equivalence

WHEREAS, by letter dated July 27, 2015, the New York City Department of Education ("NYC DOE") received a complaint regarding the instruction provided at 39 nonpublic schools (the "yeshivas") within its geographical boundaries;

WHEREAS, NYC DOE commenced an investigation into the substantial equivalency of instruction provided at the nonpublic schools named in such complaint;

WHEREAS, allegations were made that the progress of such investigation, the substance of its conclusions, and the timing of an interim report on such investigations were all influenced by political pressure from the former Mayor of the City of New York (Mayor) or other City or State elected officials;

WHEREAS, as a result of allegations that the investigation was subject to political interference, the New York City Department of Investigation and the Special Commissioner of Investigation for the New York City School District initiated a joint investigation into NYC DOE's inquiry into the education provided at the yeshivas, which was completed in December 2018;

WHEREAS, such joint investigation in part "concluded that there was unquestionably political horse-trading in which representatives of the Mayor agreed with representatives of State legislators to delay any interim report in connection with securing the overarching goal of extending mayoral control of the City's schools";

WHEREAS, the State Education Department consistently provided formal and informal technical assistance to NYC DOE regarding its investigation of the yeshivas, as evidenced by letters dated January 10, 2019; January 13, 2020; and January 26, 2022;

WHEREAS, by letter dated October 21, 2021, I wrote to the Mayor to clarify remarks concerning the scope of authority for substantial equivalency inquiries and expressed the State Education Department's "expectation that NYC DOE [would], as previously directed, complete its investigation into the 28¹ yeshivas as expeditiously as possible";

WHEREAS, in a letter dated January 26, 2022, I again encouraged NYC DOE to complete its inquiry and make a recommendation regarding substantial equivalency "as expeditiously as possible";

WHEREAS, during the midst of this investigation, an Education Law §310 appeal was filed concerning the instruction offered within another yeshiva (the "YMAH appeal"), alleging a failure to provide substantially equivalent instruction;

WHEREAS, as a result of the YMAH appeal, by order dated June 7, 2022, a court directed NYC DOE to conclude its investigation of the school at issue in that appeal within three months, stating that a delay of nearly three years to complete its investigation was "unreasonable";

WHEREAS, thereafter Naftuli Moster and Young Advocates for Fair Education ("YAFFED") filed an Education Law §310 appeal regarding the status of the investigation commenced as a result of the July 27, 2015 complaint;

WHEREAS, in response to the Education Law §310 appeal, NYC DOE averred that its investigation is ongoing and will conclude on or before the end of the school's 2022-2023 school year;

NOW, THEREFORE, pursuant to the authority vested in me pursuant to Article 65 of the Education Law.

IT IS ORDERED that NYC DOE complete its investigation into the substantial equivalency of instruction provided at the nonpublic schools named in the July 27, 2015 complaint and issue detailed determinations/recommendations no later than June 30, 2023. NYC DOE shall issue a separate report for each school subject to the complaint that includes the following:

¹ During the investigation, NYCDOE determined that some of the 39 schools in the July 27, 2015 complaint were beyond the scope of its inquiry because such schools either no longer existed or were registered by the Board of Regents.

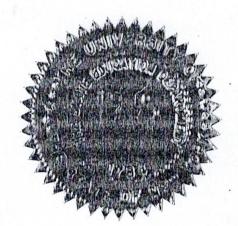
(1) school location and grade levels served;

(2) whether the schools meet a pathway for substantial equivalency pursuant to 8 NYCRR 130.3;

(3) whether the school qualifies for a Commissioner's determination pursuant to Education Law §3204 (2) (ii)-(iii);

(3) for those schools for which NYC DOE is responsible for a substantial equivalency determination, a determination of such school's equivalency of instruction pursuant to 8 NYCRR 130.6 with detailed findings and evidence related to all of the instruction required by Education Law §3204 and Education Law §801 *et seq.* as enumerated in 8 NYCRR 130.9,; and

(4) for those schools that qualify for a Commissioner's determination, a recommendation to the Commissioner of such school's equivalency of instruction pursuant to 8 NYCRR 130.8 with detailed findings and evidence related to all of the instruction required by Education Law §3204 and Education Law §801 et seq. as enumerated in 8 NYCRR 130.9.



IN WITNESS WHEREOF, I, Betty A. Rosa, Commissioner of Education of the State of New York, for and on behalf of the State Education Department, do hereunto set my hand and affix the seal of the State Education Department, at the City of Albany, this 10 th day of Sanuary 2023.

Commissioner of Education