

# Legitimizing Tactics: Hasidic Schools, Noncompliance, and the Politics of Deservingness<sup>1</sup>

Matty Lichtenstein  
*Brown University*

Hasidic schools' unorthodox educational practices have aroused significant controversy. Nonconforming organizations, whose core values and practices conflict with dominant regulatory norms, often struggle to establish the legitimacy required to claim state resources. Current scholarship focuses on specific tactics that organizational advocates use to hide or normalize stigmatized status, but this limited tactical repertoire does not explain how advocates adapt their advocacy process to constantly shifting political and administrative conditions. This article provides an alternative explanation, showing how advocates for nonconforming organizations construct a multilevel tool kit of three flexible *legitimizing tactics* that position them as deserving of state support: compliance markers, category conflation, and discursive resonance. Drawing on a study of Hasidic educational institutions that evade state requirements but maintain strong state support, this framing maps out the contested meanings of compliance in a complex regulatory field, while illuminating how the legitimization of alternative views and practices shapes contemporary American governance.

## GOVERNANCE, COMPLIANCE, AND CLAIMS MAKING

"Secular studies is second place, because, you know, learning is first." This was a Hasidic school principal's description of his school's educational philosophy. "Learning," to him, means Jewish biblical and legal studies taught

<sup>1</sup> I gratefully thank Calvin Morrill for his support and advice over the course of multiple drafts. Alexander Barnard, Cybelle Fox, and Ann Swidler also provided incisive input

in Hebrew, Aramaic, and Yiddish, the primary subjects in Hasidic all-male private schools, or yeshivas. Hasidic yeshivas, a rapidly growing subset of a network of independent Orthodox private schools, prioritize religious study and socialization above secular education. Serving a rapidly growing population of approximately 42,000 male students in New York State,<sup>2</sup> most all-male Hasidic schools provide no secular education in high school. Younger grades usually receive six to eight hours a week of secular studies, often omitting science and history altogether in favor of minimal focus on math and literacy, and falling well below the state-recommended minimum of five hours daily.<sup>3</sup>

Rooted in educational logics that differ fundamentally from those of state educational agencies, all-male Hasidic schools are unlikely to meet state requirements for a curriculum that is “substantially equivalent” to public schools (N.Y. Educ. Law §§ 801(1), 3204).<sup>4</sup> Despite their noncompliant practices, these schools have received increasing state funding and regulatory accommodation in recent years. This support includes millions of dollars in administrative, transportation, and educational funding, scheduling accommodations for state-funded services, and acceptance of high school diplomas that require no state-mandated secular studies for college tuition grant eligibility (Berger 2012; Felder 2013; Pazmino 2015; Edelman 2019). Yet yeshivas have also faced increasing challenges to their legitimacy as schools, with some former yeshiva students, politicians, and journalists pushing for increased state intervention in yeshivas (Clark and Winston 2015; Editorial Board 2018; Durkin 2019).

In the face of shifting conditions, how do nonconforming collective actors, whose alternative values and practices fundamentally conflict with core norms of their field, present themselves as legitimately deserving of regulatory support and accommodation? To answer this question, I conducted a multimethod study of educational advocacy for ultra-Orthodox schools in New York State; this study functions as a theory-generating case of regulatory and organizational nonconformity. Based on interviews, policy data, and documentary analysis, my findings show that in response to dominant state-promoted norms of secular education, religious educational

---

during the writing process, for which I am most appreciative. The author also thanks Claude Fischer, Casey Homan, Mary Shi, and Melissa Wilde for their helpful assistance on early drafts and Dean Rowan for his unfaltering support with legal research. Lastly, I extend sincere gratitude to the interviewees who provided data essential to this study. Direct correspondence to Matty Lichtenstein, Brown University, Department of Sociology, Box 1970, Providence, Rhode Island 02912. Email: [matty\\_lichtenstein@brown.edu](mailto:matty_lichtenstein@brown.edu)

<sup>2</sup> More detailed enrollment information is available at n. 10 below.

<sup>3</sup> See <http://www.p12.nysed.gov/nonpub/guidelinesequivofinstruction.html>. Accessed July 27, 2021. On educational conditions, see sections “Case and Methods” and “Case Findings” below.

<sup>4</sup> Legal citations are from Westlaw.com and Heineonline.org.

advocates have gradually developed a multilevel tool kit of flexible legitimizing tactics, which seek to establish organizations' deservingness of state support. Legitimizing tactics are discursive, relational claims-making strategies that fall loosely into three categories, each corresponding to a different set of needs: *compliance markers*, selective conventional practices that signal conformity for the purpose of establishing basic institutional legitimacy, which in turn establishes deservingness of resources; *category conflation*, which blurs together compliant and noncompliant organizations; and *discursive resonance*, in which advocates facing strong pressure to conform construct discursive proofs of equivalence between dominant state norms and noncompliant practices, discourses that they hope will resonate with regulators.

Research shows that political advocacy is a powerful tool for organizations seeking to influence policy development and implementation, including the legitimation or accommodation of nonstandard practices (Andrews and Edwards 2004; Hertzke 2009). The literature on legitimizing tactics, however, overwhelmingly focuses on conventional organizations that seek to legitimize specific issues of noncompliance, but who generally conform to the norms of their organizational fields (Elsbach and Sutton 1992; Palmer 2012; Gray and Silbey 2014; Edelman 2016). Yet for groups with values and practices that fundamentally conflict with dominant logics, noncompliance is a norm, not a deviation. A small subset of organizational literature focuses on how "core-stigmatized" organizations, including those that advocate for drug users or promote stigmatized sexual practices, manage or reduce stigma associated with nonconformity. Because of the mainstreaming of "fringe" discourses in recent years (Bail 2012; Barkun 2017), understanding the legitimation tactics of such groups can shed light on important and understudied aspects of American governance. Yet in focusing on a limited repertoire of tactics, the current literature on stigmatized organizations does not adequately address how such nonconforming actors adapt their advocacy process when facing complex and shifting conditions (Hudson 2008; Lashley and Pollock 2020).

As a result, we understand very little about how and when advocates use specific legitimizing strategies to justify claims to resources and accommodation, or how they revise strategies to respond to changing conditions over time. To address this gap, this article provides a flexible framework, building on a multimethod study of a case of nonconforming organizational advocacy. The findings demonstrate how an opportunistic approach to legitimation enables advocates to build and revise a multitiered set of legitimizing tactics, from which they can select, tool-kit style, to respond to shifting conditions and opportunities in fragmented regulatory fields. By focusing on the strategy construction process, this paper illuminates how legitimation tactics not only shift regulatory approaches to nonconforming organizations, but also change internalized organizational behaviors, a bidirectional process

that leads to unexpected outcomes. Ultimately, this article contributes to sociological understandings of governance and nonconformity by providing a typology of legitimizing tactics, as well as a framework for linking such tactics to motivating conditions and outcomes.

#### CONSTRUCTING LEGITIMACY IN FRAGMENTED FIELDS

The quest for legitimacy powerfully shapes organizational responses to regulatory norms. Across multiple literatures, scholars show how organizations and individuals gain legitimacy through conformity to conventionally accepted categories of behavior, which mark them as deserving of resources in their respective organizational fields (Oliver 1991; Suchman 1995; Zuckerman 1999). As recent scholarship emphasizes, regulatory fields—defined as “unit[s] of collective action” (Fligstein and McAdam 2011)—are characterized by institutional heterogeneity, meaning that they are populated by institutions with a wide range of practices and values. As a result, actors navigating their fields must engage with frequently conflicting “institutional logics,” which are sets of values or symbols that underlie and organize norms (Friedland and Alford 1991; Thornton, Ocasio, and Lounsbury 2012; Chiarello and Morrill 2020). While some logics are particularly dominant, the authority to enforce norms related to these logics is fragmented across multiple state and nonstate regulators bearing significant discretionary enforcement power. As a result, despite regulatory pressure to conform with specific practices associated with field-wide norms, selective noncompliance is common (Bourdieu 2005; Migdal 2001).<sup>5</sup>

Education is a classic example of a fragmented regulatory field, marked by a chaotic multiplicity of enforcement authorities and a heterogeneous array of institutions. The result is uneven compliance by organizational actors with widely varying goals and practices, even if they are unified by basic field principles (Meyer and Rowan 1978; Meyer, Scott, and Strang 1987). Within this field, actors in varying positions of power—incumbents with more power, challengers with less, and regulators who enforce the status quo—battle fiercely over unequally distributed resources (Fligstein and

<sup>5</sup> This conception of regulatory fields distinguishes between fragmentation and institutional heterogeneity, while highlighting the link between them. By *fragmentation*, I refer to regulators’ inconsistent implementation of field norms. However, fragmented fields are still unitary fields, organized around basic legitimizing principles that determine deservingness of resources. Within such fragmented fields, there is significant institutional heterogeneity in which different organizations have specific goals and practices that may conflict with each other and with dominant field norms. Due to fragmented enforcement, such heterogeneous logics can create more conflict between both regulatory and member actors of a field, while also enabling nonconforming actors to tailor advocacy efforts to the specific logics and norms of particular regulatory organizations.

McAdam 2011). These struggles are rooted in a widespread conception of education as the canonical path to full, participatory citizenship. Yet conflicting notions of what it means to be a citizen motivate widely divergent educational practices in some institutions, whose advocates seek to position as legitimate educational actors, deserving of field resources, even if they do not comply with dominant norms (Stevens 2003; Binder 2004).

The question of how organizations engage with, normalize, and legitimize noncompliance has inspired a rich organizational and regulatory scholarship. Yet this literature focuses largely on standard professional organizations, ranging from factories to corporate firms to schools and nonprofits, for whom noncompliance is usually a strategic deviation from field norms, not core to their identity or typical of their practices (Edelman 2016; Elsbach and Sutton 1992; Gray and Silbey 2014; Sutton and Callahan 1987). The focus on these organizations ignores what I call “nonconforming challengers,” whose very identities, practices, and values fundamentally conflict with field norms. Such groups, which include advocacy organizations for antivaccination parents, undocumented citizens, homeless people, drug users, and religious fundamentalists, can be vocal constituencies in the public sphere (Riesebrodt 1993; Hertzke 2009; van Gelder 2013; Conis 2014; Dioun 2018; Patler 2018).

This population is partially addressed by a recent subliterate of organizational theory that highlights “core-stigmatized” organizations, which are defined as those that are discredited by peer actors due to “core attributes” of their organizational identity. Core-stigmatized organizations fundamentally differ from standard organizations that suffer only occasional “event stigma” (Devers et al. 2009; Hudson and Okhuysen 2009). This scholarship documents how core-stigmatized organizations navigate their fields using tactics that fall into two loose categories: Some organizations, including gay bathhouses and global arms industries, manage stigma by hiding aspects that are alienating or appear contaminating to others (Hudson 2008; Vergne 2012). Others, such as those representing cannabis dealers or aggressive sports, seek to reduce stigma in hopes of eventually removing it altogether, usually by constructing new categories to reframe practices to external audiences (Helms and Patterson 2013; Dioun 2018; Lashley and Pollock 2020). In the second process the organization slowly becomes a more legitimate member of the field, as opposed to the first tactic, in which organizations usually remain illegitimate and marginalized.

### Problematizing the Literature

This article draws on theories of core-stigmatized organizations, but with three key theoretical interventions: First, the concept of core stigma builds on Goffman’s notions of shame and contamination, associated with sites like public bathhouses for gay men and people engaged in prostitution, drug

use, or menial “dirty work” (Goffman 1986). Yet this association of shame and contamination, inherent in the concept of stigma in Goffman’s mid-century observations of individual social interactions and applied to the organizational level by recent literature (Devers et al. 2009; Hudson 2008), is not as applicable to contemporary organizational actors who embrace and publicly engage with their marginalization. These include organizations representing antivaccination professionals and parents, sexual minorities, religious fundamentalists, and noncitizens. To address this challenge, this article broadens the concept of core stigma by using the term “nonconforming” challengers. Nonconforming actors include both those who experience stigma in the Goffmanian sense, as well as those that reject shaming but still operate on the margins of society because of fundamental conflicts between normative field standards and their identities, values, and practices.

Second, a broadened category of organizational nonconformity also complicates field theory’s conceptions of field actors—divided into incumbents, challengers, and regulators—by framing such nonconforming challengers as a subtype of field challengers (Fligstein and McAdam 2011). To illustrate: the medical field contains large corporate hospitals (incumbents), nonprofit medical clinics serving the poor (standard challengers), and professional organizations promoting antivaccination views (nonconforming challengers). Similarly, the educational field contains standard schools (incumbents), alternative and homeschooling educational organizations (standard challengers), and organizations that reject the necessity of education altogether (nonconforming challengers). The key difference between standard and nonconforming challengers is that the latter must struggle to establish the basic legitimacy to even exist in their chosen field. Because nonconforming challengers reject some of the basic logics underpinning field norms—such as scientific processes for determining evidence-based practices, or the necessity of basic literacy—their legitimacy as members of the field is constantly in challenge. This is unlike even the most passionate standard challengers, whose desires to restructure resources or rethink assumptions about how fields are governed still does not extend to rejecting basic logics of the field. In fact, unlike standard challengers, nonconforming challengers in many cases are often not interested in changing field-wide standards—their focus is not on field-wide issues, but on legitimizing their belonging in the field, allowing them a place at the table so they can negotiate for resources and specialized accommodations of their own noncompliance.

This typology applies insights from the literature on stigmatized organizations to refine conceptions of challengers in field theory, distinguishing between those that accept basic field logics, and those that fundamentally deviate in their norms and practices. It also deepens our understanding of institutional heterogeneity, showing that because fragmented regulatory fields contain both regulators and organizational actors with different logics

and norms, nonconforming challengers can tailor their advocacy to the specific enforcement norms and logics of particular enforcement authorities.

Third, and most significantly, the literature on core-stigmatized organizations focuses on tactics that stigmatized actors use to either hide or gradually normalize deviant behavior, two approaches that are presented as distinct and even in opposition to each other (Hudson 2008; Hampel and Tracey 2016; Lashley and Pollock 2020).<sup>6</sup> In constructing this dichotomy, however, the literature overlooks nonconforming organizations for which neither evasion nor normalization is sufficient to withstand ongoing challenges to their legitimacy. Due to fundamental conflicts with standard norms and practices, normalization is unlikely for these organizations, but their desire for accommodation also precludes full evasion. Instead, advocates respond to shifting conditions with flexible and overlapping tactics, which incorporate elements of both evasion and normalization, in an aggressively opportunistic approach to opportunities for legitimation (Padgett and Ansell 1993; Johnson-Hanks 2005). By overlooking the complex lived reality of nonconforming organizations, the current literature does not answer the following question: *In the face of shifting conditions, how do nonconforming actors, whose alternative values and practices fundamentally conflict with core norms in their regulatory fields, legitimize their claims to regulatory support and accommodation?*

### The Argument: Mapping Multilevel Legitimation

To address the question, this article analyzes new empirical findings to map out a multilevel legitimation process. In this process, advocates for nonconforming groups draw on a tool kit of symbols, worldviews, and habits to construct three types of legitimizing tactics, each of which correspond to a different set of circumstances (Swidler 1986; Winchester and Guhin 2019). Legitimizing tactics are discursive, relational claims-making strategies constructed by advocates who selectively integrate cultural and political elements—including proofs of conventional habits or practices, political leverage and alliances, and references to dominant logics—as evidence of legitimacy, or institutional belonging. Legitimacy, in turn, establishes deservingness of both field resources and regulatory accommodation. Advocates are the key catalysts for maximizing the impact of the constitutive elements of legitimizing tactics because they strategically integrate elements to construct and revise tactics, opportunistically responding to shifting

<sup>6</sup> Ashforth et al. (2007) use evasion techniques as part of a broader set of normalization tactics, but their article focuses on individual members' feelings of stigma, not how stigma affects organizations as a whole or how it shapes interactions with other organizations (Hudson and Okhuysen 2009).

conditions in their fields and targeting specific regulatory gatekeepers. Using a flexible approach incentivized by fragmented regulatory authority, advocates craft and refine the following three differentially intense categories of legitimizing tactics:

*Compliance markers* refer to tactics that signal nonthreatening conformity and aim to establish basic legitimacy to exist in the field and to claim eligibility for resources requiring minimal paperwork compliance. Compliance markers, however, are not necessarily merely ceremonial. Instead, in a bidirectional process, organizational actors both comply with specific requirements to signal conformity and render them legible to regulators, while also translating selected compliance markers into internally beneficial practices that reshape their own organizational norms. Regulators accept these markers as revised versions of mandated practices, designating noncompliant actors as eligible for resources (Haedicke 2012; van Gelder 2013; Plitmann 2019).

*Category conflation* allows advocates to strategically conflate subpopulations that conform to conventional categories of legitimate behaviors with those that do not, in our case by conflating compliant and noncompliant schools. Advocates utilizing such tactics seek significant funding and specialized accommodation, whether due to unique needs or newly available resources that involve stronger regulatory scrutiny (Suchman 1995: 575). Unlike “category straddling” in which the same organizations will engage in both legitimate and illegitimate activities (Vergne 2012; Voss 2015), category conflation tactics focus on conflating distinct *organizations*, in order to present them as all the same. These strategies illuminate how advocates complicate regulatory categories that undergird organizational legitimacy (Zuckerman 1999), allowing regulators to accept as legitimate what they might not have otherwise.

*Discursive resonance* occurs when advocates, usually in response to strong regulatory or public pressure, utilize culturally resonant discourses to argue that noncompliant organizational practices conform with the underlying logics of regulatory norms. As opposed to compliance markers, which signal conformity to the letter of the law, advocates use discursive resonance tactics to mobilize discourses that focus on the core field logics that underlie the law. Employing discourses that appeal to regulators’ beliefs, advocates argue that practices that fulfill the spirit of the law, if not the letter, are meaningfully equivalent to state-approved practices, and therefore render the populations they represent “deserving,” as distinguished from other nonconforming populations deemed “undeserving.” As Levitsky (2014) shows, citizens seeking state support for long-term elder care target the underlying logic that American state support is for the “deserving,” and differentiate between themselves as legitimately deserving, hardworking, middle-class family caretakers, in contrast to the “undeserving” poor. In this case, advocates

construct discourses on educational equivalence that they hope will resonate with regulators' faith in the core logics of the educational field, influencing how they implement policy (Snow et al. 1986; Steensland 2006). This third and most intensive discourse can influence norms of both the regulated and regulators, but because it attempts to link noncompliance with the logics underpinning dominant norms, it is also the riskiest approach.

While described here as three distinct categories of tactics, in practice, advocates refine tactics over time and use multiple and overlapping strategies opportunistically in response to shifting conditions and opportunities (Padgett and Ansell 1993; Johnson-Hanks 2005). As a result, these tactics are linked loosely to sometimes precarious outcomes, as advocates explore new and sometimes unsuccessful approaches for legitimizing their organizations in the face of changing conditions. By focusing on an ongoing strategy construction process, this case illuminates how legitimizing tactics incrementally revise practices within advocates' own organizations while also reshaping some regulatory norms. In addition to providing new empirical data on religious educational advocacy and the legitimization of fringe organizational practices, this case study makes two important sociological contributions: First, it provides a flexible typological framework of three legitimization tactics, demonstrating how advocates for nonmainstream organizations construct and reconstruct tactics in response to specific conditions. Second, it develops a nuanced framework to explain varying links between conditions, tactics, and both material and behavioral outcomes.

## CASE AND METHODS

### Hasidim, Hasidic Schools, and the State

Hasidic Jews live in tight-knit communities, each based on a different rebbe,<sup>7</sup> or spiritual leader. Their ritual practices, religious beliefs, predominant use of Yiddish as a spoken language, and emphasis on early marriage and large families, set them apart from the American mainstream (Gutwirth 2005; Fader 2009). A 2011 study of Jews in metropolitan New York found that Hasidic women ages 35–44 have 5.8 children on average, far above their non-Hasid contemporaries, who averaged 1.9 children (Cohen, Ukeles, and Miller 2012, p. 214).<sup>8</sup> An estimated 127,000 Hasidic children live in metropolitan

<sup>7</sup> Note that when transliterating Hebrew and Yiddish words, I use a transliteration method that reflects the relatively nonstandardized method commonly used in English-language ultra-Orthodox American publications. This method does not conform to formal standards of transliteration in academic studies of Yiddish and Hebrew, but it better captures the linguistic norms of the subjects of this case study.

<sup>8</sup> For the U.S. average in 2012, see World Bank Fertility, <https://data.worldbank.org/indicator/SP.DYN.TFRT.IN/>. Accessed July 27, 2021. The average number of children per childbearing woman in the United States declined to 1.7 in 2019.

New York, which is where many American Hasidim are located. Hasidic educational levels are low, while poverty rates are high: per a study of Jewish communities, 43% of Hasidim are poor, which the study defines as having a household income below 150% of the federal poverty line, and another 16% are near poor, defined as a household income below 250% of the guideline (Cohen et al. 2012, p. 220).<sup>9</sup>

Hasidic communities—like other Orthodox Jewish communities—view educational institutions as their primary site of religious socialization and key to their cultural survival. Hasidic families and donors sponsor an extensive network of gender-segregated schools serving approximately 81,000 children in the United States, with an estimated 42,000 students in approximately 100 all-male Hasidic schools in New York State in 2014.<sup>10</sup> Ultra-Orthodox Jewish schools require strict conformity to dress codes and immersion in Jewish texts as part of intensive socialization efforts, although the intensity varies by sect and school. For some Hasidic men, immersive Jewish study becomes their occupation as adults. An estimated 25% of Hasidic adult men are students engaged in Torah study, and few Hasidic men pursue jobs or postsecondary education outside the religious community (Cohen et al. 2012).

This article focuses specifically on Hasidic all-male schools, which rarely comply with state requirements. Other Orthodox schools—including female Hasidic, “Yeshivish” (non-Hasidic ultra-Orthodox), Sephardic, and Modern Orthodox schools—provide secular studies programs that vary in quality but often comply with state law. Based on journalistic coverage, I initially assumed that state regulators do not strictly regulate noncompliant Hasidic schools due to loose enforcement norms and that schools obtain support through lobbying efforts supported by Hasidic bloc-voting power (Kifner 1989; Nathan-Kazis 2013). As I immersed myself in the case, however, I found that my initial assumptions simplified the issue. First, religious Jews’ voting power in New York depends on state and local districting, which

<sup>9</sup> Generally, families are considered poor at 100% of the federal poverty line (Koball and Jiang 2018). However, Cohen et al. (2012, p. 83), use the 150% standard for their study of New York Jewish communities due to high local costs of living. By the 150% standard, a family of five with an income of \$38,565 qualifies as poor; most families of five could not cover basic living expenses on that income in the New York City metropolitan region.

<sup>10</sup> These enrollment numbers are likely an underestimate, especially because the high birth-rate means that the numbers grow with each year’s cohort. The estimate of 100 schools serving 42,000 students is based on the author’s identification of male-only Hasidic schools and students registered with the NYSED in 2012–13, which were then compared with Schick (2014) and 2016–17 NYSED data to ensure accuracy. The number of schools varies depending on criteria used; Schick includes all branches of a single institution as one school (2014, p. 9), while this article counts each all-male branch separately due to curricular variation. The NYSED 2012–13 data was accessed June 1, 2014, and is available from the author; the 2016–17 data was accessed July 27, 2021 at <http://www.p12.nysed.gov/irs/statistics/nonpublic/home.html>.

makes it, at best, a partial and insufficient explanation for this case.<sup>11</sup> Moreover, the actors charged with enforcing educational regulations are generally nonelected employees of the New York State Education Department (NYSED), whose agendas are broader than maintaining political power, and whose willingness to cooperate varies by issue and by specific agency and employee. Some officials attempt to implement regulations, while others go beyond loose enforcement to actively accommodate noncompliant educational practices.

Convincing both elected and nonelected policy makers and regulators to accommodate and support yeshivas is the work of advocates who negotiate with them. As scholarly research has indicated, political and financial power is only as effective as its ability to reach the right people. The role of professional lobbyists and informal advocates is to strategically integrate financial, political, and cultural elements into impactful messaging that will shape policy making and implementation (Andrews and Edwards 2004; Marwell 2007; Hertzke 2009). This is especially true of marginalized and nonconforming groups, who advocate for a wide range of unique needs, including the very right to exist in their own fields. As a nonconforming group, Orthodox Jews have a long tradition of lobbying state officials for special accommodations,<sup>12</sup> but in the past two decades, they have faced changing conditions, as expanded funding opportunities, which may be just out of reach due to nonstandard educational practices, converged with intensified external pressure to increase oversight of yeshivas. These yeshivas are a strong case of nonconforming organizations that obtain significant, if mixed, state support. Yet the current literature does not explain what strategies such advocates use to seek state support, and how they adapt these strategies to shifting conditions.

### Research Design

To understand these strategies and how they are used, I designed a multi-method study of political advocacy and state governance that triangulates

<sup>11</sup> While the ultra-Orthodox community demonstrates strong voter organization capacity, documentary sources and three interviewees confirmed mixed results of the religious voting bloc; see Reichlin-Melnick (2016); see [ballotpedia.org/Redistricting\\_in\\_New\\_York#District\\_maps](http://ballotpedia.org/Redistricting_in_New_York#District_maps) (accessed July 27, 2021) for more on the redistricting process; for a case that demonstrates failed efforts to form a Hasidic voting bloc through redistricting, see *Ullman v. Cuomo*, No. 1057/12 (N.Y. Sup. Ct. Nov. 16, 2012).

<sup>12</sup> Jewish advocacy with state officials, a practice called *shtadlanus*, harkens back to the days of pre-Holocaust Europe, where Jews were a persecuted minority (Bacon 1996). In postwar America, lobbyists have represented American ultra-Orthodox Jews on the local, state, and federal government level, often working with advocates from other religious groups to advance shared agendas (Agudath Israel of America 1982; Hertzke 2009).

purposive interviewing, policy and administrative data analysis, and documentary content analysis (Krippendorff 2012; Patton 2002; Small 2011). This approach aims for the “methodological pluralism” that Lamont and Swidler (2014) advocate for in explaining broader institutional shifts, especially explanations that focus on field-level and relational explanations, instead of focusing on how variables or behaviors are linked to specific attributes or outcomes. I used interviews to uncover advocates’ primary legitimizing tactics, and I tracked the ongoing construction, revision, and impact of these tactics through documentary sources that provided insights from multiple sites and points in time, which no single interviewee could provide. Lastly, I analyzed administrative and policy data that illustrate both conditions that motivate the emergence of tactics, as well as how tactics are linked to a range of outcomes.

### *Interviews*

I conducted in-depth, semistructured, confidential interviews with 32 individuals based in Kings, Rockland, and Orange counties, New York, which boast large Hasidic populations. I constructed a purposive snowball sampling method that built on my in-depth knowledge of Hasidic society, gained from years of personal and professional connections, which allowed me to target key actors in Hasidic education and the state and nonstate organizations that work with them. I ceased interviews once I had accumulated at least three independent confirmations of each empirical point. Interviews lasted between 30 minutes and two hours each. I conducted 22 interviews with professional lobbyists and informal advocates (9), educational and social services agency employees (7), and educational administrators (6), all of whom regularly interact with state officials and most of whom I loosely label “advocates.” The remaining 10 full-length interviews were with elected or administrative state officials involved in regulatory or legislative matters pertaining to Hasidic schools. I also conducted 13 shorter informal interviews (10–20 minutes long) with government employees with relevant responsibilities, and I maintained ongoing informal conversations with multiple Hasidic contacts.

### *Documents*

Documentary data included, first, analysis of legal, administrative, and policy materials, such as New York state and city educational laws, policy documents, and legal case texts. Second, I conducted a multilingual (English, Hebrew, Yiddish) textual analysis of the landscape of Hasidic education, reviewing hundreds of education-related materials, including educational

texts, lobbying documents, and newspaper, magazine, and website media sources.

### *Data Analysis*

The interview transcripts, along with the relevant educational, policy, and media documents, underwent extensive coding for common typologies and recurrent themes (Patton 2002; Saldaña 2013). I coded all interview transcripts and related notes in MAXQDA, a qualitative data analysis program, using an inductive process that enabled me to find at least three examples of each research claim. I then verified these claims in policy and other textual sources, which I coded thematically, tracking for formal and informal Hasidic and state education-related themes. This iterative process enabled me to map the patterns of legitimation and accommodation as they evolved, sometimes in real time, during my interview and analysis process. (For more on methods, see the appendix.)

### CASE FINDINGS: FRAGMENTATION, CONFLICT, AND LEGITIMATION

This article first provides two important contextual findings: the fragmented governance of American education, as exemplified in New York State, and the two primary logics that constitute the struggle between religious and state actors. I then present the key findings of this article: the educational norms of Hasidic yeshivas and the three legitimizing tactics that advocates use to justify them. Last, I specify the conditions that make such tactics more likely to succeed, and I conclude by elaborating on this study's implications for comparable cases and for our understanding of how nonconforming actors seek to legitimize noncompliance in regulatory fields.

### The Fragmented State of American Education

American educational governance is profoundly fragmented. Education is compulsory for children across the nation, but it is largely regulated on the state and local level, even as it is influenced by federal programming and funding. The result is a tangled web of conflicting practices (Cibulka 2001; Russo 2012). Complicating matters further, at least 80% of the nation's nearly 30,000 private schools are religious (U.S. DOE 2009). The American commitment to separation of church and state, and a legal tradition that favors parents' right to educate children as they see fit,<sup>13</sup> results in relatively infrequent

<sup>13</sup> See *Meyer v. Nebraska*, 262 U.S. 390 (1923), *Pierce v. Soc'y of the Sisters of the Holy Names of Jesus & Mary*, 268 U.S. 510 (1925), *Wisconsin v. Yoder*, 406 U.S. 205 (1972).

state intervention in nonpublic schools (DeGroff 2003; Jeffries and Ryan 2001). It also means that direct federal aid to religious schools is often prohibited, and school advocates must seek resources through political advocacy and courtroom battles that further splinter organizational norms.

The American patchwork of regulatory authorities, multiple educational logics, and disparate funding sources is enforced by lower-tier regulators with discretionary enforcement powers (Meyer et al. 1987). New York State is no exception to these fragmentary norms. Governed by educational and funding regulations on the federal, state, and local level, New York's educational policy implementation is fragmented over multiple offices and agencies. Often staffed by only a small number of employees, each regulatory site is a gatekeeper to a different piece of educational resources and enforcement, including special education, textbooks, security funds, and college tuition assistance.

Such fragmentation leads to inconsistent enforcement, especially for nonpublic schools. Local district authorities are legally empowered to review nonpublic school students' academic progress (N.Y. Comp. Codes R. & Regs. tit. 8, § 100.2). Yet employees at the eight district offices I called in 2014–15 all professed ignorance of their regulatory authority. Some were certain that state officials were in charge, but state officials seemed equally mystified. One state agency employee explained that “it's not clear” who is in charge, while another state official noted that “there isn't a lot of enforcement of any standards in those [private religious] schools in New York City.” This lack of enforcement, however, refers largely to standard educational programming. Widely used federally funded programs and specialized educational programs, in contrast, involve much closer regulatory scrutiny, interviewees reported. Even standard educational requirements have garnered more attention recently, as NYSED officials, under pressure from proeducation advocacy and journalistic exposés, began pushing for stricter enforcement measures in 2018, an ongoing saga described below. In response to shifting and inconsistent regulatory conditions and opportunities, coupled with fears of losing state funding due to noncompliance, advocates construct multiple tactics to justify their deservingness, tailoring strategies to target specific regulators and gatekeepers.

### Conflicting Educational Logics

Within the fragmented educational field, social actors negotiate conflicting visions of education as the path to legitimate participatory citizenship. In this study, the conflict is primarily between two educational logics: the dominant state logic of New York education authorities, and the resistant Hasidic educational logic.

*Education as Legitimation: The State Vision*

“Education is a . . . secular religion in modern societies” (Meyer 1986, p. 72). As world polity theorists argue, educational systems justify state claims that they produce agentic individuals, the primary focus of modern political ideology (Meyer 1986; Finnemore 1996). Educational systems aspire to produce an idealized citizen endowed with a particular set of skills and values that contribute to national development (Fiala and Lanford 1987); a universalistic worldview and unlimited potential for educational growth (Schofer and Meyer 2005); and the agency and political rights to fully exploit these capacities (Meyer 2000).

New York State law reflects this aspirational educational logic, declaring that in order to imbue students with “moral and intellectual qualities which are essential in preparing to meet the obligations of citizenship . . . the regents of . . . the State of New York shall prescribe courses of instruction in patriotism, citizenship, and human rights issues . . . to be maintained and followed in all the schools of the state” (N.Y. Educ. Law § 801:1).<sup>14</sup>

The law specifies that nonpublic schools must provide curricula “substantially equivalent” to those of public schools (N.Y. Educ. Law § 801:1); currently, the law requires 12 mandated subjects for grades 1–8 in public schools, with a shorter list for higher grades (N.Y. Educ. Law §§ 801, 3204).<sup>15</sup> The NYSED recommends five hours daily for grades 1–6 and five and a half hours for grades 7–12 in nonpublic schools to cover required subjects.<sup>16</sup> Further regulations list minimum criteria schools must meet or face potential consequences (N.Y. Comp. Codes R. & Regs. tit. 8, § 100.2). Ultimately, New York appears to legitimize its educational vision through at least a doctrinal commitment to transforming all children into autonomous and participatory citizens of a democratic society and capitalist economy.

<sup>14</sup> See these rulings for affirmation of New York State’s educational obligations: *Campaign for Fiscal Equity, Inc. v. State*, 86 N.Y.2d 307, 655 N.E.2d 661 (1995), and *Bd. of Educ., Levittown Union Free Sch. Distr. v. Nyquist*, 57 N.Y.2d 27, 439 N.E.2d 359 (1982).

<sup>15</sup> The 12 subjects required in public schools are “arithmetic, reading, spelling, writing, the English language, geography, United States history, civics, hygiene, physical training, the history of New York state and science.” For high school, the law requires English language skills, civics, hygiene, physical training, and American history (N.Y. Educ. Law § 3204). Note that recent revisions to the law have expanded qualifications for determining equivalency in nonpublic schools; see Building Alliances below.

<sup>16</sup> See <http://www.p12.nysed.gov/nonpub/guidelinesequivofinstruction.html>. Accessed July 27, 2021.

*Education as Social Integration: The Hasidic Vision*

What kind of subject do Hasidic community leaders wish to produce and how do their aspirations differ from that of state authorities' vision of education? Boyarin (1997) analyzes an American Hasidic village's legal struggle to establish a state educational district that would provide special education services for their (exclusively) Hasidic children. Boyarin argues that there is a fundamental distinction between sociolegal notions of the normative Protestant individual, which underlie much of American jurisprudence, and the "genealogical" individual, whose social and political identity is organized around an exilic sense of nonbelonging and a strong connection to their genealogy, their "family and group descent and upbringing" (Boyarin 1997, p. 1538). This concept of genealogical identity is central to the Hasidic process of socialization, and it fundamentally conflicts with a secular educational logic that promotes the production of autonomous participatory citizens in a rationalized polity (Finnemore 1996).

Indeed, supporters of Hasidic schools emphasize that their institutions work to produce individuals who are *b'nai Torah*—literally, sons of Torah—that is, intellectually, ethically, and socially a product of religious texts and Hasidic social culture. No less important than the intellectual training is the social disciplining, which plays out in the efforts to produce individuals who are securely integrated into Hasidic communal life—habituated into Hasidic cultural norms and into acceptance of religious authority, as embodied in spiritual leaders. Like the educational ideals of secular society, these collectivist religious aspirations do not necessarily reflect the messiness of everyday life among individual Hasidim or Hasidic families,<sup>17</sup> but they nonetheless exert a powerful influence on the discourses that shape organizational norms and policy debates in education.

## Hasidic Education

Founded on an alternative logic of social integration, Hasidic education for boys radically diverges from secular educational norms. Interviewees described how older grades in Hasidic boys' schools (grades 5–8, varying by school) start their day as early as 7:30 a.m. for prayers, ending after 6:00 p.m. or significantly later. Younger grades (1–4) usually start around 9:00 a.m. and end at 4:00 or 5:00 p.m. Most of the day is devoted to Jewish study, specifically Bible in the younger grades, followed in middle school by intensive immersion in Talmud-centered education, which focuses on Rabbinic Jewish religious law. Such immersive study leaves little time for secular subjects, which are sidelined into a small wedge of time at the end of

<sup>17</sup> For a discussion of collectivist vs. individualist framings of ultra-Orthodox Jews, see Shuman (2021).

the school day, beginning at 2:30 p.m. for younger children or as late as 4:00 p.m. or later by fifth or sixth grade, when most schoolchildren are already home.

In total, these schools generally provide secular studies for about one to two hours a day, approximately four times weekly, beginning in grade 2 or 3 and ending in grade 7 or 8 (see fig. 1 for a sample curriculum description). Curricular content varies across Hasidic schools, with some offering only literacy and math education and others also providing carefully censored history and science lessons in some grades. As Yiddish is the dominant language in most Hasidic communities, secular studies may be conducted in a mixture of Yiddish and English, the latter a language many students—and teachers—barely know (Berkowitz 2015).<sup>18</sup> Even these limited offerings do not exist in all schools. Hasidic preschools and high schools usually provide no secular studies, although some high schools offer optional classes in selected state-required subjects. One large Hasidic K–12 school in Brooklyn, serving approximately 1,800 students, offers no secular studies at all, though many students in that sect speak English as their primary language, and some compensate with homeschooling or tutoring (Berger 1994). The experience of tens of thousands of Hasidic boys is reflected in this statement from a former Hasidic yeshiva student in his twenties: “Until the age of 13 or so, we learned, like, one and a half hours a day—English and some math. It was at the end of the day, it was a joke. Nobody took it seriously.”<sup>19</sup>

These Hasidic educational norms correspond to a rightward shift toward intensified and text-based religiosity, accompanied by the explicit prioritization of Torah study, in the post–World War II American Orthodox Jewish community (Soloveitchik 1994; Heilman 2006). A local politician recalled that while secular studies were a “priority” in his childhood Hasidic school in the 1960s: “In the last 25 . . . years, they started going the other way, which is you can’t be *frum* [religious] enough. There’s not enough time for Torah. And that . . . one is taking away from the other. . . . It seems at this point that there’s a competition. . . about who could do the least.”

As a secular studies principal in a predominantly Hasidic school noted: “People feel like, you know, it’s a necessary evil—you have to have English. . . . [Secular studies is] a problem everywhere, unfortunately, . . . in all the yeshivas. . . . Secular studies is second place, because, you know, learning is first.”

<sup>18</sup> Eighteen formal and multiple informal interviews confirmed these educational standards. Supporting my findings, an informal survey found that of the 59 respondents who had attended a Hasidic high school in New York, 54 affirmed that they had no secular studies (original survey data obtained from Yaffed).

<sup>19</sup> This statement and all the unsourced statements that follow below are direct quotes from interviews conducted by the author for this article.

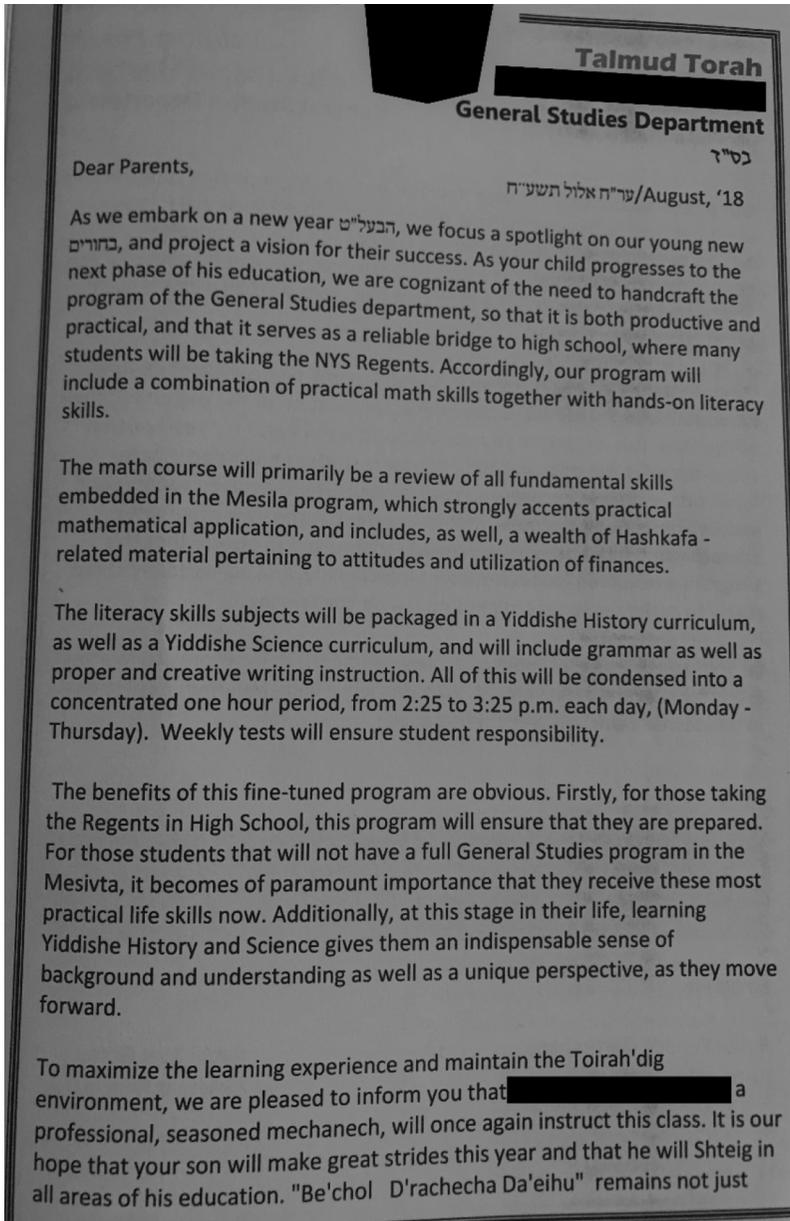


FIG. 1.—While Hasidic yeshiva schedules are rarely documented, this letter to eighth grade students' parents in a (deidentified) Hasidic school notes that the entire secular studies program totals four hours a week. It also indicates that both science and history are taught from a "Yiddishe," or Jewish, perspective. According to several interviewees, this usually means that the history class is largely Jewish history, not American or non-Jewish history.

“Learning,” in this framing, is a common term for Torah study in Orthodox Jewish discourse. One does not “learn” writing or math; one studies it for a functional and thus inferior purpose, such as obtaining a job. One “learns,” in the sense of internalized learning that transforms the individual, only when studying Jewish religious texts. Joseph, a school administrator, enumerated his institution’s priorities: “Religious studies is first, . . . character development is second, secular studies is third.” Prioritizing Torah above all leaves little to no room for secular studies. “Expanding the amount of time devotted [sic] to secular studies isn’t an option for most *mosdos* [institutions], they need the time for *limudei kodesh* [religious studies],” argued a religious journalist (Berkowitz 2015, p. 18).

Prioritizing Torah study reflects a cultural logic that positions the religious scholar as the Jewish male ideal and Torah study as the core of a devout Jewish existence. Even though, as several interview subjects noted, Hasidic men in the United States often seek employment soon after marriage, their prime educational years are sanctified for Torah study. In accordance with a logic that links social status directly to Torah study, girls and educationally challenged boys receive more hours devoted to higher quality secular education because they are not meant to be the disciplined and disciplining core of the community.

Girls receive enough Jewish literacy to participate in religious life (Fader 2009), but their Jewish studies program usually constitutes only half their school day and excludes Talmud study. Similarly, a program director for special education services told me that precisely because “these [learning disabled] kids are not going to be a [sic] *magid shiur* [yeshiva lecturer], at best, we want them to be functioning adults,” and so his program ensures that they receive relatively better training in math and English literacy “life skills.” The language of this particular comment is illuminating: If one does not have the ability or opportunity to practice extensive Torah study, due to learning abilities or gender, then one requires an alternative form of intellectual and social disciplining, in the form of basic educational skills, to be a “functioning adult.” But if one can engage in extensive Torah study, such skills are not needed, replaced with the disciplining force of Torah. In an educational logic that subverts the dominant contemporary association of education with status, secular study is reduced to a largely functional value, associated with lower status and relegated to assist in the lesser pursuits of the secular world.

Educators and advocates describe efforts to improve the quality, if not quantity, of secular programming, but this appears difficult to achieve in practice.<sup>20</sup> An elementary school principal, who expressed commitment to improving secular programming, noted that his students “walk out with the basics, [but]

<sup>20</sup> For an example of such efforts, see <https://vosizneias.com/2016/08/18/brooklyn-ny-improved-secular-curriculum-for-chasidic-schools-rolled-out-at-summer-training-session/>. Accessed July 27, 2021.

eight hours a week is a joke.” An administrator of a program providing services to Hasidic schools said of American-born Hasidic boys: “They are failing miserably [on ESL tests] . . . sixth grade students . . . are not even passing the scores of the first grade.” There is little comprehensive test data on the educational outcomes of Hasidic schools; most of these schools do not post test results. However, the 2017 New York State test scores available for seven identifiably all-male Hasidic schools reveal poor performance, with approximately 90% of test takers failing to pass minimum proficiency standards, compared to a 60% nonproficiency rate for all public schools.<sup>21</sup>

These limited educational resources have consequences. For Hasidic yeshiva graduates, advanced professional degrees in areas like law and medicine are generally out of reach. One educational services administrator noted that Hasidic graduates in programs he supervises are “very limited in their options” for job prospects, which a New York school superintendent attributed to “their [lack of] English language skills.” Along with large family size, lack of educational skills is one likely explanation for the 59% of Hasidic Jews who qualify as poor or near poor (Cohen, Ukeles, and Miller 2012, p. 220). These consequences profoundly concern some parents. An article in an ultra-Orthodox publication, after bemoaning “functionally illiterate” Hasidic male eighth graders, noted that “parents say it’s hopeless” to “create change,” and quoted an anonymous mother: “What good will my complaining do? I can’t change the system myself” (Berkowitz 2015, p. 17).

### Constructing Legitimacy in a Fragmented Regulatory Field

Orthodox Jewish schools in New York City alone receive at least an estimated \$97 million annually from a combination of federal, state, and city sources in 2016–17. This includes \$36 million in federal educational funding and \$61 million in city and state funding for transportation and textbooks. These funds most likely underestimate the total funds yeshivas receive, as they exclude federal or state funding not funneled through the New York City Department of Education, as well as suburban and upstate yeshiva funding (Edelman 2019). Yeshivas usually do not publicize finances, but a state audit of one Hasidic institution, which operates an all-male yeshiva,

<sup>21</sup> While some Hasidic schools offer NYS standardized tests, it is difficult to ascertain the proportion of students in each of these Hasidic schools that actually take these exams. Students at seven Hasidic boys’ schools (affiliated with the Bobov, Satmar, Krasna, Belz, Spinka, Boyan, and Skver sects) that offered testing in 2017 overwhelmingly failed to pass English or Math proficiency standards, defined as receiving a score of 3 or 4 on the tests. Six out of seven indicated 90% or 95% failure rates; one indicated 87% failure. Other Hasidic all-male schools showed no scores. For nonpublic school scores, see [https://www.newyorkupstate.com/schools/2017/08/2017\\_ela\\_math\\_test\\_scores\\_compare\\_private\\_schools\\_in\\_new\\_york\\_state.html](https://www.newyorkupstate.com/schools/2017/08/2017_ela_math_test_scores_compare_private_schools_in_new_york_state.html), and for public school data, see <https://data.nysed.gov/>. Accessed July 27, 2021.

a rabbinical seminary, an all-female school, and a camp, revealed \$28.5 million in government funding for 2016. In another example, the Satmar-affiliated United Talmudic Academy received \$11.3 million in federal food funding for their institutions in 2016 (Yaffed 2017, pp. 54, 60–61).<sup>22</sup> This is in addition to a variety of regulatory accommodations, described below.

How do Hasidic advocates obtain government resources and accommodations for an educational system that profoundly conflicts with the educational logic of New York State regulators? The remainder of this paper shows how advocates respond to specific conditions by constructing three categories of legitimizing tactics, which are loosely linked to three types of state support that school advocates aim to obtain or sustain. Advocates for these schools strategically use legitimizing tactics to cobble together support from multiple regulators across a patchwork of regulatory sites in the fragmented educational field. Their goal is not simply loose regulatory enforcement, in which the state looks the other way as schools flout educational requirements. Instead, yeshiva advocates seek to legitimize claims for active support of their institutions,<sup>23</sup> which they view as the cultural lifeblood of their communities.

### Tactic 1: Compliance Markers

Compliance markers are signs of conformity to specific and often prescriptive field norms, the “letter of the law.” Compliance markers such as state-required paperwork, standardized grade structures, and formal curricular norms signal that yeshivas are legitimate members of the educational field. Effective use of these markers transforms yeshivas from religious institutions into educational institutions that are legible to regulators, rendering them eligible for a range of state resources, which are generally delinked from substantive curricular compliance. However, compliance markers

<sup>22</sup> For a breakdown of available data on federal, state, and local funding for yeshivas, see Yaffed (2017). While published by Yaffed, a secular education advocacy group, the reported financial data are based primarily on publicly available documents, which I have checked for accuracy.

<sup>23</sup> Arguments in defense of such schools cite *Wisconsin v. Yoder*, 406 U.S. 205 (1972), a case that established that Amish communities do not have to comply with Wisconsin law and send their children to high schools; see *Parents for Educ. & Religious Liberty in Schs. v. Rosa*, No. 901354-19 (N.Y. Sup. Ct. Apr. 17, 2019); *Young Advoc. for Fair Educ. v. Cuomo*, No. 18-CV-4167, 2018 WL 10561496 (E.D.N.Y. 2019). Yet the Supreme Court’s justification for the Yoder opinion was in part based on the Amish financial independence of the state, noting, “the Amish community has been a highly successful social unit within our society, even if apart from the conventional ‘mainstream.’ Its members are productive and very law-abiding members of society; they reject public welfare in any of its usual modern forms.” Religious school advocates argue that their graduates are productive and law-abiding, but the high rates of poverty and government aid to Hasidic individuals and institutions undermine Yoder analogies.

do not indicate simply ceremonial compliance; in a bidirectional process, yeshivas integrate selected markers into internal organizational norms if they benefit their goals of religious socialization and study, while simultaneously employing them to indicate legitimate belonging in the field.

As a result of decades of lobbying efforts by religious school advocates, New York nonpublic schools are eligible for a wide variety of funding and services that require little more than paperwork submission to obtain (Rosenblum 2009). In one example, since 1974, New York has provided funding to all qualifying nonpublic schools under the MSA (Mandated Services Aid) and CAP (Comprehensive Attendance Policy) programs, which compensates services like attendance and health record keeping (Agudath 1982).<sup>24</sup> As one lobbyist explained, “You’re talking about a lot of money. That’s about 40 million dollars [in annual MSA, CAP, and related funds for Jewish schools].”<sup>25</sup> Other types of state and city funding are allocated toward costs of security, transportation, and textbooks, and all involve minimal regulatory supervision (Pazmino 2015; Edelman 2019).

These conditions—loose enforcement and relatively simple paperwork requirements for considerable resources—make such funding low-hanging fruit for schools across the religious spectrum. Hasidic schools are significant beneficiaries of this largess, and indeed, nearly all Hasidic schools formally register with the NYSED, in order to receive these benefits. A New York legislator involved in educational regulation pointed out that while programs like special education have stricter compliance oversight: “That’s not the case [for standard educational funding]. There’s never really been much accountability. The schools fill out their paperwork and send it in, and that’s the story.”

“Paperwork” encompasses written reports to state agencies confirming fulfillment of required administrative requirements. When submitting reports, yeshivas note their use of standardized educational practices such as age-specific classes to signal compliance with regulations; both these practices and the reports function as compliance markers that signal conformity to field norms. Regulatory agents, in turn, validate yeshivas’ (literal) paper compliance by providing funding without demanding evidence of conformity to state curricular requirements.

We can interpret compliance with external indicators of regulatory conformity as Hasidic schools simply translating religious education into secular standardized terms. Yet it is also tied to a translation of American educational norms, or dominant logics, into internal Hasidic school practices (Haedicke 2012). A long-time religious educator described how he translated his prior (non-Hasidic) educational experience into his job, beginning in the 1980s,

<sup>24</sup> See <http://www.p12.nysed.gov/nonpub/mandatedservices/>; <http://www.p12.nysed.gov/nonpub/mandatedservices/cap/>. Accessed July 27, 2021.

<sup>25</sup> MSA, CAP, and other administrative funding for Jewish nonpublic schools in 2016–17 is estimated at \$36 million by NYSED (Yaffed 2017, p. 55).

as a principal of a Hasidic yeshiva that offers no secular studies: “I structured the school. . . . It was a jungle, and I turned it into a zoo. I made [taking] attendance [mandatory], . . . I made more rules. I was an active principal. . . . I made report cards, tests, reports, lessons for the teachers.”

That is, he translated secular educational practices for use in traditional religious studies, which transformed the yeshiva from what he described as a place where students “*kum un lern't*” (i.e., come and learn [Talmud]) without any “structure,” to a school with age-appropriate (religious) curricula, testing procedures, and paperwork. Many Hasidic yeshivas now use these standardized educational practices to organize their extensive religious and minimal secular studies programs. While curricular content remains noncompliant with state law, these administrative and educational practices are now institutional norms, which educators reported as beneficial for schools and students, not simply formalities. Indeed, a program administrator responsible for a high school program entirely focused on religious studies explained that enrolled schools must implement new “professional” curricular practices, with “worksheets” and “tests,” practices he believes improve religious education.

This ongoing translation process is bidirectional. An education agency employee described how Hasidic curriculum designers, hired by federally funded and state-contracted agencies, developed new teaching methods that borrow from Hebrew linguistics to teach English. Specifically, students study English vowels separately from consonants and then practice vowel-specific combinations, because that is how Hebrew is taught, and they have been reading Hebrew for several years before learning English. These and other methods are “changing the standards” of acceptable curriculum materials, the employee explained, inspiring state-contracted secular agencies that supervise yeshiva programming to create new and innovative literacy programs. In this ongoing process, the externalization of transformed practices as compliance markers can reshape some field-wide educational norms.

With selective conformity to educational norms now common among religious schools, advocates strategically choose internalized compliance markers, ranging from standard attendance paperwork to selected curricular practices, to present Hasidic schools as eligible for millions of dollars in funding. In this bidirectional translation process, educational actors simultaneously translate markers into a discourse of legitimacy, triggering eligibility for state resources, while also moving beyond symbolic compliance (Edelman 2016) to selectively internalize some standardized educational practices that benefit their organizations.

## Tactic 2: Category Conflation

During the early years of the 21st century, new funding opportunities for private schools emerged. These opportunities, however, came with stricter

compliance requirements that proved challenging to yeshivas. In response, advocates developed strategies that can be loosely described as *category conflation*, in which they conflate compliant and noncompliant schools into one category of legitimate conformity by highlighting only the compliant schools' practices. This conflation of very different schools enables advocates to negotiate for increased support for all.

Conflation occurs in two overlapping ways. First, organizationally, political alliances that include ultra-Orthodox, non-Jewish, and more liberal Jewish schools advocate for improved resources for all. Alliances include the New York State Coalition for Independent and Religious Schools,<sup>26</sup> which advises the NYCDOE on nonpublic school issues, and other formal and informal joint advocacy efforts. Second, in legal and media statements, advocates conflate legally compliant educational programs with those of Hasidic all-male schools; in particular, they conflate better- and weaker-performing schools within the Orthodox spectrum. For example, Modern Orthodox (as opposed to ultra-Orthodox) schools offer highly competitive secular studies programs, catering to relatively liberal Orthodox Jews who overwhelmingly attend college, pursue professional careers, and have little social overlap with ultra-Orthodox Jews (Cohen et al. 2012; Nishma Research 2017). Yet due to their aligned interests in increasing state support, their school administrators and advocates often work with ultra-Orthodox schools on policy advocacy. In the three examples of category conflation documented below, religious school advocates worked with alliances or relied on conflating very different schools to argue for state support.

### *Supplementing or Supplanting: Conflating Genders*

Since the passage of the 1965 Federal Education Act, nonpublic schools can receive federal funding support, usually funneled through state and local agencies. After the passage of the 2001 No Child Left Behind (NCLB) legislation, however, this funding massively expanded, increasing nonpublic school funds for remedial education for low-income students (Title I), teacher training (Title II), and ESL services (Title III).

Widespread educational disadvantages and a predominantly low-income student body means that ultra-Orthodox students are often eligible for government-funded services. Their need for these programs is partially reinforced by the very curricular and cultural choices Hasidim make, as an educator noted: "They're not learning any English language, there's no TV, no newspapers, there's nothing that would give them any English language exposure . . . so everyone's starting with, in essence, a disability."

<sup>26</sup> See <https://www.nyscirs.org/>. Accessed July 27, 2021.

Yet as one educator told me, for years, “*heimishe* [ultra-Orthodox] schools . . . did not get any services.” Educators attributed the lack of services to the fact that unionized public school teachers were the only professionals allowed to provide government-funded remedial services in nonpublic schools. These teachers were perceived as outsiders, due to both cultural differences and ethnicity or race, and they were unavailable during the late afternoon hours yeshivas allocate for secular studies. As one school director explained: “I don’t want them [state agencies] involved in any part of my educational system where it concerns who I have to hire, how much I have to hire, when I have to hire. . . . I’m really not interested in teaching sex ed, . . . I’m not interested in having somebody who’s, shall we say, of an interesting color, coming into the classroom and teaching my children. That’s not the role model that I have for my children.”

To address these concerns, yeshiva advocates pressed for accommodation of their preferences by arguing for the legitimacy of their schools as a class, with no distinction between compliant and noncompliant schools. According to an arbitration decision that resolved this issue, in 2007, the principal of an ultra-Orthodox all-female school filed a formal complaint that the NYC DOE was not providing mandated Title I services to his students. Significantly, the prototype for this request was an ultra-Orthodox *girls’* school; most ultra-Orthodox all-female schools comply with state standards. In 2008, the NYC DOE launched a pilot program for six nonpublic schools, hiring third-party educational agencies,<sup>27</sup> who are more flexible with scheduling, curricular, and hiring demands, to provide teachers in place of unionized NYC DOE employees. By 2009, the program had expanded to 66 schools, serving both all-male and all-female student bodies, and it has continued to grow. By highlighting an educationally compliant school, advocates gained regulatory accommodation for all.

Protesting that the city should not hire third-party providers instead of public school teachers, New York’s public school teacher’s union filed a complaint with the NYC DOE, which went to arbitration in 2012 (*UFT v. NYC DOE* 2012).<sup>28</sup> During arbitration hearings, city officials argued on behalf of accommodating religious schools, insisting that the department “has the statutory duty to provide Title I services to eligible nonpublic school students on an equitable basis in relation to those same services which are provided to public school students” (*UFT v. NYC DOE* 2012). The defense of nonpublic school accommodation focused only on scheduling issues—NYC DOE teachers are unavailable during the schools’ preferred times, not the more controversial issue of cultural fit. The state

<sup>27</sup> Third-party agencies work as private contractors for state education departments and are utilized widely for other state-funded social services throughout the United States.

<sup>28</sup> See American Arbitration Association case no. 13-390-01348-09; OLR File No. 081296, UFT File No. C16440.

officials' advocacy efforts indicate their active investment in accommodating Hasidic schools, and yeshivas won the arbitration dispute. The victory precipitated a rapid shift to third-party agency employees that accommodate yeshiva preferences. This flexibility has consequences. A manager in one agency explained that Hasidic all-male school administrators demand that agencies provide religious, preferably Hasidic, men to teach federally funded remedial literacy classes. As a result, the "overall quality of the male teachers is much lower" than female teachers in the all-female school programs because, as previously noted, Hasidic women receive a better secular education than do Hasidic men.

Over time, third-party agencies have provided an increasing number of federally funded services, including teacher's training, ESL, and remedial education classes. Because these are taxpayer-funded services for private schools, a third-party agency employee responsible for educational compliance explained, "The rule behind Title I is that it has to supplement, not supplant."<sup>29</sup> This means that state-funded services should not replace private school programming but should simply support schools' existing efforts. However, that employee noted: "Especially in some Hasidic schools, that line [between supplementing and supplanting] can look very blurry." When schools provide only six to eight hours of secular studies weekly, but many students are eligible for up to three weekly hours of state-funded remedial classes, a significant proportion of the school's secular studies programming is now state funded. State officials are likely aware of this gray zone of semicompliance because they conduct at least one annual visit to inspect program implementation. A New York superintendent who oversees Hasidic schools explained: "Our focus has always been on the free exercise clause. . . . Leaders of the community had determined that their religious studies were going to take a priority, . . . [and] that's a choice of the religious community. . . . I respect those choices, and we try to support them as the federal government wants us to, by working in collaboration with a non-public school to make their supplemental services a value."<sup>30</sup>

Indeed, the increased funding provides long-absent educational services in religious schools to students who certainly benefit from them. Yet it also effectively accommodates schools that evade state educational criteria. By conflating all religious schools with one compliant school seeking funding, advocates obtained regulatory accommodation of Hasidic yeshiva schedules structured to minimize secular studies to the point of noncompliance.

<sup>29</sup> See Code of Federal Regulations 34 § 200.66 (a).

<sup>30</sup> Describing these educational services as supplemental is likely a strategic choice of wording, indicating conformity to federal requirements.

Building Alliances: Conflating Hasidic and Non-Hasidic Schools

Alliances between very different categories of schools enable their conflation, supporting claims that all schools comply equally with state standards. This is a particularly useful strategy during what has become an ongoing crisis for yeshivas. In recent years, secular education advocates, reinforced by growing media coverage and some political support, began pressuring state regulators to increase state oversight of educational programming in Hasidic all-male schools (Sacks 2013; Goldberger 2014; Miller 2014).<sup>31</sup> Politicians and administrators were slow to respond, but as pressure built, so did advocacy efforts to protect the yeshivas. In 2018, in response to increasing political pressure, an Orthodox Jewish state senator held the state budget hostage until the legislature added legal language allowing schools that met specific criteria, tailored for ultra-Orthodox yeshivas, to meet vaguer standards of curricular “substantial equivalency” as determined by the NYCED (Wang and McKinley 2018).<sup>32</sup> Specifically, the newly revised law requires the state department of education to evaluate whether schools that meet selected criteria, such as a bilingual curriculum and extended hours, satisfy equivalency. For grades 1–8, the law notes that evaluators should assess if specific subjects—including math, literature, writing, science, civics, and geography—and English-language instruction are provided; for high school, the law requires nothing more specific than a “sound basic education” that enables students to develop “critical thinking skills” (N.Y. Educ. Law § 3204.2).

However, in a demonstration of unpredictable bureaucratic discretion, DoE administrators promptly issued restrictive new guidelines to enforce schools’ compliance with now-vaguer equivalency requirements.<sup>33</sup> In response, advocates and religious media publications published statements defending yeshivas and launched legal challenges to the new standards. Yet these statements and lawsuits consistently ignored educational and cultural distinctions between Hasidic and non-Hasidic schools (Eller 2018; Kobre 2018; YWN 2018), relying on category conflation tactics linked to school alliances. In a broader alliance, a coalition representing non-religious, Christian, and Modern Orthodox schools, motivated by concerns over government overreach, sued the NYSED to overturn stricter educational enforcement standards, despite the low likelihood that these schools

<sup>31</sup> An organization known as Yaffed (Young Adults for a Fair Education), led by Naftuli Moster, a former yeshiva student, has spearheaded many efforts to increase state intervention.

<sup>32</sup> The senator, Simcha Felder, held unique power at the time because he caucused with both Republicans and Democrats in a closely divided state senate. This amendment led to a lawsuit against New York State, *Young Advocs. for Fair Educ. v. Cuomo*, 2018, referenced below.

<sup>33</sup> See <https://www.courthousenews.com/wp-content/uploads/2019/03/ny-guidance.pdf>. Accessed July 27, 2021.

would have difficulty complying with basic equivalency standards (McKenna 2019; Shapiro 2019).<sup>34</sup>

In an example of narrower intragroup conflation, a group of five Orthodox schools joined a separate lawsuit challenging the new guidelines.<sup>35</sup> Among other arguments, the lawsuit focused on a common legal defense in such cases: that state intervention is a violation of both parental and religious autonomy (Rothschild 2019). Of greatest interest in this case, however, are the five Orthodox schools explicitly named as petitioners: none are Hasidic schools. Instead, every petitioning school is a Yeshivish school, which serves non-Hasidic ultra-Orthodox children and usually offers secular studies of varying quality; these five schools have relatively strong programs, which they highlight in supporting affidavits. In claiming to represent all impacted yeshivas, plaintiffs effectively conflated all schools into one indistinguishable population. This strategy likely relies on the assumption that to many outsiders, yeshivas serving Orthodox Jews can all seem the same. Courts or even educational authorities may struggle to differentiate the petitioning schools from noncompliant Hasidic schools, considering that few New York yeshivas, nearly all with Hebrew names incomprehensible to most state regulators, have publicly available information on their curricula.

Petitioners extended this conflation throughout their statement, arguing that graduates of “Orthodox Jewish yeshivas in New York,” participate in multiple highly specialized professions, including “doctors and [hospital] department heads, . . . professors and department chairs at . . . leading universities.” Yet while more liberal Orthodox schools produce many highly educated professionals, male Hasidic doctors and professors are relatively rare. Petitioners also claimed that the new rules “would inhibit the entire Orthodox and Chasidic community’s education system that is central to Petitioners’ way of life,” although the guidelines would be far more disruptive to Hasidic schools than the petitioning non-Hasidic schools.<sup>36</sup> In conflating high-performing non-Hasidic and noncompliant Hasidic ultra-Orthodox schools, advocates imply that all such yeshivas are similarly legitimate institutions with state-compliant curricula.

<sup>34</sup> See Verified Petition, *In re N.Y. State Ass’n of Indep. Schs. v. Elia*, 110 N.Y.S.3d 513 (2019); for text, see <https://www.courthousenews.com/wp-content/uploads/2019/03/mysais.pdf>. Accessed July 27, 2021.

<sup>35</sup> See Verified Petition, *Parents for Educ. & Religious Liberty in Schs. v. Rosa*, No. 901354-19 (N.Y. Sup. Ct. Apr. 17, 2019); for text, see [https://www.theyeshivaworld.com/wp-content/uploads/2019/03/NOT\\_ASSIGNED\\_PARENTS\\_FOR\\_EDUCATIONA\\_v\\_ROSA-PETITION-WITH-EXHIBITS.pdf](https://www.theyeshivaworld.com/wp-content/uploads/2019/03/NOT_ASSIGNED_PARENTS_FOR_EDUCATIONA_v_ROSA-PETITION-WITH-EXHIBITS.pdf). Accessed July 27, 2021.

<sup>36</sup> Verified Petition, *Parents for Educ. & Religious Liberty in Schs. v. Rosa*, No. 901354-19 (N.Y. Sup. Ct. Apr. 17, 2019), pp. 2, 39.

The guidelines, never implemented, were overturned the next year due to procedural improprieties.<sup>37</sup> When state administrators sought to develop new rules, yeshiva advocates rallied religious communities across the Orthodox spectrum. Advocates cited (eventually disproven) claims that the regulations would require at least seven to eight daily hours of secular studies,<sup>38</sup> a challenge even for academically rigorous Modern Orthodox schools, and urged individuals to write to the NYSED during the public comment period.<sup>39</sup> (See figs. 2–3 for advocacy materials.) In the face of a massive outpouring of 140,000 overwhelmingly critical comments from across the Jewish educational spectrum, the regulations were put on hold in February 2020, pending discussions with nonpublic schools (Algar 2020).

*“These are your children”: Conflating Students, Evading Schools*

Extending category conflation to individual students, advocates argue that Hasidic students are citizen-subjects like all other New York children and thus deserve “equal treatment.” A school administrator claimed: “A student in yeshiva . . . deserves as much support as any child in public school gets.” By focusing on the deservingness of the student-child instead of on the educational programs, advocates argue for improved resources for all individual children, detached from institutional eligibility.<sup>40</sup> An upstate New York educational agency director argued regarding expensive state-funded special education services for Hasidic students, many of whose families are too poor to pay for private services: “All of these children are your children. We are residents of the district; we are all entitled to a free public school education. The fact that we are taking 99.9 percent of our children and educating them at our own cost and not enrolling them [in public schools], the one percent that we are bringing to you [for special education services funding], you cannot turn them away. . . . You’re obligated by state law, by federal law. . . . You have to educate these children.”

<sup>37</sup> See *Parents et al. v. Rosa et al.* No. 901354-19 (N.Y. Sup. Ct. Apr. 17, 2019); for text, see <https://www.courthousenews.com/wp-content/uploads/2019/04/Yeshivas.pdf>. Accessed July 27, 2021.

<sup>38</sup> Teach NYS (now known as the Teach Coalition), a nonpublic school advocacy group representing religious Jewish schools, put out a statement confirming that the requirements were actually for 3.5 hours; a copy of the statement, no longer posted online, is available from the author.

<sup>39</sup> See <https://yeshivosbychoice.org/yeshiva-crisis-final-days-for-commenting-on-proposed-nysed-regulations/>. Accessed July 27, 2021.

<sup>40</sup> This argument is rooted in the legal concept of the “child benefit test,” in which state aid to religious schools is permitted if it demonstrably benefits individual children, not the institution they attend (Jeffries and Ryan 2001).



FIG. 2.—A Brooklyn-based Orthodox newspaper, the *Flatbush Jewish Journal*, published this headline in response to the 2018 NYSED regulations. The Hebrew text means “to make them [Jews] forget your [God’s] Torah,” quoted from a prayer about ancient Hellenistic efforts to destroy Judaism.

One agency employee described tax dollar support for religious schools as an equitable distribution issue: “It’s making sure that there’s equality—for public and nonpublic school kids.” Conflations of subcategories within target populations thus enable appeals to normative American values of equality and fairness, legitimizing government support for noncompliant schools (Bloemraad 2018).

### Tactic 3: Discursive Resonance

Growing pressure to conform can inspire intensified advocacy. Strategies of *discursive resonance* mobilize discourses focused on a core logic that justifies modern education: the production of intellectually prepared, economically productive, and socially stable citizens of a democratic market society. Advocates articulate these assumptions as discourses that resonate with regulators’ educational beliefs, claiming that religious schools successfully

8 שעה  
ענגליש  
טעגליך

12 טריפה'נע  
סובזשעקטס

היז לא  
תהי!

אונזערע קינדער,  
זענען אונזער'ס!

DRYVEUP.COM/PEARLS  
718.682.7057 ב'ד' ני תנא

קאמפיין  
ישראל  
כלל  
ישראל  
קאמפיין

יעצט איז אונזער צייט! 72 שעה הצלת דורותינו

FIG. 3.—This 2019 advertisement to raise funds for religious school advocacy shows a digitally modified Talmud, with a page from a secular textbook on the left, an indication of the violation of Jewish studies by proposed state educational regulations. The Yiddish and Hebrew text states: “Eight daily hours of English, 12 nonkosher subjects—it will not be so! Our children are ours!”

produce productive, stable, and intellectually trained citizens and that this demonstrates that their educational practices, even if noncompliant with the letter of the law, are effectively equivalent to state curricula. By describing elements of religious education as conforming to the spirit—or underlying logics—of secular education, advocates argue for yeshivas' deservingness of accommodation and support. This is a risky tactic because it explicitly admits to noncompliance, and advocates initially deployed it quite selectively. Yet as prointervention advocates have increased pressure on state regulators and as media coverage of yeshivas has made evasion less effective, this tactic has become more common.

The findings in the next section first describe three primary elements that constitute discursive resonance in the context of religious school advocacy: educational equivalence, productivity and stability, and distinguishing deservingness. The article then shows how discursive resonance is deployed in advocacy efforts with educational regulators.

#### *Educational Equivalence: The Talmudic Mind*

Discourses of educational equivalence are rooted in a commonplace Orthodox belief in the intellectual superiority of Torah study. Five interviewees invoked a standard Orthodox trope: intensive Talmudic study generates equivalent or superior cognitive skills—a *Gemara kup* (loosely translated: a Talmudic mind)—that compensate for the lack of secular education.<sup>41</sup> An education agency director explained that yeshivas can cram the secular studies curricula into a few hours a week because “we are a smart people,” even as he acknowledged that many students could not succeed in these conditions. Three advocates independently attributed the financial success of individual yeshiva graduates to their Talmudic skills. One lobbyist told me an anecdote typical of this trope: “I’m dealing . . . with a very bright fellow. . . . He went to a *chassidish* [Hasidic] yeshiva—he never had secular studies, period. . . . He taught himself computing, he taught himself the internet . . . to a . . . super expert level. . . . He has a *Gemara-kup*.”

In 2017, in response to growing critiques of yeshiva curricula, a Hasidic advocate penned an op-ed articulating the same argument—that Talmudic training provides the same cognitive skills that secular studies do: “Students obtain critical thinking, analytical, comprehension, and literacy skills that are no different from those of successful students everywhere. Our teachers employ a Socratic method of instruction, in which students are required to analyze passages and defend their interpretations. You would be hard-pressed to find sixth-grade classrooms elsewhere that so resemble law school (Niederman 2017).

<sup>41</sup> For a popular fiction example of *Gemara kup*, see Zakon and Galitzer (1990).

These arguments are used in interactions with state actors. In 2018, an organization advocating for stricter regulation of yeshivas sued New York State in response to a state law that allowed a separate set of vaguer standards for establishing curricular equivalence (N.Y. Educ. Law § 3204.2). The organization argued that the law would deprive Hasidic graduates of a state-required secular education, but the group lost its case on technical grounds.<sup>42</sup> In a brief supporting yeshivas, an educational psychologist (also a graduate of ultra-Orthodox all-female schools) argued that studying religious texts provides the same underlying skills obtained in language arts classes:

Through these [religious] lessons, Common Core ELA Foundational skills . . . as well as social studies standards and science skills can all be supported. As an illustration, when covering the weekly [Torah] portion . . . the students gain the ability to read with sufficient accuracy and fluency to support comprehension. . . . Even if the language of instruction might not be English, New York State guidelines make explicit accommodations for children from homes that speak a language other than English. . . . to receive instruction in their home language. . . . Extant research has documented cross-linguistic transfer of literacy skills over time, such that skills gained in the first will transfer to the second language, typically following a time lapse.<sup>43</sup>

This argument relies on educational research that supports studies in a student's native language, including Yiddish.<sup>44</sup> However, the claim obscures the question of when, in a yeshiva setting, "skills gained in the first [language] will transfer to the second," considering the lack of critical thinking skills, and arguing that Hasidic schools provide such skills in equal measure to secular programs, the brief makes the claim that cognitive skills, not specific subject content, is the main goal of education.

*Productivity and Social Stability: "What do you need English for?"*

Advocates argue that noncompliant, but in their view equivalent, educational programs can create productive and contributing citizens. Based on this perspective, four interviewees used the term "productive" to describe

<sup>42</sup> See *Judgment, Young Advocs. for Fair Educ. v. Cuomo*, No. 18-CV-4167, 2018 WL 10561496 (E.D.N.Y. 2019); for text, see <https://casetext.com/case/young-advocates-for-fair-educ-v-cuomo>. Accessed July 27, 2021.

<sup>43</sup> See Declaration of Dr. Adina Schick, *Young Advocs. for Fair Educ. v. Cuomo*, No. 18-CV-4167, 2018 WL 10561496 (E.D.N.Y. 2019).

<sup>44</sup> See David Rubel, "Yiddish Native Language Struggling Readers NCLB Title III Part A Funded Program," privately circulated report (self-published, 2011), 14 pages. Available from author.

yeshiva graduates, with one educator elaborating that “productive” meant the capacity for “finding jobs” and “living productive lives.”

Yet productivity for yeshiva advocates does not mean what it does in the American market economy. An immersive Hasidic education aims to construct “productive” individuals who are socially disciplined into a genealogical identity—that is, well-integrated into family and communal bonds that orient them toward lawful and hardworking lives, albeit with a significant likelihood of remaining low-income (Boyarin 1997; Cohen et al. 2012). Indeed, while Hasidic yeshiva graduates with few marketable skills may struggle to support large families, some do well in career paths that require relatively minimal English literacy, whether real estate, online sales, graphic design, or manual jobs like electricians, as advocates often emphasize. These options may seem limited, but one educator noted that such constraints do not undermine Hasidic men’s full social integration into their insulated communities: “They’re being *mechunuch* [educated] to stay within their niche—and then you don’t need [secular studies]. So if you’re living in [a Hasidic community] . . . you’re fine. Everything’s there for you. So if everything’s in Yiddish . . . what do you need English for? . . . For *parnasa* [earning income] you may need it, but not for social things.”

Educational advocates use common Hasidic school practices to link internal educational logics—the production of socially integrated community members—to the primary educational logic of state actors, which focuses on the production of socially and economically disciplined citizens. Even if yeshiva education fulfills none or few of state-mandated requirements, and some yeshiva graduates are functionally illiterate in English, the primary elements of the secular educational logic, they claim, are sustained in socially stable Hasidic communities, allowing advocates to construct a claim of legitimate equivalency that resonates with regulators.

*Drawing on Distinction: “Better than the public school system”*

Some advocates appeal to conventional tropes of equality and equivalence to portray schools as deserving of state resources, in contrast to “undeserving” public schools in Brooklyn. In this claim, Hasidic education produces strong social integration that provides a protective bulwark against the usual social ills of poverty. Some interviewees compared yeshivas to local public schools, which, they argued, suffer high drop-out rates and other challenges. One religious education agency director said: “There’s not a question . . . that some of the *chassidish* [Hasidic] groups do a whole lot better than the public school system does in preparing their students for a successful life in their community.”

A more ambivalent take follows from a different education agency employee: “At the end of the day they’re building kids who are, you know, will

be, God willing . . . normal members of society—which is something that the public schools can't produce in many of the areas that we're in. So their English is weak but, . . . you know, they'll be good citizens. They'll work, they might not do a good job, but they'll work."

These interviewees refer to underperforming public schools (and ignore high-performing New York public schools), which tend to serve poorer populations, primarily students of color.<sup>45</sup> While not explicit, this perspective contrasts Hasidic students' liminal status as predominantly white citizens, albeit non-Christian and majority poor or near poor, with low-income public school students, who are predominately persons of color. In this view, the Hasidim's presumed social stability, their economic efforts, and their intellectual activities make them worthy of state support, in contrast to the undeserving poor (Katz 2013).

*Discursive Resonance in Negotiation*

Translating logics is an interactive, recursive process. Advocates present their arguments to regulators across New York's fragmented regulatory landscape, and over time, these discursive tactics have resonated with some regulators. Advocates can then cobble together support from regulatory agents scattered in different governing agencies. In turn, some regulators and politicians selectively integrate these legitimizing discourses to justify accommodation and state resource provision. One state legislator argued: "I'm talking about the Department of Education, I'm talking about the governor's office. . . . They look at these institutions. Listen, the one thing you can say is that there is education going on. It isn't like the kids are in the street. See, if the kids were in the street, they would say, What's going on here? Where's the education? But they're not! . . . They're in school—*longer* than the public school kids. So, hey, what are you going to complain about?"

This notion that "there is education going on," even if it does not meet state requirements, was echoed in a conversation with an NYSED state official who supervises nonpublic schools: "I'm sure you've run across the Yoder decision, right? . . . The Yoder case is Amish kids, but we still have to . . . assume that . . . as long the state doesn't have a compelling interest to force them. . . . Do we have a compelling interest? . . . I believe that there's a fair amount of cognitive development that happens. . . . they're interacting with adults, they're safe. There are certainly public schools where that is not the case."

These statements by state authorities paraphrase the reconceptualization of education that Hasidic school advocates offer as a central proof of

<sup>45</sup> For demographic data on New York public schools, see <https://www.schools.nyc.gov/about-us/reports/doe-data-at-a-glance>. Accessed July 27, 2021.

deservingness, wherein alternative forms of intellectual development and presumed social stability trump state-compliant educational content. The statements indicate that at least some state actors accept yeshiva advocates' equivalency arguments, an acceptance that builds on other legitimizing tactics. Through the certification and resource allocation that compliance markers and category conflation enable, regulatory agencies recognize Hasidic schools as valid educational institutions. Advocates for Hasidic schools can then integrate that recognition into a reconceptualization of the American educational logic, which translates into a claim that resonates with regulators: these are state-recognized schools that produce socially stable, intellectually advanced, economically productive graduates through their alternative educational practices, and so they deserve full state support.

Advocates have only recently begun to promote this argument widely, in response to increasing public debate about the state's role in religious schools. Yet even as the debate continues, there is little coverage of a nearly decade-old program in which advocates used discursive resonance as part of a larger campaign to successfully legitimize a massive substitution of Talmudic study for substantive educational compliance, while also ensuring a significant stream of educational funding. This policy development is discussed below.

### *Legitimizing Talmudic Education*

While Hasidic schools provide 6–8 weekly hours of secular education for younger grades, Hasidic high schools usually focus solely on religious studies. This became an issue in 2012, after lobbyists succeeded in obtaining New York Tuition Assistance Program (TAP) funding for post–high school yeshiva students, or rabbinical colleges. The Association for Advanced Rabbinic and Talmudic Schools (AARTS), a federally recognized accreditation agency established in 1974, accredits college-level yeshivas for federal funding, such as Pell grants, bringing millions of federal dollars to institutions devoted to Talmudic study (Rosenblum 2009, p. 441). This was limited to federal funding because New York is one of 37 states with a Blaine amendment, which precludes the provision of state funds for religious studies.<sup>46</sup> This changed in 2011, when the New York State budget bill expanded TAP to students in institutions that already receive federal funding (2011 N.Y. Session Laws ch. 58). Because the bill did not specify that these could be yeshiva students, many lawmakers did not realize the legislation's implications until millions of dollars were allocated to support full-time rabbinical college students (Berger 2012).

<sup>46</sup> Blaine amendments have since been rendered largely unenforceable through the *Espinoza v. Montana Department of Revenue* ruling by the United States Supreme Court (2020).

The New York Higher Education Services Corporation (HESC) agency manages this funding. The challenge, however, was that New York law still requires matriculated college students to possess a state-approved high school degree to qualify for TAP funding (N.Y. Educ. Law § 661). Hasidic (and some non-Hasidic) high school yeshivas provide none of the classes required for a New York high school degree, disqualifying most graduates for TAP. In May 2012, HESC published a memo stating that New York State regulations allow matriculated college students in the expanded TAP program to have a high school degree approved by an “established national association of nonpublic schools” that has a “school academic review process as part of its recognition protocol.”<sup>47</sup> This memo seems perfectly constructed to accommodate yeshivas, which are generally members of a long-standing national association that represents hundreds of Jewish schools. An interviewee involved in the process describes how advocates, including members of that association, worked directly with HESC officials to construct this regulatory accommodation: “[HESC officials] agreed in the drafting of the TAP regulations for Yeshivas that if [a yeshiva] was accredited—not accredited, but recognized, . . . the question was what recognition would mean, and HESC accepted that recognition should mean [the yeshiva association] recognizing it. . . . But we took it very seriously. Not just to rubber stamp, . . . but there’s curriculum, there’s visitation. [The program director] has gone down to every school and actually in a real sense he’s improving the *limudei kodesh* [religious studies] in these places, because they now have to have a curriculum that’s accepted.”

This is not simply rubber stamping, he argues. Indeed, in a process of bi-directional translation, the advocate argues that a standardized curriculum that conforms to secular educational norms, even with no substantive secular content, will improve Talmudic studies, while also providing HESC with the legitimacy yeshiva graduates require to qualify for state funds.

In an interview, the high school certification director told me that about 25 schools had been certified in the first months of the high school certificate program’s implementation in 2013, a number that he expected to grow rapidly. He described his efforts to “professionalize” Talmud studies in these yeshivas, showing me a written program description stating that high school curricula must transmit “skills in critical thinking, rational analysis, interpreting and contextualizing ancient language texts,” as well as “training in high ethical and moral character” for the purposes of producing students who will “emerge with a Torah-based *hashkafa* [worldview],” trained to continue their advanced Talmudic studies and “live a life molded by Torah values.”

<sup>47</sup> See full memo at <http://www.hesc.ny.gov/images/docs/FinancialAidProfessionals/CEO%20Memo%2012-04%20High%20School%20Diploma%20Final%205.24.12.pdf>. Accessed July 27, 2021. Copy available from the author.

When I asked an advocate how state regulators agreed to accept a high school degree with no secular content, he responded: “The government . . . require[s] that you have a high school education to go into college because they want to make sure that you are prepared for a college degree. If you’re going for a rabbinical degree, then you have to make sure that you have the right preparation for that degree. . . . *This* is the right preparation.”

The claim that a Hasidic yeshiva education is sufficient because graduates will become rabbis was soon undermined. Building on now-widespread use of third-party providers of federally funded educational services for younger grades, elementary school administrators sought to hire rabbinical degree holders because their degrees technically qualify them to teach federally funded remedial literacy and math classes, even if they lack substantive education in these subjects. These two apparently separate advocacy threads have linked up in a cycle of what an agency employee in 2019 called the “low-quality” education in Hasidic boys’ schooling. (See fig. 4 for an example of how yeshivas seek rabbinical degree holders, regardless of qualifications, for such positions.)

When I reached out to state employees at HESC to discuss this regulatory loophole, they refused to speak on the record. However, the memo—and the outcome, in which yeshiva colleges receive millions of dollars for students who cannot qualify for NYSED-compliant high school degrees—confirms yeshiva advocates’ claims that regulatory norms shifted as part of a process that included discursive resonance as a negotiating tactic. The preliminary acceptance of such a logic was demonstrated by an NYSED official, who, when I asked about this program and other efforts to legitimize noncompliance, explained that she believed that vital educational skills could be extracted from religious studies: “If I went to school just in Japanese, getting instruction in how to read the Japanese classics, let’s say. I mean . . . I’m learning about how to read and think even if it’s not in English.”

**פארדינט איבער \$100 א שעה!**

היימישע ת"ת זוכט אינגעלייט צו לערנען מיט א גרופ 8-9 כחה ג' קינדער, A, B, C, און גרינגע math. פון מאנטאג ביז דאנערשטאג, 3:30 ביז 4:30. אנגעפאנגען נאך סוכות תשע"ט הבעל"ט. אויב שרייבט איר זיך איין אין די קומענדיגע 4 וואכן איז א מעגליכקייט אנצוהייבן צו באקומען באצאלט פון Sept. איר דארפט גארנישט קענען אדער האבן נאר א ישיבה דעגרי (וואס יעדער וואס עס האט אדער האט געהאט collage programs האט עס אין ישיבה גדולה אפיס) רופט ווילאנג עס איז נאך דא אפענונגס

FIG. 4.—This advertisement appeared in a Hasidic publication, *D’var Yom B’Yomo*, on June 18, 2018: “Make more than \$100 an hour! A Heimish [literally homey, connoting culturally ultra-Orthodox] yeshiva elementary school seeks young [men] to teach a group of 8–9 grade 3 children A, B, C and easy math. Monday–Thursday, 3:30–4:30, beginning after [the holiday of] Sukkot 2018. . . . If you apply in the next four weeks, you may receive a salary in September. You do not need to know or have anything but a yeshiva degree (which everyone who had collage [*sic*] programs in post-high school yeshiva has one in the yeshiva office). Call while there are still openings [number redacted].”

HESC recognizes a diploma from this program, which focuses entirely on religious texts, as a valid alternative to a standard high school diploma that requires secular subjects. In a reflection of New York's fragmented educational field, regulators from one agency (HESC) grant a yeshiva association the authority to deem Talmudic education equivalent to the subjects required by another agency (NYSED). The HESC memo does not explicitly name yeshivas, but in effect it actively legitimizes the Hasidic vision of education as an equivalent version of the dominant state logic of education, thus accommodating educational noncompliance. The production of individuals equipped to function economically and socially in civic society is merged with a vision of socially disciplined Talmudic scholars who redefine notions of productivity, intellectual training, and deservingness.

### *Extending Legitimation*

As pressure to improve secular studies has mounted in recent years, advocates for yeshivas have intensified claims of yeshivas' educational equivalence (Krakowski 2018), seeking to extend the legitimacy granted to high school programming to lower grades as well. In addition to arguing that students could extract mathematical or literacy skills from religious studies, some advocates began claiming that even those skills are not necessarily needed, so long as the underlying intellectual development takes place. A representative from an Orthodox lobbying organization told a religious Jewish publication: "The state has been telling us, 'Fine. If a certain amount of mathematical calculations are part of the *Gemara* [Talmud], just count that as math.' That approach is of limited value to us. We are hoping for a broader reading of this issue. We would like them to acknowledge that what we learn in *Mishnah* and *Gemara* teaches logic and thinking skills. I think that we have a strong case" (Reisman 2019).

This lobbyist argues that it is not enough for regulators to allow yeshivas to avoid standard math classes in favor of integrating math into religious studies.<sup>48</sup> State agencies should also accept that math and other secular subjects are rendered entirely unnecessary by a Talmudic education that provides, with alternative but equivalent content, what they distill as the state's primary educational goals: critical thinking and logical inference skills—the "intellectual qualities" that New York law describes as necessary to meet the "obligations of citizenship" (N.Y. Educ. Law § 801:1).

Most recently, in response to intensive advocacy efforts to limit regulatory interventions into yeshiva curricula, the New York State Education Department held stakeholder meetings with about 80 yeshiva alumni, student

<sup>48</sup> Note that I found no evidence that regulators allow schools to do this in lower grades, which do not qualify for the HESC exemption for high schools.

parents, and administrators. In the aftermath of one meeting, the NYSED assistant commissioner of curriculum and instruction made the following statement to a local Jewish newspaper:

Religious and independent schools are often very community oriented; they sometimes *are* the community, as opposed to being just a part of the community. . . . Some of our yeshiva representatives expressed that they want both robust Jewish education and general-studies education. And these often complement each other. A great example was offered by one of our participants, where a concept that her son learned in a religious-studies class actually aided him in solving a complex geometry problem. . . rather than using the steps he learned in a mathematics class. . . . That's not an uncommon practice, and it needs to be recognized that core academic studies are happening in concert with religious studies. Graduates of these religious and independent schools go on to succeed in many ways, and contribute value to our society. (*Hamodia* 2020; emphasis in original.)

While not conceding that secular education is rendered unnecessary by religious studies, the commissioner expresses her support for the idea that religious studies provide skills that can be used for higher-level secular studies without addressing how schools that never provide those studies can implement the skills transfer she espouses. Her framing of these schools as interchangeable with the community captures the stakes of this issue: regulators may be increasingly inclined to accept these advocacy arguments, in part because the Hasidic educational logic is as fundamentally embedded in cultural identity and a vision for societal survival as is the secular one. Legitimizing discourses that resonate with secular logics enable flummoxed regulators to justify ongoing accommodation of nonconforming groups who are deeply committed to alternative norms.

#### LINKING CONDITIONS, TACTICS, AND OUTCOMES

Beyond providing a three-part typology of legitimizing tactic construction, this article suggests a framework for linking conditions, tactics, material outcomes, and behavioral outcomes. The linkages, which vary in stability and tightness, highlight three general conditions that are particularly useful for effective tactic construction. These general conditions are distinct from situationally specific and tactic-specific conditions in that they enable the broader process of flexible and responsive tactic construction described here to unfold.

The first general condition is the fragmented state of American regulation, which allows for decreased visibility of nonconforming groups and minimal accountability. Fragmentation generates diffuse social control, which enables advocates to strategically target the relatively few gatekeepers who control scattered sites of regulatory enforcement and educational funding. For example, the New York Office for Nonpublic School Services (now the State Office

of Religious and Independent Schools) had only one full-time employee in 2014, and the City's Bureau of Nonpublic Schools was also minimally staffed, allowing school advocates to build personal relationships with regulators. Most importantly, fragmentation is linked to inconsistent enforcement, which determines the development and use of specific legitimizing tactics. That is, because fragmented fields are characterized by significant institutional heterogeneity, field actors, from the regulators to the incumbents and challengers, may all have different goals and practices, albeit generally unified by basic field logics. Nonconforming challengers can tailor their advocacy to appeal to specific regulatory organizations, who each promote different norms. In this case, yeshiva advocates used category conflation with city and state education administrators, who were unlikely to budge on the necessity of a basic education for K–12 students, but they used discursive resonance with HESC employees, who regulate college institutions and likely have a more flexible concept of education.

The second general condition for tactic construction is a profound commitment to alternative logics, which requires agentic involvement of the actors seeking accommodation. This deep commitment has two important consequences: first, intense ideological commitment makes it far more difficult for state regulators to enforce their norms, even when they have the will and resources to do so. The NYSED was initially forced to roll back stricter regulations in 2019 not because of lack of resources or interest, but because of the unyielding resistance from yeshiva communities.<sup>49</sup> Second, the alternative logics of some of these groups, precisely because they are so different than dominant norms, may be poorly understood by regulators, enabling misinterpretations that also allow for accommodation. For example, claims that teaching critical thinking skills through religious studies is a type of ESL method are understood by regulators to imply an eventual transfer of skills to secular studies as the end goal. Yet for many Hasidic stakeholders, this transfer is not the objective. The religious learning skills are the end goal, and any secular skills that develop later are incidental and may never occur, unless the individual student pursues educational options after graduating yeshiva. Regulatory misinterpretation may be less likely with nonconforming challengers whose ideologies may be more familiar to regulators, such as sexual minorities, homeless advocates, or even white separatists.<sup>50</sup>

<sup>49</sup> In 2022, NYSED published a new set of educational regulations for state oversight of nonpublic education. These became open for public comment as of April 2022.

<sup>50</sup> This misinterpretation may be less applicable to nonconforming challengers who are not characterized by profound ideological differences from field norms, or whose ideologies are more familiar to regulators, such as sexual minorities, homeless advocates, or white separatists.

Finally, organizational capacity is a fundamental condition for effective advocacy, as prior literature has already established (Clemens 1997; Marwell 2007). Educating yeshiva administrators on paperwork rules, organizing parent and student bodies to write protest letters, and standardizing school responses to new program requirements all depend on successfully utilizing organizational resources and capacity. This is a partial explanation for why the Roman Catholic and Jewish schools are the most vocal advocates for government support. As compared to independent and other religious schools, which make up the remaining nonpublic schools in New York, they have the most students, as well as relatively centralized advocacy apparatuses, which allow them to more easily rally around common ideologies and norms.<sup>51</sup>

In addition to these broader conditions, situationally specific conditions also motivate particular tactics. These narrower, tactic-specific conditions interact with broader field conditions described above and shape how advocates construct particular legitimizing tactics. For example, in the case of state funding tied to paperwork submission (a specific condition), loose enforcement is a useful general condition for employing compliance markers. Yet when funding is tied to stricter compliance standards (again, a situationally specific condition), such as requirements for special education and other federal funding, stricter enforcement, or the threat of it, motivates the second and third tactics. Similarly, the dense complexity of Hasidic ideology and practices and its profound difference from secular culture becomes much more relevant when there is an opportunity to legitimize religious high school degrees or to apply looser standards of curricular enforcement. In such cases, advocates use category conflation tactics that rely on regulators' difficulties with deconflating categories of yeshivas, or discursive resonance tactics to mobilize discourses that effectively appeal to regulators' educational beliefs.

As a result of the complex interactions of situationally specific and general field conditions, some strategies are more effective than others, both in terms of material outcomes, such as funding and accommodations, and behavioral outcomes, meaning the practices and views of the regulators or the regulated. Table 1 demonstrates these linkages: The first column lists the three types of legitimizing tactics described in this article. The second column describes normative impacts of these tactics and the third describes material outcomes. In terms of normative outcomes, or shifts in actors' practices and views, the first two tactics noted in column 1 indicate clear shifts in organizational (tactic 1) and regulatory (tactic 2) practices, specified

<sup>51</sup> There are 163,702 Catholic school students in 510 nonpublic schools and 165,545 Jewish (overwhelmingly Orthodox) students registered in 428 nonpublic schools in New York State, as compared to 507 independent schools serving 89,510 students and 299 other Christian schools of various denominations serving 31,297 students (NYSED data, 2016–17).

TABLE 1  
 CONDITIONS, TACTICS, AND BEHAVIORAL AND MATERIAL OUTCOMES

| Tactics<br>(1)                 | Normative Outcomes<br>(2)   | Material Outcomes<br>(3)  |
|--------------------------------|---|---|
| Compliance markers . . . . .   | Schools' internalization of external norms                            | State funding for administrative and other costs  |
| Category conflation . . . . .  | Regulatory conflation of schools                                      | Expanded federal funding for services<br>Third-party agencies, specialized accommodations |
| Discursive resonance . . . . . | Limited regulatory accommodation; internalization of norms by schools | High school religious studies degree recognition<br>Limited validation from regulators    |

in column 2; we know less about the behavioral impact of discursive resonance, though we see indications of potential success in regulators' comments, noted in the findings above. Finally, while the first two strategies are linked closely—although still precariously—to improved material outcomes (col. 3), the third strategy, discursive resonance, has only been widely used for a relatively short amount of time. It worked, at least in effect, to reshape Hasidic high school education and college tuition eligibility, but its future success is still an open question.

The article's findings demonstrate how, in response to shifting general and specific conditions, advocates construct a range of flexible legitimizing tactics that are linked to a range of outcomes. An analogy may prove useful here in explaining how this complex process of legitimizing tactic construction unfolds: antivaccination advocacy groups similarly seek regulatory accommodation for noncompliance with medical norms. Because of the fragmented American educational and medical systems, they can focus on schools and specific state regulatory sites with laxer policies. Such groups may turn for validation to the federally funded "vaccine court," which administers the National Vaccine Injury Compensation Program, as proof of the state conceding the injurious nature of vaccines, despite the relatively low standards of evidence in such civil cases. Motivated by unshakeable faith in alternative logics of health, which are often poorly understood by standard regulators and medical providers, antivaccination advocates conflate medical, religious, and philosophical exceptions to vaccinations and use discursive resonance tactics in appeals to dominant logics of health, parental autonomy, and minority rights (Kirkland 2016; Reich 2016). Yet despite shaky success in convincing regulators, anti-vaccination influence is real. Much like the fight for accommodating Hasidic schools has drawn in institutions who have no substantive compliance problems with state requirements, antivaccination ideologies

have merged with other social and institutional distrust issues and have enabled widespread vaccine hesitancy in response to efforts to combat disease (Chou and Budenz 2020; Puri et al. 2020).

## CONCLUSION

This article analyzes religious education as a strategic case of how nonconforming actors in fragmented regulatory fields construct legitimizing tactics. Advocates frame noncompliant Hasidic schools as legitimate educational institutions, seeking to justify their deservingness of state resources and regulatory support. Working with a tool kit of educational and political ideals and practices, they construct three types of legitimizing tactics: compliance markers, category conflation, and discursive resonance. Advocates select and revise specific strategies to respond to shifting and inconsistent regulatory conditions in the fragmented field of educational governance, tailoring tactics to target specific regulators and gatekeepers—the “many hands of the state” that provide resources and regulation (Morgan and Orloff 2017). They then cobble together a patchwork of supportive regulatory actors, funding resources, and policy exemptions, which not only accommodates some noncompliance, but also partially reshapes yeshivas’ internal educational norms, while expanding what regulators define as “education.” Secular agencies rewrite state-funded curricular materials to accommodate those with Yiddish and Hebrew as primary languages, higher education authorities accept certificates that legitimize Talmudic studies as equivalent to secular education, and state officials ease unionized and certified teachers out of government-funded remedial math and literacy programs in favor of teachers with little background in these subjects.

This landscape of both explicit and fuzzy noncompliance and accommodation illuminates the complexities of fragmented governance, as well as the evolution of strictly traditional groups. Ultra-Orthodox Jews have long been described as the ultimate fundamentalists, ideologically committed to tradition and to insular lifestyles cut off from secular influences (Heilman 1999; Rothschild 2019; Shaffir 1995). Yet advocates’ efforts to protect their traditional all-male Hasidic schools have also expanded and mainstreamed secular programming for younger grades, even as the core content of the day has remained overwhelmingly Torah focused. Uneven and poorly supervised curricular programming notwithstanding, many Hasidic schoolchildren can now receive remedial literacy instruction, math classes, and special education services, significantly more secular content than was available just a decade ago. These outcomes reveal a complex picture of selective integration of secular elements that benefit yeshiva students, even as Hasidic advocates and leaders work to preserve the community-centered genealogical identity that holds them apart from mainstream society (Boyarin 1997).

In describing a process of legitimizing tactic construction, this article builds on existing scholarship to contribute new insights to sociological theories of organizational behaviors. A small subset of organizational scholarship discusses strategies of nonconforming organizations, but it provides a relatively limited tactical repertoire that does not capture the complex challenges such groups face (Hudson 2008; Vergne 2012; Lashley and Pollock 2020). This analysis of educational advocacy fills the gap with two contributions: first, the article provides a typology of legitimizing tactics that demonstrates how advocates for the nonconforming justify claims to state support in context of fragmented governance and shifting conditions; this typology also expands field theory conceptions of “challengers.” Second, this study provides a nuanced framework for linking field conditions, legitimizing tactics, and material and behavioral outcomes.

In what I show is a bidirectional process of legitimation, both yeshivas and regulators shift some of their behaviors. But some tactics are more bidirectional than others. Compliance markers have clearly shifted some educational norms within yeshivas, as have some elements of discursive resonance, in which some yeshiva administrators try to ensure the “professionalization” of religious curricula. Both of these tactics have also reshaped some regulators’ perceptions and behaviors regarding yeshivas. In contrast, category conflation is largely one-way, with regulators frequently unable to distinguish between yeshivas with very different curricula, while Orthodox Jews are well aware of the heterogenous nature of their religious school network. The complexity of this process is linked to the precarity of its outcomes, an insight that contributes to our understanding of field theory. Nonconforming challengers struggle to legitimize their very existence in their fields, and they therefore must construct new and evolving strategies to respond to the heterogenous array of regulators, incumbents, and other challengers in their fields. Some of these strategies will work better than others; over time, some will become standardized strategies that work quite effectively (compliance markers) while others are still a work in progress (discursive resonance).

By providing a theoretical framework for legitimizing tactic construction, this paper nuances conceptions of noncompliance in regulatory and organizational literatures. Organizational theories of stigmatized organizations contrast core stigmatized organizations with largely conforming organizations who suffer from “event stigma,” which indicates only occasional stigmatizing events. Yet this distinction misses a key empirical subject of regulatory literature—continuous noncompliance at largely conforming organizations, which is not limited to one-time events. While such noncompliance does require legitimation tactics, it constitutes a minor and noncore element of their operations or their organizational logics, most of which conform closely to field norms (Elsbach and Sutton 1992; Gray and Silbey 2014; Edelman 2016). Legitimation tactics for such minor but continuous noncompliance is

thus distinct from those used by core-stigmatized groups precisely because of the noncore nature of these deviations. These distinctions map on to the prototypes of field actors that this article suggests: regulators, incumbents, standard challengers, and nonconforming challengers. Both event stigma and the continuous noncompliance described by the regulatory literature can occur to either incumbents or standard challengers, while core stigma is characteristic of nonconforming challengers. This intervention can help organizational scholars more carefully map out how different types of actors struggle for resources and establish legitimacy in their regulatory fields.

Beyond organizational and regulatory literatures, this analysis contributes toward political and cultural sociology. The case of Hasidic yeshivas demonstrates the catalyzing influence of political advocacy (Andrews and Edwards 2004; Hertzke 2009) by showing how advocates integrate independently influential factors—whether political influence, funding power, or organizing capacity—into legitimizing strategies. The study also advances a flexible conception of how social actors use cultural tool kits, building on studies of how long-standing normative frames influence what tools actors use and when (Swidler 1986; Winchester and Guhin 2019). Moving beyond the cultural tool kit literature, my findings illuminate a bidirectional process in which advocates strategically construct legitimizing tactics, drawing from a tool kit of conflicting symbols, ideologies, and practices, that reshape both their own organizational norms and influence those of their regulators in enduring ways. This process highlights the deep ideological commitment of both sides to their beliefs about the meaning of education, as well as ways in which these commitments are nonetheless subject to revision in the face of a deadlocked battle of educational logics.

One limitation of this framing, which focuses primarily on the legitimacy construction process, is that it does less to definitively link specific tactics to outcomes, instead demonstrating primarily loose and precarious linkages. I argue that this precarity is inherent to the messiness of opportunistic advocacy—in which advocates choose whatever tactic is most likely to obtain desirable outcomes under changing conditions, which means that success is far from guaranteed. However, a different research design might explain these links through a rigorous comparison of similar institutions who obtain different outcomes. This article seeks to motivate future research on legitimizing tactics, including work that closely examines causal links between strategies and outcomes.

Future research can also extend these insights to examine different nonconforming populations. While this study maps out a struggle over contested ideologies and practices related to a particular subset of noncompliant organizations, insights into the development of flexible legitimizing tactics can apply well beyond this case. Comparable nonconforming groups include those promoting alternative educational models—including religious separatists,

homeschoolers, and proponents of alternative creationist and Afro-centrist curricula in public schools (Binder 2004; Stevens 2003); political advocacy organizations that promote civil disobedience tactics (Branch 2007; McAdam 1999); homeless squatter advocates (van Gelder 2013); antivaccination groups (Kirkland 2016), organizations representing noncitizens (Patler 2018); and religious fundamentalist political groups (Davis and Robinson 2012). These groups must all establish basic compliance markers to justify their existence in their regulatory fields and then struggle to gain specialized support. With the empowerment of “fringe” discourses and “alternative facts” in the age of the internet and polarized politics, and the rise of vaccine hesitancy during a global pandemic (Barkun 2017; Chou and Budenz 2020), an analysis of how nonconformist groups justify state support despite regulatory defiance illuminates important insights into contemporary American governance. In fact, while this article focuses on nonconformist organizations, such strategies can and are used in different forms by standard organizations as well, albeit to justify normative deviations despite a general commitment to conformity.<sup>52</sup>

When applied to other cases, these legitimizing tactics may play out differently than they do here, and so this theory should be viewed as a generative framework, not a rigid formula. This flexibility arises from the nature of the issues it engages. The strategies noncompliant actors use do not constitute a static process, through which they create long-lasting “structures of symbolic compliance” (Edelman 2016) that deflect questioning of their legitimacy by other field actors. Instead, advocates must actively and continually justify the legitimacy of their nonconforming practices. Such justification encompasses a variety of legitimizing strategies, in order to secure precarious support from a fragmented, ambivalent, and oft-changing system of regulators and resource providers. Engaging in ongoing legitimizing tactic construction, these actors seek to proactively manage the “many hands of the state” (Morgan and Orloff 2017), empowering them to live by the alternative values that animate their communities.

## APPENDIX

### On Methodology

#### *Part 1: Data Access and Collection*

I constructed my research project as a combination of interview, textual content analysis, and policy analysis. This mixed methods approach enabled me to clearly identify legitimizing tactics in interviews, and then track

<sup>52</sup> For an illuminating example of this process, see the legal battle between the state of Arizona and the U.S. federal government over whether Arizona can use federal funds for pandemic relief to assist schools and parents who do not wish to follow federally recommended masking guidelines (Rappeport 2022).

how these tactics were reflected in formal and informal policies, expressed in legal, administrative, media, and educational documents. The thirty-two formal and thirteen informal purposive interviews I conducted built on my deep knowledge of the Hasidic community, which stemmed from years of engagement with Hasidic individuals and institutions, in personal, professional, and educational settings. In addition to my past experiences in these communities, I also regularly consume Hasidic media and educational materials for personal and academic interests, which allows me an immersive familiarity with the myriad social codes imbedded in Hasidic social and textual contexts. When I interviewed individuals connected to these schools and read thousands of pages of text, I acted as insider and outsider simultaneously (Simmel 1950). While not a Hasidic adherent, I could engage familiarly in conversations with community members (Bourdieu 1999) and fluently review literatures rich with coded language.

I conducted most of my interviews between 2013 and 2015, with several interviews in 2017–19 to assess new developments. In addition to 22 advocates and educational professionals from (mostly) religious and nonreligious backgrounds, I interviewed 10 state officials, including elected New York officials and Department of Education employees. I also conducted another 13 informal interviews, mostly brief phone conversations with state agency employees, as well as additional conversations with Hasidic school parents and former yeshiva students. In addition to transcribing all recorded interviews, I took detailed fieldnotes on nonrecorded interviews and on my general experiences before and during interviews. I triangulated interview data with past and ongoing developments, as documented in news coverage, educational reports, and legal, policy, and administrative documents. This approach allowed me to obtain insights from multiple sites and multiple dates, some decades in the past and some that unfolded during the research period, thus providing insights that an ethnographic study or a pure interviewing approach could not (Lamont and Swidler 2014).

### *Part 2: Analysis*

I drew on a rich literature on qualitative coding methods and content analysis to develop my analysis (Krippendorff 2012; Patton 2002; Saldaña 2013; Weiss 1995). Ultimately, I embraced a methodologically pluralistic approach (Lamont and Swidler 2014), which integrated analyses of media, legal, and administrative texts, along with interview and fieldwork data. All interview transcripts and fieldnotes underwent systematic analysis in MAXQDA, a qualitative coding program. My inductive coding of transcripts and fieldnotes in MAXQDA produced 17 primary codes and 64 secondary and tertiary codes, for a total of 1,632 coded text excerpts. For example, under “education,” I coded for “secular education” as a secondary

code, and “equivalency” and “functional value” as tertiary codes (see table A1 for a selection of codes and subcodes). A codebook that defined codes helped ensure consistent coding across documents. For example, in table A1, I show that I code for private/public, which in the codebook is defined as “issues related to the relationship between state authorities/organizations and private organizations, including conflicting rules or values, jurisdictional conflicts, and collaborative efforts.” I added a separate code for “private/public schools” when that emerged as a specific subset of that issue.

TABLE A1  
SELECTED CODES AND SUBCODES

| Codes                      | Sample Secondary Codes             | Sample Tertiary codes  | # Coded Text |
|----------------------------|------------------------------------|------------------------|--------------|
| Administrative . . . . .   |                                    |                        | 66           |
|                            | Abdication of responsibility       |                        | 7            |
|                            | Educational regulations            |                        | 28           |
| Citizenship . . . . .      |                                    |                        | 90           |
|                            | Multiculturalism/alternative views |                        | 36           |
|                            | Rights                             |                        | 29           |
| Education . . . . .        |                                    |                        | 468          |
|                            | General educational norms/values   |                        | 59           |
|                            | Attitude                           |                        | 30           |
|                            | 3 R's                              |                        | 19           |
|                            | Regulatory enforcement             |                        | 40           |
|                            | Alternative education              |                        | 35           |
|                            | Minimum/no education               |                        | 136          |
|                            |                                    | Yiddish/ESL            | 27           |
|                            |                                    | Evasion/cover-up       | 9            |
|                            |                                    | Legal response         | 5            |
|                            |                                    | “Outsider” response    | 22           |
|                            |                                    | Negative consequences  | 17           |
|                            | Secular education                  |                        | 102          |
|                            |                                    | Functional Value       | 24           |
|                            |                                    | Equivalency            | 20           |
|                            |                                    | Variation by school    | 23           |
| Gender . . . . .           |                                    |                        | 11           |
| Law . . . . .              |                                    |                        | 131          |
|                            | Blaine amendment                   |                        | 5            |
|                            | Church and state                   |                        | 37           |
|                            |                                    | “Fine line”            | 5            |
| Gov't. resources . . . . . |                                    |                        | 160          |
|                            | Educational services               |                        | 25           |
|                            | Government funding                 |                        | 129          |
|                            |                                    | Vouchers               | 13           |
|                            |                                    | Private school funding | 18           |
| Politics . . . . .         |                                    |                        | 258          |
|                            | Political influence                |                        | 26           |
|                            | Federalism—city, state, federal    |                        | 20           |
|                            | Lobbying                           |                        | 55           |

TABLE A1 (Continued)

| Codes                    | Sample Secondary Codes           | Sample Tertiary codes | # Coded Text |
|--------------------------|----------------------------------|-----------------------|--------------|
|                          |                                  | Specific tactics      | 28           |
|                          |                                  | Specific goals        | 13           |
| Private/public . . . . . | Community organizing             |                       | 53           |
|                          | Private/public school tensions   |                       | 24           |
| Religion . . . . .       |                                  |                       | 18           |
|                          | Religious authority              |                       | 30           |
|                          | Lifestyle                        |                       | 8            |
| Values . . . . .         |                                  |                       | 9            |
|                          | Social discipline/moral behavior |                       | 161          |
|                          | Economic productivity            |                       | 16           |
|                          | Race                             |                       | 26           |
|                          | Freedom/choice                   |                       | 9            |
|                          | Culture clash                    |                       | 7            |
|                          | Separatism/insularity            |                       | 34           |
|                          |                                  |                       | 18           |

NOTE.—The number in the final column corresponds to the total number of text excerpts coded under this code, including any subcoded text excerpts, where relevant.

The MAXQDA program allowed me to track common themes across interviews using thematic “bins,” to which I saved text excerpts from transcripts and notes. I could also track demographic variables across interviews and themes, to see if certain themes were repeated across different categories of interviews: educators, lobbyists, legislators, or state administrators, and across demographic variables. By writing extensive memos on each theme, based on at least three (and usually far more) relevant text excerpts, I was able to inductively extract the major ideas and proposed explanations for the research question. To examine how themes map on to legislative and policy developments, I reviewed legal documents for relevant legislative and empirical data, including case texts on lawsuits, arbitration decisions, and regulatory decisions. I then cross-tracked themes and empirical assertions from interviews and fieldnotes memos with data from legal and administrative texts, relevant educational materials (such as curricular descriptions), and media coverage of developing issues. This step also allowed me to provide additional citations to substantiate assertions made in confidential interviews, increasing the transparency of my findings. Overall, this was a very text-intensive effort, with hundreds of pages of analysis, which I eventually distilled into several memos containing the primary ideas. By tracking ideas across all my data sources in an iterative process, enriched by contextualizing my analysis with significant secondary scholarship on the themes I was exploring, I gradually developed the theory of legitimizing tactics that answers my research question.

To demonstrate one illustrative sliver of this text-intensive process, figure A1 shows how I coded a selection of text excerpts from interviews and fields notes into primary codes, further broken down to secondary and tertiary codes, then aggregated and analyzed in thematic memos. These memos were finally distilled into the three primary legitimizing tactics. Note that this chart only captures a segment of the process, which focused on coding, but the conceptualization of each of these legitimizing tactics was supported by administrative, legal, and media data, as well as many more codes and memos than those shown below; table A1 provides a more expansive sample of these codes. Finally, data from interviews and other sources were also used to establish and make sense of other important findings, including fragmentation of governance, contrasting educational logics, and the variation in educational standards and norms among schools.

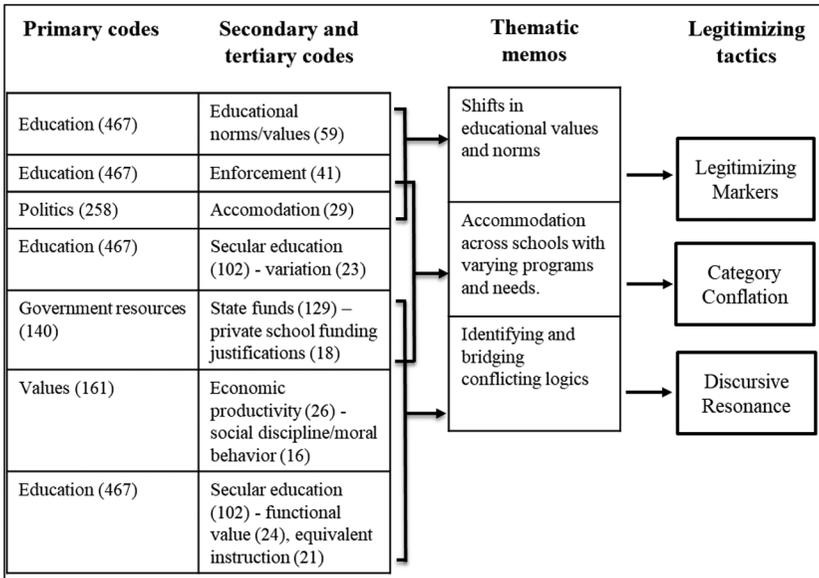


FIG. A1.—Analytic process: The design of figure A1 is loosely inspired by the qualitative coding visualization in Lashley and Pollock (2020, p. 447).

Illustrations of the coded process can be found throughout the article. Below I list examples of coded text excerpts linked to a memo and then a legitimizing tactic.

*Example 1.*—The following is a sample text excerpt coded for “educational norms and values,” an education subcode, and linked to a memo on shifts in norms and to the compliance markers tactic:

I structured the school. . . . It was a jungle, and I turned it into a zoo. I made [taking] attendance [mandatory]. . . . I made more rules. I was an active principal. . . . I made report cards, tests, reports, lessons for the teachers.

*Example 2.*—The following text excerpt was coded as both “justification for private school funding” and “accommodation” among other codes, and was among the coded text excerpts that helped construct the memo on accommodation of varying schools; note that the development of the “category conflation” tactic also drew heavily on policy and legal documents, which were not part of the MAXQDA coding process:

All of these children are your children. We are residents of the district; we are all entitled to a free public school education. The fact that we are taking 99.9 percent of our children and educating them at our own cost and not enrolling them [in public schools], the one percent that we are bringing to you [for special education services funding], you cannot turn them away.

*Example 3.*—The following text excerpt was coded for “equivalent instruction” and for “social discipline/moral behavior.” This was one of many codes analyzed for a memo on identifying and bridging conflicting logics, which helped me construct the discursive resonance tactic:

I mean, I’m going to say I believe that there’s a fair amount of cognitive development that happens in that . . . they’re interacting with adults, they’re safe. There are certainly public schools where that is not the case.

## REFERENCES

- Agudath Israel of America. 1982. *The Struggle and the Splendor: A Pictorial Overview of Agudath Israel of America*. New York: Agudath Israel of America.
- Algar, Selim. 2020. “NY Education Officials Pause More Private School Control after Backlash.” *New York Post*, February 10.
- Andrews, Kenneth T., and Bob Edwards. 2004. “Advocacy Organizations in the U.S. Political Process.” *Annual Review of Sociology* 30 (1): 479–506.
- Ashforth, Blake E., Glen E. Kreiner, Mark A. Clark, and Mel Fugate. 2007. “Normalizing Dirty Work: Managerial Tactics for Countering Occupational Taint.” *Academy of Management Journal* 50 (1): 149–74.
- Bacon, Gershon C. 1996. *The Politics of Tradition: Agudat Yisrael in Poland, 1916-1939*. Jerusalem: Hebrew University Magnes Press.
- Bail, Christopher A. 2012. “The Fringe Effect: Civil Society Organizations and the Evolution of Media Discourse about Islam since the September 11th Attacks.” *American Sociological Review* 77 (6): 855–79.
- Barkun, Michael. 2017. “President Trump and the ‘Fringe.’” *Terrorism and Political Violence* 29 (3): 437–43.
- Berger, Joseph. 1994. “So Far from the Brooklyn Bridge; Yeshiva Spurns the Secular World.” *New York Times*, March 6.
- Berger, Paul. 2012. “Yeshiva Students TAP New State Aid.” *Forward*, November 20.
- Berkowitz, Ety. 2015. “Making the Most of It.” *Inyan Magazine, Hamodia*, July 1, 15–18.
- Binder, Amy J. 2004. *Contentious Curricula: Afrocentrism and Creationism in American Public Schools*. Princeton, N.J.: Princeton University Press.

- Blomraad, Irene. 2018. "Theorising the Power of Citizenship as Claims-Making." *Journal of Ethnic and Migration Studies* 44 (1): 4–26.
- Bourdieu, Pierre. 1999. "Understanding." Pp. 607–26 in *The Weight of the World: Social Suffering in Contemporary Society*. Stanford, Calif.: Stanford University Press.
- . 2005. *The Social Structures of the Economy*. Cambridge: Polity.
- Boyarin, Jonathan. 1997. "Circumscribing Constitutional Identities in Kiryas Joel." *Yale Law Journal* 106 (5): 1537–70.
- Branch, Taylor. 2007. *Pillar of Fire: America in the King Years 1963–65*. Simon & Schuster.
- Chiarello, Elizabeth, and Calvin Morrill. 2020. "A Multi-Field Logics Approach to Theorizing Relationships between Healthcare and Criminal Justice." Pp. 151–67 in *Research Handbook on Socio-Legal Studies of Health and Medicine*, edited by A. Kirkland and M.-A. Jacob. Cheltenham: Edward Elgar.
- Chou, Wen-Ying Sylvia, and Alexandra Budenz. 2020. "Considering Emotion in COVID-19 Vaccine Communication: Addressing Vaccine Hesitancy and Fostering Vaccine Confidence." *Health Communication* 35 (14): 1718–22.
- Cibulka, James G. 2001. "The Changing Role of Interest Groups in Education: Nationalization and the New Politics of Education Productivity." *Educational Policy* 15 (1): 12–40.
- Clark, Amy Sara, and Hella Winston. 2015. "Don't Know Much about History: Inside the Battle to Improve Chasidic Education." *New York Jewish Week*, September 8.
- Clemens, Elisabeth S. 1997. *The People's Lobby: Organizational Innovation and the Rise of Interest Group Politics in the United States, 1890–1925*. Chicago: University of Chicago Press.
- Cohen, Steven M., Jacob B. Ukeles, and Ron Miller. 2012. *Jewish Community Study of New York: 2011 Comprehensive Report*. UJA–Federation of New York.
- Conis, Elena. 2014. *Vaccine Nation: America's Changing Relationship with Immunization*. Chicago: University of Chicago Press.
- Davis, Nancy Jean, and Robert V. Robinson. 2012. *Claiming Society for God: Religious Movements and Social Welfare in Egypt, Israel, Italy, and the United States*. Bloomington: Indiana University Press.
- DeGroff, Eric A. 2003. "State Regulation of Nonpublic Schools: Does the Tie Still Bind?" *Brigham Young University Education and Law Journal* 2003 (2): 363.
- Devers, Cynthia E., Todd Dewett, Yuri Mishina, and Carrie A. Belsito. 2009. "A General Theory of Organizational Stigma." *Organization Science* 20 (1): 154–71.
- Dioun, Cyrus. 2018. "Negotiating Moral Boundaries: Social Movements and the Strategic (Re)Definition of the Medical in Cannabis Markets." Pp. 53–82 in *Social Movements, Stakeholders and Non-Market Strategy. Research in the Sociology of Organizations*, edited by F. Briscoe, B. G King, and J. Leitzinger. Somerville, Mass.: Emerald Publishing.
- Durkin, Erin. 2019. "Critics Push for Tougher Line against Troubled Yeshivas." *Politico*, December 23.
- Edelman, Lauren B. 2016. *Working Law Courts, Corporations, and Symbolic Civil Rights*. Chicago: University of Chicago Press.
- Edelman, Susan. 2019. "NYC Yeshivas Collect More than \$100M a Year in Public Funds." *New York Post*, January 20.
- Editorial Board. "Opinion | New York's Yeshiva Students Deserve Better." *New York Times*, August 23, 2018.
- Eller, Sandy. 2018. "Exclusive | Regents Data: Public Schools Lag Behind Yeshivas." *Jewish Press*, December 12.
- Elsbach, Kimberly D., and Robert I. Sutton. 1992. "Acquiring Organizational Legitimacy through Illegitimate Actions: A Marriage of Institutional and Impression Management Theories." *Academy of Management Journal* 35 (4): 699–738.
- Espeland, Wendy, and Michael Sauder. 2007. "Rankings and Reactivity: How Public Measures Recreate Social Worlds." *American Journal of Sociology* 113 (1): 1–40.

- Fader, Ayala. 2009. *Mitzvah Girls: Bringing Up the next Generation of Hasidic Jews in Brooklyn*. Princeton, N.J.: Princeton University Press.
- Felder, Simcha. 2013. "140 Yeshivas Attend Felder's Transportation Workshop." *New York State Senate*, July 1.
- Fiala, Robert, and Audri Gordon Lanford. 1987. "Educational Ideology and the World Educational Revolution, 1950–1970." *Comparative Education Review* 31 (3): 315–32.
- Finnemore, Martha. 1996. "Norms, Culture, and World Politics: Insights from Sociology's Institutionalism." *International Organization* 50 (2): 325–47.
- Fligstein, Neil, and Doug McAdam. 2011. "Toward a General Theory of Strategic Action Fields." *Sociological Theory* 29 (1): 1–26.
- Friedland, Roger, and Robert R. Alford. 1991. "Bringing Society Back In: Symbols, Practices, and Institutional Contradictions." Pp. 232–63 in *The New Institutionalism in Organizational Analysis*, edited by W. W. Powell and P. J. DiMaggio. Chicago: University of Chicago Press.
- Goffman, Erving. 1986. *Stigma: Notes on the Management of Spoiled Identity*. Reissue edition. New York: Touchstone.
- Goldberger, Frimet. 2014. "When Hasidic Boys Grow Up Without Real School." *Forward*, March 11.
- Gray, Garry C., and Susan S. Silbey. 2014. "Governing Inside the Organization: Interpreting Regulation and Compliance." *American Journal of Sociology* 120 (1): 96–145.
- Gutwirth, Jacques. 2005. *The Rebirth of Hasidism: 1945 to the Present Day*. London: Free Association Books.
- Haedicke, Michael A. 2012. "'Keeping Our Mission, Changing Our System': Translation and Organizational Change in Natural Foods Co-Ops." *Sociological Quarterly* 53 (1): 44–67.
- Hamodia*. 2020. "NYS Ed. Department Holds Meeting on Secular Education with Private School Students, Parents, Alumni." *Hamodia*, December 8.
- Hampel, Christian E., and Paul Tracey. 2016. "How Organizations Move from Stigma to Legitimacy: The Case of Cook's Travel Agency in Victorian Britain." *Academy of Management Journal* 60 (6): 2175–2207.
- Heilman, Samuel C. 1999. *Defenders of the Faith: Inside Ultra-Orthodox Jewry*. Berkeley: University of California Press.
- Heilman, Samuel C. 2006. *Sliding to the Right: The Contest for the Future of American Jewish Orthodoxy*. Berkeley: University of California Press.
- Helms, Wesley S., and Karen D. W. Patterson. 2013. "Eliciting Acceptance For 'Illicit' Organizations: The Positive Implications of Stigma for MMA Organizations." *Academy of Management Journal* 57 (5): 1453–84.
- Hertzke, Allen. 2009. "Religious Interest Groups in American Politics." Pp. 299–329 in *The Oxford Handbook of Religion and American Politics*, edited by C. Smidt, L. Kellstedt, and J. L. Guth. Oxford: Oxford University Press.
- Hirschman, Daniel. 2021. "Rediscovering the 1%: Knowledge Infrastructures and the Stylized Facts of Inequality." *American Journal of Sociology* 127 (3): 739–86.
- Hudson, Bryant Ashley. 2008. "Against All Odds: A Consideration of Core-Stigmatized Organizations." *Academy of Management Review* 33 (1): 252–66.
- Hudson, Bryant Ashley, and Gerardo A. Okhuysen. 2009. "Not with a Ten-Foot Pole: Core Stigma, Stigma Transfer, and Improbable Persistence of Men's Bathhouses." *Organization Science* 20 (1): 134–53.
- Jeffries, John C., Jr., and James E. Ryan. 2001. "A Political History of the Establishment Clause." *Michigan Law Review* 100 (2): 279–370.
- Johnson-Hanks, Jennifer. 2005. "When the Future Decides: Uncertainty and Intentional Action in Contemporary Cameroon." *Current Anthropology* 46 (3): 363–85.
- Katz, Michael B. 2013. *The Undeserving Poor: America's Enduring Confrontation with Poverty: Fully Updated and Revised*. Oxford: Oxford University Press.
- Kifner, John. 1989. "Birth of a Voting Bloc: The Hasidim and Orthodox Organize." *New York Times*, May 2.

## American Journal of Sociology

- Kirkland, Anna. 2016. *Vaccine Court: The Law and Politics of Injury*. New York: NYU Press.
- Koball, Heather, and Yang Jiang. 2018. *Basic Facts about Low-Income Children*. National Center for Children in Poverty.
- Kobre, Eytan. 2018. "Danger Zone." *Mishpacha Magazine*. <https://mishpacha.com/danger-zone-2/>.
- Krakowski, Moshe. 2018. "What Yeshiva Kids Are Actually Studying All Day." *Forward*, December 26.
- Krippendorff, Klaus. 2012. *Content Analysis: An Introduction to Its Methodology*, 3d ed. London: SAGE Publications.
- Lamont, Michèle, and Ann Swidler. 2014. "Methodological Pluralism and the Possibilities and Limits of Interviewing." *Qualitative Sociology* 37 (2): 153–71.
- Lashley, Kisha, and Timothy G. Pollock. 2020. "Waiting to Inhale: Reducing Stigma in the Medical Cannabis Industry." *Administrative Science Quarterly* 65 (2): 434–82.
- Levitsky, Sandra R. 2014. *Caring for Our Own: Why There Is No Political Demand for New American Social Welfare Rights*. Oxford: Oxford University Press.
- Marwell, Nicole P. 2007. *Bargaining for Brooklyn: Community Organizations in the Entrepreneurial City*. Chicago: University of Chicago Press.
- McAdam, Doug. 1999. *Political Process and the Development of Black Insurgency, 1930–1970*. Chicago: University of Chicago Press.
- McKenna, Chris. 2019. "Private-Schools Group Sues State over Curriculum Review." *Recordonline.Com*, March 11.
- Meyer, John W. 1986. "Myths of Socialization and Personality." Pp. 208–21 in *Reconstructing Individualism: Autonomy, Individuality, and the Self in Western Thought*. Stanford, Calif.: Stanford University Press.
- . 2000. "Globalization Sources and Effects on National States and Societies." *International Sociology* 15 (2): 233–48.
- Meyer, John W., Richard Scott, and David Strang. 1987. "Centralization, Fragmentation, and School District Complexity." *Administrative Science Quarterly* 32 (2): 186–201.
- Meyer, John W., and Brian Rowan. 1978. "The Structure of Educational Organizations." Pp. 78–109 in *Environments and Organizations*, edited by M. W. Meyer. San Francisco: Jossey-Bass.
- Migdal, Joel S. 2001. *State in Society: Studying How States and Societies Transform and Constitute One Another*. New York: Cambridge University Press.
- Miller, Jennifer. 2014. "Yiddish Isn't Enough." *New York Times*, November 21.
- Morgan, Kimberly J., and Ann Shola Orloff, eds. 2017. *The Many Hands of the State: Theorizing Political Authority and Social Control*. Cambridge: Cambridge University Press.
- Nathan-Kazis, Josh. 2013. "The Mechanics of a Hasidic Bloc Vote." *Forward*, September 10.
- Niederman, David. 2017. "The Ugly Attack on N.Y. Yeshivas." Opinion. *New York Daily News*, November 5.
- Nishma Research. 2017. *The Nishma Research Profile of American Modern Orthodox Jews*. Nishma Research.
- Oliver, Christine. 1991. "Strategic Responses to Institutional Processes." *Academy of Management Review* 16 (1): 145–79.
- Padgett, John F., and Christopher K. Ansell. 1993. "Robust Action and the Rise of the Medici, 1400–1434." *American Journal of Sociology* 98 (6): 1259–1319.
- Palmer, Donald. 2012. *Normal Organizational Wrongdoing: A Critical Analysis of Theories of Misconduct in and by Organizations*. Oxford: Oxford University Press.
- Patler, Caitlin. 2018. "'Citizens but for Papers': Undocumented Youth Organizations, Anti-Deportation Campaigns, and the Reframing of Citizenship." *Social Problems* 65 (1): 96–115.

- Patton, Michael Quinn. 2002. *Qualitative Research and Evaluation Methods*. Thousand Oaks, Calif.: Sage.
- Pazmino, Gloria. 2015. "Amid Opposition, Council Approves Security Guards for Private Schools." *Politico*, December 7.
- Plitmann, Yael. 2019. "Performing Law into Being: How One Religious Community Remade State Law." *Law, Culture, and the Humanities*. doi: 10.1177/1743872119887883.
- Puri, Neha, Eric A. Coomes, Hourmazed Haghbayan, and Keith Gunaratne. 2020. "Social Media and Vaccine Hesitancy: New Updates for the Era of COVID-19 and Globalized Infectious Diseases." *Human Vaccines & Immunotherapeutics* 16 (11): 2586–93.
- Rappeport, Alan. 2022. "Arizona Sues to Stop Treasury from Recouping Relief Funds." *New York Times*, January 22.
- Reich, Jennifer A. 2016. *Calling the Shots: Why Parents Reject Vaccines*. New York: NYU Press.
- Reichlin-Melnick, Elijah. 2016. "Nov. 8 Analysis: Rockland's Local Races Analysis." *Nyack News and Views*, December 21.
- Reisman, Esther. 2019. "You Can Fight City (State) Hall." *Binah*, January 28.
- Riesebrodt, Martin. 1993. *Pious Passion: The Emergence of Modern Fundamentalism in the United States and Iran*. Berkeley: University of California Press.
- Rosenblum, Yonoson. 2009. *Rabbi Sherer: The Paramount Torah Spokesman of Our Era*. New York: Mesorah Publications.
- Rothschild, Zalman. 2019. "Free Exercise's Outer Boundary: The Case of Hasidic Education." *Columbia Law Review Online* 119:200–32.
- Russo, Charles J. 2012. *Reutter's "The Law of Public Education"*. New York: Foundation Press/Thomson/West.
- Sacks, Adam J. 2013. "Critically Examining the Hasidic Community." *Beyond the Pale*. WBAI Radio, November 24, 2013. <https://www.beyondthepale.org/episode/2013/11/24.html>.
- Saldaña, Johnny. 2013. *The Coding Manual for Qualitative Researchers*. London: Sage.
- Schick, Marvin. 2014. *A Census of Jewish Day Schools in the United States, 2013–2014*. AVI CHAI Foundation.
- Schofer, Evan, and John W. Meyer. 2005. "The Worldwide Expansion of Higher Education in the Twentieth Century." *American Sociological Review* 70 (6): 898–920.
- Shaffir, William. 1995. "Boundaries and Self-Presentation among the Hasidim: A Study in Identity Maintenance." in *New World Hasidism: Ethnographic Studies of Hasidic Jews in America*. Albany: State University of New York Press.
- Shapiro, David. 2019. "Why Are Elite Jewish Day Schools Standing in the Way of a Better Education for Yeshiva Kids?" *Jewish Telegraphic Agency*, August 20. <https://www.jta.org/2019/08/20/opinion/why-are-elite-jewish-day-schools-standing-in-the-way-of-a-better-education-for-yeshiva-kids>. Retrieved June 4, 2020
- Shuman, Sam. 2021. "Stop the Spread: Gossip, COVID-19, and the Theology of Social Life." *Religions* 12 (12): 1037.
- Simmel, Georg. 1950. *The Sociology of Georg Simmel*. New York: Free Press.
- Small, Mario Luis. 2011. "How to Conduct a Mixed Methods Study: Recent Trends in a Rapidly Growing Literature." *Annual Review of Sociology* 37:57–86.
- Snow, David A., E. Burke Rochford Jr., Steven K. Worden, and Robert D. Benford. 1986. "Frame Alignment Processes, Micromobilization, and Movement Participation." *American Sociological Review* 51 (4): 464–81.
- Soloveitchik, Haym. 1994. "Rupture and Reconstruction: The Transformation of Contemporary Orthodoxy." *Tradition* 4 (28): 320–76.
- Steenland, Brian. 2006. "Cultural Categories and the American Welfare State: The Case of Guaranteed Income Policy." *American Journal of Sociology* 111 (5): 1273–1326.
- Stevens, Mitchell. 2003. *Kingdom of Children: Culture and Controversy in the Home-schooling Movement*. Princeton, N.J.: Princeton University Press.

## American Journal of Sociology

- Suchman, Mark C. 1995. "Managing Legitimacy: Strategic and Institutional Approaches." *Academy of Management Review* 20 (3): 571–610.
- Sutton, Robert I., and Anita L. Callahan. 1987. "The Stigma of Bankruptcy: Spoiled Organizational Image and Its Management." *Academy of Management Journal* 30 (3): 405–36.
- Swidler, Ann. 1986. "Culture in Action: Symbols and Strategies." *American Sociological Review* 51 (2): 273–86.
- Thornton, Patricia H., William Ocasio, and Michael Lounsbury. 2012. *The Institutional Logics Perspective: A New Approach to Culture, Structure, and Process*. New York: Oxford University Press.
- U.S. DOE (U.S. Department of Education, Office of Innovation and Improvement). 2009. *State Regulation of Private Schools*. Washington, D.C.
- van Gelder, Jean-Louis. 2013. "Paradoxes of Urban Housing Informality in the Developing World." *Law and Society Review* 47 (3): 493–522.
- Vergne, Jean-Philippe. 2012. "Stigmatized Categories and Public Disapproval of Organizations: A Mixed-Methods Study of the Global Arms Industry, 1996–2007." *Academy of Management Journal* 55 (5): 1027–52.
- Voss, Georgina. 2015. *Stigma and the Shaping of the Pornography Industry*. New York: Routledge.
- Wang, Vivian, and Jesse McKinley. 2018. "The Curious Case of the Yeshiva Carve-Out." *New York Times*, April 4.
- Weiss, Robert S. 1995. *Learning From Strangers: The Art and Method of Qualitative Interview Studies*. New York: Free Press.
- Winchester, Daniel, and Jeffrey Guhin. 2019. "Praying 'Straight from the Heart': Evangelical Sincerity and the Normative Frames of Culture in Action." *Poetics* 72:32–42.
- Yaffed (Young Advocates for a Fair Education). 2017. *Non-Equivalent: The State of Education in New York's Hasidic Schools*. New York: Yaffed.
- YWN. 2018. "READ THIS: HaRav Yaakov Bender Slams NY Times Over Anti-Yeshiva Article Following New NYS Education Policy." *Yeshiva World*. <https://www.theyeshivaworld.com/news/general/1637392/read-this-harav-yaakov-bender-slams-ny-times-over-anti-yeshiva-article-following-new-nys-education-policy.html>. Retrieved May 1, 2020.
- Zakon, Miriam Stark, and Channa Galitzer. 1990. *Gemarakup: Super Sleuth*. New York: Mesorah Publications.
- Zuckerman, Ezra W. 1999. "The Categorical Imperative: Securities Analysts and the Illegitimacy Discount." *American Journal of Sociology* 104 (5): 1398–1438.