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Richard E. Day

Eastern Kentucky University, richard.day@eku.edu

JoAnn Ewalt

Eastern Kentucky University, joann.ewalt@eku.edu

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Eastern Kentucky University

From the Selected Works of Richard E. Day

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Education Reform in Kentucky: Just What the Court Ordered

Richard E. Day, *Eastern Kentucky University*

Jo Ann G Ewalt, *Eastern Kentucky University*



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Education Reform in Kentucky

Just What the Court Ordered

Richard E. Day and Jo Ann G. Ewalt

This chapter discusses primary- and secondary-education policy in Kentucky and the political and environmental forces that have led to significant policy changes over the years. The primary emphasis of our policy coverage is, first, an analysis of the political decision making that led to sweeping policy changes called for in the 1989 Kentucky Supreme Court decision in *Rose v. Council for Better Education* and implemented through the subsequent education-reform legislation, the Kentucky Education Reform Act of 1990 (KERA). Through these actions Kentucky completely overhauled its school finance system and its curricular and assessment processes. The second emphasis of the chapter is on more recent education-reform measures that have significantly altered some policy approaches found in KERA.

Descriptions of Kentucky's educational system portray a state with great promise that sadly fails time and again to live up to its potential. One observer has noted that the commonwealth's "one step forward, one step back" approach to education policy demonstrates that the social, political, and legal components of the policy process are almost never fully aligned, and thus substantial educational improvements are rare and largely unsustainable.¹ As we demonstrate, the Kentucky Supreme Court decision declaring the entire public school system in the commonwealth unconstitutional and the school-reform legislation that followed were significant exceptions to this pattern of uneven gains in school policy and in education finance. Their achievement was due in large part to the synchronization of critical policy elements.

We begin with a brief historical overview of Kentucky's approach to education to provide a backdrop for consideration of the more recent school reforms. We then turn to the political and environmental forces that led to the enactment of KERA. An examination of the transition from the reforms of the 1990s to more recent education policy changes in the commonwealth follows, and the chapter concludes with a discussion of policy implications of the current state of education reform in Kentucky.

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EARLY EDUCATION POLICY IN KENTUCKY

Kentucky was America's first frontier state. Those seeking religious freedom and opportunity flooded the beautiful land with an independent and self-sufficient spirit that spilled over into every aspect of life. Land disputes and dueling were common in the early days as class stratifications emerged. These settlers were not necessarily indifferent about the education of their children, but it was hard for the vast majority who would live their days on the family farm to see the relevance of book learning. The scarcity of qualified teachers and textbooks made it difficult to build good schools, particularly in remote locations.² In the cities of the bluegrass region in central Kentucky, where good teachers could more readily be found, public schools were the pride of the community. A formal education in Greek and Latin was left for the children of aristocrats who would grow up to govern this paternalistic border-southern society.³

After a handful of failed attempts, a rudimentary tuition-based system of common schools for white children was established. That system was made free by 1848, and a free system for black children was developed by 1874. Kentucky's funding plan was twice ruled unconstitutional in 1882 and 1883 and led to changes in the Kentucky Constitution. Weak public support for taxation and low attendance rates contributed to the slow development of an inequitable system of "good schools" and "bad schools" that compared poorly with schools in the northern states but less poorly with those in other southern states. The impact of the Industrial Revolution caused an increased demand for skilled laborers, but by the late 1800s only 42 percent of Kentucky children were enrolled in school. Knowing that a grammar-school education could no longer provide the skills and knowledge Kentucky's citizens needed in an industrialized society, the so-called Educational Legislature of 1908 passed the County School District Law, which required a high school in every county and compulsory attendance for city children and provided for improved teacher training. Despite these improvements, Kentucky's educational attainment was outpaced by most other states throughout the twentieth century.⁴

Part of the problem was systemic. Until the mid-1900s the Kentucky Constitution required that school funds be distributed on the basis of the school-age population in each district. This requirement ensured more funds for larger, more urban areas. A prevalent disinclination to raise taxes in support of education and a citizenry, at least in rural areas, that demonstrated little concern for its poor educational performance further limited Kentucky's capacity to support primary and secondary education.

EARLY ENVIRONMENTAL FACTORS LEADING TO EDUCATION REFORM

Inequities in Kentucky's school funding laws were deliberately designed into the system from the start. The first law addressing the education of blacks, after the Civil War in 1866, mandated that only taxes collected from blacks could be used to support

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the education of black children. Because newly emancipated slaves had only recently been considered property themselves, few possessed sufficient wealth from which adequate support could be drawn.

But inequities among the schools were not exclusively the product of racial discrimination. Inequities between white city schools and white country schools persisted as well. For example, Lexington, known as the “Athens of the West,” was fortunate for its ability to attract good teachers, which was a major stumbling block for much of the rest of the state. The inability to attract and retain excellent teachers has kept many of Kentucky’s rural schools, particularly in the Appalachian region, from matching the progress of other sections.

In *Kentucky v. Jesse Ellis* (1882) a U.S. federal court declared the 1866 law unconstitutional. The General Assembly responded with a funding system that used the same per capita rate for black and white schools, but that plan covered only state funds. Local school districts could still discriminate with their local funds.

When African American taxpayers sued over the continued discrimination, U.S. Circuit Judge John W. Barr ruled in *Claybrook v. Owensboro* (1883) that such discrimination violated the Fourteenth Amendment to the U.S. Constitution. The two systems could remain separate, but funding must be equal, at least on the surface. This case prompted the legislature to amend Section 183 of the state constitution in 1891 to declare, “The General Assembly shall, by appropriate legislation, provide an efficient system of common schools throughout the state.” This remains the constitutional mandate today, although, as an earlier treatment of Kentucky politics notes, “This ancient provision was observed principally in the breach, until the Supreme Court of Kentucky in 1989 took the word *efficient* and construed it broadly to mean both equal and adequate.”⁵

The U.S. Supreme Court ruling in *Plessy v. Ferguson* (1896) threw the nation into the Jim Crow era with its approval of de jure segregation, which persisted until it was overturned by *Brown v. Board of Education* in 1954. Schools for blacks were funded at roughly one-third the level of white schools. Rural schools were not supported as well as city schools.

At the same time, in Kentucky the General Assembly was establishing a new school funding formula called the Minimum Foundation Program (MFP). The MFP was designed to provide an adequate level of state financial support, but it allowed school districts to sweeten the pot by adding local tax dollars on top of state dollars. But in order for the MFP to work as designed, property in the state had to be assessed at 100 percent of its fair market value, and the program had to be adequately funded. That was not the case in Kentucky.⁶

The undervaluation of property by county tax assessors was such that in one school district it took a tax rate of \$1.77 to produce what a \$1.10 rate should have produced. As a result there was court action. In *Russman v. Lockett* (1965) the Kentucky Court of Appeals ruled that all property had to be assessed at its fair market value. On average, property in Kentucky was being assessed at 27 percent of its fair market value, so that decision would have had the effect of immediately tripling taxes for every

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property owner in the state, all of whom had previously benefited from the artificially low assessments.⁷

Convinced that they would lose their elected offices if they were perceived to have raised taxes, the legislature decided to change the tax structure of the commonwealth instead. Intending that *Russman v. Lockett* would not produce an additional penny of new taxes, the General Assembly passed House Bill 1, known as “the Rollback Law.” The act required a lowering of the tax rate to offset any gains through the new assessments and prohibited any local board of education from submitting a budget that would require more revenue than the preceding year.⁸

Intending to equalize school funding, Governor Julian Carroll (1974–1979) was successful in securing passage of House Bill 4, which created the Power Equalization Program (PEP). In 1976 Kentucky’s school finance policies were trending toward dis-equalization when the legislature added the PEP as a second tier to the MFP. The PEP was simply a formula that distributed state funds to school districts in a manner that was inversely proportional to the fiscal capacity of the district, but the PEP lacked sufficient funding to reverse the trend. To participate in the PEP, districts were required to levy taxes at a rate of 25 cents per \$100 of assessed property valuation, but state aid assured an equivalent ability to generate revenue up to about half that rate. For example, by the 1985–1986 school year, the equalization rate was 9 cents and grew only to 13 cents in 1986–1987, not enough to alter the trend.⁹

Because the MFP and the PEP were producing modest amounts of support, districts looked for ways to supplement their budgets. But the ability of a local superintendent to raise money locally was dependent on local wealth, so some of Kentucky’s poorest districts made the lowest tax effort. At the same time, some of Kentucky’s wealthiest districts made the greatest tax effort, a fact that would later prove influential to the courts.¹⁰

But a more powerful legislative action soon locked the existing inequities in place. During Carroll’s absence from the state, Lieutenant Governor Thelma Stovall called a special session of the General Assembly, during which House Bill 44 was enacted. This law required school districts to reduce their tax rates on real property each year such that current revenue could not exceed the previous year’s revenue by more than 4 percent. As a direct result, property-tax rates declined 33 percent statewide from 1979 to 1981, even though total assessed value increased.

The impact of property-tax cuts and other factors was that by the 1980s Kentucky had compiled a depressing list of deficiencies: the most illiterate citizenry in the United States (48.4 percent literacy in Appalachia) and a host of dismal education rankings, including forty-third in per pupil expenditure, forty-seventh in per capita spending by state and local governments, forty-ninth in the nation in college attainment, and dead last in adults with a high-school diploma.¹¹

The hope of school superintendents in poor districts lay with the PEP, but the lack of funding for the program during the administration of Governor John Y. Brown (1979–1983) failed to reduce disparities between poor and wealthy districts.¹² Patience was growing short.

POLICY INPUTS: SUPPORTS FOR EDUCATION REFORM

On December 31, 1983, incoming state school superintendent Alice McDonald released veteran school administrator and financial expert Arnold Guess from the Department of Education. This freed Guess to act on his long-standing irritation over the inequitable school funding that he knew well but could do nothing about while he was employed by the state. Guess called together a group of superintendents under the name Council for Better Education, and together they challenged the legislature to do more for Kentucky's children. The council lobbied the legislature for change to the education funding system while simultaneously threatening to sue. To fund the potential suit, the council charged the "66" member districts 50 cents per child in average daily attendance (ADA).¹³

The council's members were local leaders, but they held little sway in Frankfort, where some members of the General Assembly considered them "ungrateful" for asking for more money. In fact, the education leaders worried about their own legitimacy, considering themselves "rabble-rousers" who lacked the necessary status to create change. Persuading Bert Combs to represent them was their solution to that problem. As a former Kentucky governor (1959–1963), Combs was familiar with the constitutional mandate that the legislature must produce good schools throughout the state.

Legitimacy also came from the strength of the council's claims about education deficiencies in the commonwealth and through the help of powerful friends. In addition to the Kentucky press corps, which generally supported the idea of improving the schools, business support for education reform was significant and consistent. The business community pledged not to oppose tax hikes if substantial changes in school policies were made and if public education was held accountable for the results of school reform. The reason for the support was pragmatic: the poor quality of Kentucky's high-school graduates and the alarming dropout rates in the state meant that employers lacked an adequate supply of well-educated employees.¹⁴

However, education reform in Kentucky will forever be linked to the contemporaneous emergence of the Prichard Committee for Educational Excellence, which was formed in 1983 as a not-for-profit, independent citizen advocacy group. The committee was named for its chairman, Edward F. Prichard, a Harvard-educated Kentucky native whose intelligence and charisma attracted much attention in the 1930s and 1940s. He rose to power in the Franklin D. Roosevelt administration, fell from grace because of a conviction for stuffing a Bourbon County ballot box, and subsequently redeemed himself as a renowned education leader in Kentucky.¹⁵ The purpose of the Prichard Committee was to publicize and build support for efforts to improve schools in the commonwealth. Through its mix of highly regarded members, which included former governors, business leaders, education experts, and ordinary citizens, and its participation in the study and dissemination of information on Kentucky's poor educational system, the group provided strong support for the council's position.

When the matter reached trial, Prichard Committee executive director Bob Sexton and others contributed undisputable evidence that Kentucky lagged behind most

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other states in high-school completion, educational performance rankings, wealth of taxable property, per pupil expenditures, average annual salary of instructional staff, ACT scores, and pupil/teacher ratio. The court considered 30 percent of the state's local school districts "functionally bankrupt."¹⁶ In addition, evidence of funding disparities among school districts was undisputable. Jacob Adams notes in an early recounting of education reform in Kentucky:

The Kentucky Office of Education Accountability (OEA), for example, reported 1989–90 pre-KERA disparities that included the following: property wealth per pupil varied from \$39,138 to \$341,707. Levied equivalent tax rates varied from 22.9 cents to 111.9 cents. Local revenue per pupil varied from \$80 to \$3,716. State revenue per pupil varied from \$1,750 to \$2,753. In addition, the OEA reported that pre-KERA average per-pupil expenditures for instruction varied from \$1,499 to \$3,709, average teacher salaries varied from \$21,718 to \$30,379, the number of classroom teachers per 1,000 students varied from 49.5 to 84.7, and the number of teacher aides per 1,000 students varied from 0 to 40.7.¹⁷

An equally important contribution to the policy dialogue was the Prichard Committee's publication of *The Path to a Larger Life: Creating Kentucky's Educational Future* in 1985. This report proposed major changes in seven areas, including curriculum, teacher preparation, assessment of student performance, and education finance.¹⁸ A *Louisville Courier-Journal* editorial claimed at the time that "the Prichard Committee is an essential anchor [of educational reform], because it is focused on long-term objectives, and, perhaps more important, because it is free of ties to any special political or educational interest."¹⁹

POLICY INPUTS: DEMANDS FOR EDUCATION REFORM

Because the Kentucky General Assembly historically had been an unlikely source of educational improvements, it is not surprising that the Council for Better Education sought relief from the courts. However, Bert Combs did not like his options in filing a suit. He greatly preferred to file suit in federal court but was precluded from doing so by the 1973 decision in the *Rodriguez* case.²⁰ In *Rodriguez* the U.S. Supreme Court had closed its doors to equity suits based on Fourteenth Amendment claims, stating that education was not a fundamental right under the U.S. Constitution. That decision forced Combs into state court, where judges were elected and therefore more acutely subject to political pressures.

Governor Martha Layne Collins (1983–1987) called a special session of the General Assembly in 1985 to consider education improvements, but the council concluded that the legislative effort did little to improve funding equity for Kentucky's schools. In November of that year the council sued Governor Collins, the superintendent of public instruction, and the General Assembly, seeking funding equity for its member schools, in *Council for Better Education, et al. v. Martha Layne Collins, Governor, et al.* (Civil Action No. 85-CI-1759). During the trial phase of the case, which took

place in Judge Raymond Corns's Franklin County Circuit courtroom, an election produced new state officers, and Governor Wallace Wilkinson (1987–1991), who had promised no new taxes, replaced Collins as a defendant.

Judge Corns reached his momentous decision on May 31, 1988, declaring the state's system for funding schools unconstitutional. The case was appealed to the Kentucky Supreme Court as *Rose v. Council for Better Education*. The council urged the court to uphold the lower-court ruling and find the state's education finance system unconstitutional.

Both Governor Wilkinson and newly elected State Superintendent of Public Instruction John Brock, himself a plaintiff in the suit and a member of the Prichard Committee, dropped their defenses. Thus the main appellants at the Kentucky Supreme Court level were members of the legislative branch, represented through the suit against the Kentucky Speaker of the House and president of the Senate. The appellants argued that the General Assembly had done the best it could because the people of Kentucky did not want more taxes and that judicial notice should be taken that Kentucky was a poor state.

The court disagreed with the appellants but also took judicial relief far beyond that sought by the council. Amazing appellants and appellees alike, the court ruled in *Rose v. Council for Better Education* that the "entire system" of common schools was unconstitutional.²¹

POLICY OUTPUTS: EDUCATION-REFORM POLICY DECISIONS

The Kentucky Supreme Court came to its landmark decision under the leadership of a self-proclaimed activist chief justice, Robert F. Stephens, who assigned the writing of the opinion to himself. He affirmed and expanded the lower court's opinion. The final opinion changed from one closely crafted to address finance issues only to the broader finding that the entire system was unconstitutional.

The heart of the *Rose* case was the court's definition of an "efficient" system of common schools. The court enumerated characteristics of an efficient system as follows: one that was established and maintained by the General Assembly to be substantially uniform throughout the state, was free to all Kentucky children, and provided equal educational opportunity regardless of place of residence or economic conditions. An efficient system must also be sufficiently funded and free of waste, duplication, mismanagement, and political influence, and it must have as its goal the development of seven specified educational capacities. These capacities, which formed a substantial set of skills that outlined the curriculum that each student must learn, included oral and written communication skills; knowledge of economic, social, and political systems and governmental processes; knowledge of mental and physical wellness; a grounding in the arts; and academic or vocational skills.²²

Less than a year after the Kentucky Supreme Court ruling, the legislature passed the Kentucky Education Reform Act of 1990. Remarkable for its scope, KERA undertook reforms not only in finance but also in curriculum, assessment and accountability, district employment, and school governance. Among the most significant and

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controversial changes was the replacement of grades K–3 with the multiage/multiability Primary Program and the replacement of letter grades with a report card using a qualitative assessment of student work. School-based decision-making councils with substantial power over matters of curriculum and instruction were created to ensure representation of parents and teachers in school leadership. Rewards were given to schools that excelled on the Kentucky Instructional Results Information System (KIRIS), which used “performance-based” assessments, including portfolios and “open-response items,” to assess school performance more than individual student performance. Antinepotism regulations altered some long-standing employment practices. In 1998 KIRIS was replaced by the Commonwealth Accountability Testing System (CATS), which included a national norm-referenced test, deemphasized open-response questions, and increased emphasis on multiple-choice items.

POLICY OUTCOMES OF EDUCATION REFORM

According to observers at the time and later, the *Rose* decision was one of the most far-reaching education finance equity opinions ever issued, and it has been cited by numerous other courts in similar suits, including cases in Massachusetts, Alabama, New Hampshire, North Carolina, and South Carolina. For a while Kentucky’s progressive judicial review was the talk of the nation because the case addressed the content and process of education, as well as its funding.²³

The *Rose* case launched a new “third wave” of school-reform litigation based on both equity and adequacy as expressed in state constitutions. As a result, the 1990s were notable for the volume of state-level education policy activity that mirrored Combs’s approach. States began to shift away from the historical practice of assessing the quality of a given school by input measures, such as per pupil expenditures, the number of volumes in the library, or the percentage of faculty with advanced degrees. The courts’ willingness to accept a standards-based approach as judicially manageable created a shift toward educational outcomes, such as the percentage of students achieving a score of “proficient” on the statewide assessment, as the means of determining the adequacy of the school.²⁴

Nationally there was another impetus. Richard Herrnstein and Charles Murray’s book *The Bell Curve*, published in 1994, argued that among subgroups of students cognitive inequality was largely explained by genetic inequality. This prompted a strong reaction from civil rights activists who complained bitterly that American schools were failing the same kinds of students over and over again.²⁵ Kentucky civil rights leaders like Fayette County Urban League executive director P. G. Peebles and Rev. Louis Coleman of Shelbyville pressed for improved results for Kentucky’s African American students in the state’s school districts. This activity culminated in Senator Gerald Neal’s Senate Bill 168, which passed in 2002, requiring that student test scores be reported by subgroups and that targets be set for closing achievement gaps.

Before 1990 education policy in Kentucky was typically derived from the interaction of a host of education interest groups with the governor and the legislature. Citizens were accustomed to the lobbying efforts of the Kentucky School Boards

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Association, the Kentucky Education Association, and the Kentucky Chamber of Commerce, to name a few of the groups active in education policy development. However, specific performance data regarding the progress of the schools was largely withheld from public view on the argument that student achievement data were confidential.

To provide strong motivation to the schools, KERA included a new kind of high-stakes accountability system based on student achievement outcomes. Rather than using a student-centered approach, the KIRIS test was designed to measure how well the schools were performing. Previous test-score reporting, which had been limited to schoolwide means, had concealed the substandard performance of as much as a third or more of the school population. The combination of high-stakes state assessments and the new practice of publicly reporting student test-score data that were disaggregated by student subgroups proved to be a powerful tool for driving change.

University of Kentucky professor William Hoyt could not confirm educational progress in his 1999 equalization study of KERA, but he did find that “the most dramatic impact of KERA [may have] been its effect on equalizing spending throughout the state.”²⁶ However, once state education funds were allocated to local districts, there were no controls in place to assure an equitable distribution below that level. The state relied totally on local districts to ensure funding equity within the districts. The Kentucky Office of Education Accountability, a watchdog agency created by KERA and attached to the Legislative Research Commission, has analyzed funding equity almost every year since the passage of education reform. It notes that although there have been variations in the level of funding equity between property-rich and property-poor districts, the equity gap was greater before KERA than it has been since.²⁷

Confirmation of educational gains would come later. In October 2007 the Kentucky Long-Term Policy Research Center found that on the basis of its interpretation of various national rankings, Kentucky had improved its national ranking from forty-third in 1992 to thirty-fourth in 2005.²⁸ These results mirror those of *Education Week’s* Quality Counts 2007 Achievement Index,²⁹ which ranked Kentucky thirty-fourth, and the Morgan Quinto 2006–2007 Smartest State Index,³⁰ which ranked Kentucky thirty-first. The policy center noted that this progress was largely due to gains in fourth- and eighth-grade science scores and fourth-grade reading scores and a reduction in the dropout rate from 5.6 percent in 1996 to 3.3 percent in 2004.

FEEDBACK AND THE TRANSITION TO POST-KERA: IMPLICATIONS FOR THE FUTURE OF EDUCATION POLICY IN KENTUCKY

The promise of equality of educational opportunity that had guided American schools for a century was effectively replaced by a new goal, equity of student achievement outcomes. State governments passed legislation, adopted new procedures and standards, and pursued policies in a number of areas that galvanized the new emphasis on outcomes over inputs. The question of what constitutes an adequate education for all students was expanded to include strong measures of equity in student outcomes, otherwise known as closing achievement gaps while maintaining high standards. As the

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court ordered, an efficient system of schools must be adequately funded. Whenever the system is inadequately funded, excellence and equity are forced to compete.

The policy environment is constantly in flux as it reacts to and reflects changes in public opinion, the impact of federalism, advances in technology, new policy actors, and other factors. As Kentucky worked to improve the educational performance of its students and schools, environmental forces of change continued to influence policy decisions. Several important catalysts for policy modifications have taken education in new directions since KERA was passed. One such impetus was federal education legislation.

In 2002 President George W. Bush signed into law the No Child Left Behind Act (NCLB) of 2001. This reauthorization of the Elementary and Secondary Education Act built on a standards-based reform whose roots were found in policy responses to the 1983 report *A Nation at Risk* decrying mediocrity in public schools.³¹ In many ways the law was consistent with KERA's emphasis on performance outcomes, and because Kentucky had already implemented its own standards-based education system, much of the legislation fit fairly well with current practices in the state.³² NCLB requires states receiving federal funding to implement a system of annual assessment of student progress for schools and districts. As initially enacted, the legislation allowed states to set the standards to which they are held accountable, and parental choice was provided for schools that persistently failed to make adequate progress.

However, one of the most controversial elements of the law continues to trip up many schools in Kentucky and across the nation. In order to live up to its name, NCLB requires that improvements in performance be achieved not just for students as a whole but for each subgroup as well. Subgroups include students identified on the basis of poverty, race, ethnicity, disabilities, and limited English proficiency.³³ As noted, Kentucky had already implemented an assessment process that reported student performance for groups of students, but it had not based overall performance results on the progress of all groups. At this writing it is uncertain what new presidential and congressional leadership will mean for NCLB because critics continue to urge revisions to the measure. But a major accomplishment of the law has been its unapologetic national focus on measuring student outcomes and holding schools and districts accountable for those outcomes—a focus Kentucky began in 1990.

Kentucky's legislators have remained consistent in their emphasis on assessment and accountability measures. However, they have embraced a second theme that cuts at a core element of KERA and has ushered in a new era of education policy in the commonwealth. In recent years lawmakers have been intent on infusing testing with national instruments, and the state has embraced a focus on college readiness, national norm-referenced testing, and national curriculum standards.

KERA set in place a state assessment system that was not intended to facilitate comparisons of Kentucky's students with the performance of other state's students or, for the most part, to permit comparisons with national averages. By 2008, however, lawmakers desiring such comparisons required all high schools to administer the ACT exam to eleventh-grade students and also required two other ACT-supplied tests, one in the eighth grade and one in the tenth grade.³⁴ The latest KERA revisions have gone

much further: Senate Bill 1, enacted in 2009, completely dismantled the Kentucky-based CATS testing system and is phasing in new standards designed to be shorter, clearer, and better focused on students being ready for college, work, and global competition. In developing its new standards, Kentucky is working with forty-seven other states on “common core” standards in language arts, mathematics, science, and social studies.

The Common Core State Standards Initiative is a state-led effort coordinated by the National Governors Association and the Council of Chief State School Officers. In the next few years the forty-seven states that have currently adopted the Common Core Standards will be developing new, shared methods to test and report student progress to parents, teachers, officials, and the general public.³⁵ In the interim Kentucky will use a temporary test that state education officials say will match the new standards but will not have all the strengths of the longer-term, multistate testing methods.³⁶

Using the educational reforms of Senate Bill 1 and its status as the first state in the nation to adopt the common core standards as the foundation of its application, Kentucky took part in a national grant competition to secure funding to pay for its recently enacted reforms. As part of the Obama administration’s economic stimulus policy—the American Recovery and Reinvestment Act of 2009—Kentucky and forty-five other states and the District of Columbia competed in a three-phase, \$4.55 billion national education grant program called Race to the Top, whereby the federal government sought to encourage education reforms in four areas: new standards and assessments linking primary and secondary education to success in college and the workplace; improved data systems to measure student performance and contribute to formative assessment; enhancing the recruitment and retention of effective school personnel, particularly in poorly performing districts; and reducing the performance gap for the lowest-achieving schools.³⁷ Kentucky was a finalist in the competition but failed to attract Race to the Top funds in the first two rounds. It was successful in winning funding in the third competition, which was much less funded. In December 2011 Kentucky was awarded \$17 million, much less than the \$175 million it requested, to implement reforms designed in part to prepare students for more rigorous science, technology, engineering, and math (STEM) course work.

Education Commissioner Terry Holliday attributed Kentucky’s failure to win Race to the Top funding in the first two rounds to the General Assembly’s refusal to enact legislation permitting charter schools, a criticism echoed by many of the state’s Republican lawmakers. As an alternative to regular public school systems, charter schools are publicly funded but are freed from many curricular and decision-making requirements of traditional public schools. According to the Center for Education Reform, forty states and the District of Columbia permit charter schools,³⁸ but Kentucky’s steadfast refusal to allow charter schools has been blamed on strong lobbying from teachers’ unions in the state.³⁹ Democratic lawmakers point to mixed results from charter schools in other states and also worry that charter schools will not work in rural school districts, a concern that is also voiced by the Rural School and Community Trust, a national nonprofit organization that points out that among the ten states that have not authorized charter schools, nine are predominantly rural.⁴⁰ Proponents

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stress the choice aspect of charter schools and point to the long-term failure of some Kentucky schools to show gains in student performance.⁴¹ The rise of charter schools in other states began in 1992 while Kentucky was fully engaged in implementing KERA, and thus at the time charter policy garnered little attention in the commonwealth. The current charter-school debate in Kentucky is part of the larger movement of state education reforms promoted by the Obama administration, the Bill and Melinda Gates Foundation, and others to improve student success and increase accountability on the part of teachers and schools.

Regardless of the outcome of future efforts to incorporate charter-school authorization in the state, education reform in Kentucky has been remarkable. In the past twenty years Kentucky has reformed its school finance system, reformed its school governance process, updated and improved its core required curriculum, and implemented a statewide assessment and accountability system. Indeed, Kentucky undertook the largest set of school reforms implemented by any one state at one time. As we have shown, those reforms were surprising in a state known for dragging its heels on education policy, and student performance in the state has clearly improved from pre-KERA days.

On many measures, the commonwealth has left the bottom of the pack and joined states in the middle. However, like all states, Kentucky has faced significant fiscal challenges brought on by the great recession of the past few years, and consistent gains in educational performance have suffered. *Education Week's* Quality Counts 2011 Achievement Index placed Kentucky thirty-fourth, precisely where it was in 2007. In addition, the recent push to use ACT tests to compare Kentucky's student achievement with that of other states and the nation has clearly demonstrated how far student performance lags. In 2011 students in Kentucky public high schools received an average composite score of 19.6, compared with 21.1 nationally. Table 14.1 shows the challenges ahead for students, parents, educational leaders, and policy makers in helping prepare Kentucky's graduates. Over 40 percent of the Kentucky students who took the ACT exam in 2010 failed to meet the benchmark score in English, and nearly three in four students failed to achieve the benchmark score in mathematics. Scores for reading (43 percent of students achieving benchmark scores) and science (about one in five

Table 14.1. 2011 ACT Benchmarks and Student Performance in Kentucky

<i>Content area</i>	<i>Benchmark</i>	<i>Percent of students meeting benchmark</i>	<i>Average score</i>
English	18	57	19.2
Mathematics	22	28	19.1
Reading	21	43	20.0
Science	24	21	19.6
All areas	—	16	19.6 (composite)

Source: Kentucky Department of Education.

Table 14.2. Kentucky Students Entering College Ready for College-level Work

	2002–2003	2004–2005	2006–2007	2008–2009
Percent ready	55.2	57.6	58.7	61.8
Number of entrants	20,616	19,920	20,965	22,586

Source: Kentucky Council on Postsecondary Education.

students scoring at or above benchmark) also illustrate the magnitude of Kentucky's students who are unprepared for college.⁴²

Despite these challenges, Kentucky is making progress in increasing the number of high-school graduates who go on to college and in decreasing the number of students who require remedial classes, as shown in table 14.2, but there is much work still to do. Although 63 percent of Kentucky's 2008 high-school graduates were enrolled in college the next fall, up from 51 percent in 2004, that is still below the national average of 68.6 percent.⁴³

To address these issues, Kentucky policy makers are now emphasizing national curriculum standards and school and district accountability in order to increase the number of citizens who are prepared for and succeed in college and the workplace.⁴⁴ Although much progress has been accomplished, a troublesome link remains between Kentucky's educational environment before the enactment of KERA in 1990 and the environment that currently exists.

Three decades ago education leaders were worried about uneven funding for Kentucky's schools and students. Today large variations in student performance across the state dominate the policy debate. For example, Louisville's Dupont Manual High School in Jefferson County had the highest composite score on the 2010 ACT test, 24.8, compared with 14.2 for Cordia High School in rural southeastern Knott County. Perhaps as significant, there are wide variations in performance within school districts as well. The three high schools with the lowest 2010 composite ACT scores were in Jefferson County. Kentucky will need to find a way to maintain educational performance in its high-achieving schools while breaking the bonds of high poverty, high unemployment, low completion rates, and low student achievement found in many other schools across the commonwealth.

When Kentucky embarked on its pioneering education reforms in the 1980s and 1990s, the effort energized a number of education public interest groups, whose memberships included education experts, parents, average citizens, and political, community, and business leaders. These groups, and especially the Council for Better Education and the Prichard Committee, were largely responsible for creating the demands and supports that caused the nation's most sweeping education reform. They acted at the state level, but they had a profound impact on both state and national education policy as Kentucky became the state to watch.

The school-reform movement that produced KERA was made possible by Kentucky's judicial branch, but it would be naïve to conclude that the judges acted in a vacuum. The court's sweeping opinion and the legislation that followed were part of a

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“constellation of factors” that included broad collaborations among school leaders, citizen groups, the press, governors, and legislators. Moreover, the court’s decision supported the General Assembly’s desire to strengthen itself against a historical pattern of gubernatorial control, the public expected the legislature to follow the court’s directives, and legislators used that political cover to blame tax increases on the court.⁴⁵ However, it remains to be seen whether Kentucky will live up to its lofty aspirations. Will a new school-reform movement provide an adequate education, as measured by performance outcomes, for students in every section of the state?

The next era of education policy in Kentucky comes as advances in communications and technology have raised the demand for a better-educated workforce once again. But this new reform movement will be subject to the expectations and conditions set in place by these earlier pioneers: that an adequate education is the fundamental right of each and every student; that the General Assembly is solely responsible for maintaining an efficient system of schools; and that those schools must be equitable throughout the state and adequate to meet the state’s goals.

NOTES

1. Scott C. Trimble and Andrew C. Forsaith, “Achieving Equity and Excellence in Kentucky Education,” *University of Michigan Journal of Law Reform* 28, no. 3 (1995): 604–5.
2. Daniel Drake, *Pioneer Education and Life* (Cedar Rapids, Iowa: Torch Press, 1939): 141–62.
3. Thomas D. Clark, *A History of Kentucky* (Lexington, Ky.: John Bradford Press, 1954), 213–16.
4. Thomas D. Clark, *A History of Kentucky* (Ashland, Ky.: Jesse Stuart Foundation, 1988), 366–67; Richard E. Day, “Each Child, Every Child: The Story of the Council for Better Education, Equity and Adequacy in Kentucky’s Schools,” Ed.D. diss., University of Kentucky, 2003.
5. Penny M. Miller, *Kentucky Politics and Government: Do We Stand United?* (Lincoln: University of Nebraska Press, 1994), 249.
6. Richard E. Day, “Bert Combs and the Council for Better Education: Catalysts for School Reform,” *Register of the Kentucky Historical Society* 109, no. 1 (Winter 2011): 33–36, http://works.bepress.com/richard_day/4.
7. *Russman v. Lockett*, 391 S.W.2d 694 (1965); Trimble and Forsaith, “Achieving Equity and Excellence in Kentucky Education,” 601–4.
8. Kentucky Revised Statutes 160.470 (1965).
9. Trimble and Forsaith, “Achieving Equity and Excellence in Kentucky Education,” 3.
10. J. E. Adams, Jr., and W. E. White II, “The Equity Consequence of School Finance Reform in Kentucky,” *Educational Evaluation and Policy Analysis* 19, (1997): 165–84.
11. *Council for Better Education v. Collins*, No. 85-CI-1759 (Franklin County Circuit Court, Kentucky, October 14, 1988). See also Debra H. Dawahare, “Public School Reform: Kentucky’s Solution,” *University of Arkansas at Little Rock Law Review* 27 (2004): 39.
12. Day, “Bert Combs and the Council for Better Education,” 27–62.
13. The number 66 was somewhat mythical in that it represented the level of philosophical commitment rather than actual membership. The number of paid member districts at the time of the trial was sixty, but several districts that were sympathetic to the cause but could

not afford to join were incorporated into the count. See Day, “Each Child, Every Child,” 219, 354–64.

14. Molly A. Hunter, “All Eyes Forward: Pubic Engagement and Educational Reform in Kentucky,” *Journal of Law and Education* 28, no. 4 (1999): 490–91.

15. Tracy Campbell, *Short of the Glory: The Fall and Redemption of Edward F. Prichard, Jr.* (Lexington: University Press of Kentucky, 1998).

16. *Rose v. Council for Better Education*, 790 S.W.2d 186, 60 Ed. Law Rep. 1289 (1989) 10.

17. Jacob E. Adams Jr., “School Finance Reform and Systemic School Change: Reconstituting Kentucky’s Public Schools,” *Journal of Education Finance* 18 (1993): 331.

18. Prichard Committee for Academic Excellence, *The Path to a Larger Life: Creating Kentucky’s Educational Future* (Lexington, Ky.: Prichard Committee for Academic Excellence 1985).

19. Jacob E. Adams Jr., *The Prichard Committee for Academic Excellence: Credible Advocacy for Kentucky Schools* (New Brunswick, N.J.: Consortium for Policy Research in Education, Rutgers University, 1993). 3.

20. *San Antonio Independent School District v. Rodriguez*, 411 U.S. 1 (1973).

21. Hunter, “All Eyes Forward,” 496, quotes Debra Dawahare, counsel to plaintiffs, in a July 17, 1993 interview.

22. *Rose*, 790 S.W.2nd, 212.

23. Hunter, “All Eyes Forward,” 497.

24. David Hurst, Alexandra Tan, Anne Meek and Jason Sellers, *Overview and Inventory of State Education Reforms: 1990 to 2000*, NCEES 2003–020 (Washington, D.C.: U.S. Department of Education, National Center for Educational Statistics, 2003).

25. Richard J. Herrnstein and Charles Murray, *The Bell Curve: Intelligence and Class Structure in American Life* (New York: Simon and Schuster, 1994), 105–15. See also Christopher Jencks and Meredith Phillips, *The Black-White Test Score Gap* (Washington, D.C.: Brookings Institution Press, 1998), v.

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28. A. Watts, *An Index of Kentucky’s Educational Progress*, Kentucky Long-Term Policy Research Center, Frankfort, Policy Note no. 23 (2007), accessed December 5, 2010, http://kltprc.info/policynotes/pn0023_education_index.pdf.

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30. Morgan Quinto 2006–2007 Smartest State Index.

31. Carl Kaestle, foreword to *Politics, Ideology, and Education: Federal Policy during the Clinton and Bush Administrations*, by Elizabeth DeBray (New York: Teachers College Press, 2006), xii; United States National Commission on Excellence in Education, (Washington, D.C.: The United States National Commission, 1983).

32. Kentucky Department of Education, *NCLB Briefing Packets and Reports 2010*, accessed December 6, 2010, <http://www.education.ky.gov/kde>.

33. Office of the Undersecretary of Education, *No Child Left Behind: A Desk Reference* (Washington, D.C.: U.S. Department of Education, 2002). For other background information on NCLB, see Paul E. Peterson and Martin R. West, *No Child Left Behind? The Politics and*

Practices of School Accountability (Washington, D.C.: Brookings Institution, 2003), and DeB-ray, *Politics, Ideology, and Education*.

34. Senate Bill 130, enacted and signed into law in 2006, amends Kentucky Revised Statutes 158.6453 and implements and provides funding for a statewide standardized college readiness assessment program, which began in 2008. Currently, only a handful of states require all students to take the ACT.

35. National Governors Association Center for Best Practices and Council of Chief State School Officers, *Common Core State Standards* (Washington, D.C.: National Governors Association Center for Best Practices, Council of Chief State School Officers, 2010).

36. Susan P. Weston, *Kentucky's Next Giant Steps*, Prichard Committee, December 1, 2010, accessed December 5, 2010, http://prichblog.blogspot.com/2010_12_01_archive.html.

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41. Heartland Institute, "Kentucky Votes Yes on Federal Money No on Charter Schools."

42. ACT benchmark scores are established by ACT Inc. and relate to the probability of passing an entry-level college course in these content areas with a grade of C or higher. Kentucky Department of Education, "2010 Kentucky Graduates ACT Data Released," August 18, 2010, accessed March 13, 2012, <http://www.education.ky.gov/KDE/HomePageRepository/News>.

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44. Kentucky Council on Postsecondary Education, *Stronger by Degrees: A Strategic Agenda for Kentucky Postsecondary and Adult Education* (Frankfort: Kentucky Council on Postsecondary Education, 2011).

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