

COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
DIVISION __
CIVIL ACTION NO. 25-CI-00026

**THE KENTUCKY STUDENT VOICE
TEAM (KSVT), CHASE COLVIN,
DANIELLE CHIVERO, ABIGAIL
LADWIG, ANDREW ORDONEZ,
CRYSTAL ORDONEZ, LACEY PAIGE,
LUISA SANCHEZ, RAYMOND
ROBINSON, BRYAN XIA, all represented
respectively by their parents and next
friends, and CHARLSTYN HEATH,
TRISTAN VIVEROS, and MICHELLE
ZHENG**

PLAINTIFFS

v.

**COMMONWEALTH OF KENTUCKY;
ROBERT STIVERS, in his Official
Capacity as President of the Kentucky
Senate; DAVID W. OSBORNE, in His
Official Capacity as Speaker of the
Kentucky House of Representatives;
KENTUCKY BOARD OF EDUCATION;
and ROBBIE FLETCHER,
COMMISSIONER OF EDUCATION**

DEFENDANTS

COMPLAINT

PRELIMINARY STATEMENT

1. In 1989, in a landmark decision in *Council for Better Education v. Rose*, 790 S.W.2d 186, the Kentucky Supreme Court held that all students in the Commonwealth are guaranteed an “adequate and equitable” education under Article 183 of the State Constitution.

The Court defined the essential elements of an “adequate” education and led the Kentucky General Assembly to adopt the comprehensive Kentucky Education Reform Act (“KERA”) that dramatically improved education throughout the Commonwealth during the following decade.

2. The Court’s *Rose* decision and its definition of an adequate education inspired courts throughout the country, seven of which cited *Rose* and adopted its adequacy definition in interpreting analogous education clauses in their own state constitutions.

3. The Court emphasized the knowledge and skills students would need to function productively as civic participants in a rapidly changing world. Most of the seven “capacities” at the core of the Court’s adequacy definition spoke of the civic knowledge, skills, experiences and values students would need to develop in order to become capable citizens able to maintain a democratic society. The Court’s emphasis on constitutional values, governmental processes, and the benefits and responsibilities of citizenship have become even more important in the increasingly polarized and politically complex world of the 21st century.

4. Unfortunately, the Commonwealth and its General Assembly have failed to maintain the level of commitment to education required by the *Rose* decision and have failed to meet their obligation to monitor the efficiency of the education system. Likewise, the Kentucky Board of Education (“KBE”) and Kentucky Department of Education (“KDE”) have failed to ensure the state’s educational system is constitutionally compliant. Student academic achievement, civic preparation, college and career readiness, and student physical and mental wellness have all declined substantially in recent years. The Commonwealth of Kentucky, which was the national model for effective education reform in the 1990s, has now fallen behind in educational practices and accomplishments.

5. This case calls upon the judiciary to review the status of constitutional compliance with Article 183 of the Kentucky Constitution 36 years after issuance of the *Rose* decision and to determine whether schoolchildren today are receiving the adequate and equitable education that the Kentucky Supreme Court envisioned and mandated in 1989.

6. Plaintiffs ask this Court to review the Commonwealth's decline in educational action and accomplishment, identify the current constitutional deficiencies, and declare that the Defendants must take appropriate steps to rectify the current systemic patterns of constitutional non-compliance.

NATURE OF ACTION

7. This action seeks a Declaration of Rights under the Declaratory Judgment Act, KRS 418.040, CR 57, and CR 65.

8. An actual and justiciable controversy exists regarding the Defendants' failure to protect Plaintiffs' rights under Article 183 of the Kentucky Constitution, the Kentucky Education Reform Act, and other relevant statutes and regulations.

9. Plaintiffs request an expedited review pursuant to KRS 418.050 and CR 57.

THE PARTIES

10. Plaintiff Kentucky Student Voice Team ("KSVT") is a Kentucky nonprofit corporation that is dedicated to just, democratic and effective Kentucky schools. Its membership consists of approximately 100 students from throughout the Commonwealth of Kentucky who attend public schools. The vast majority of KSVT's student members, some of whom are also individual plaintiffs in this action, are being denied an adequate and equitable education due to the actions and inactions of the defendants.

11. Plaintiff Chase Colvin is a resident of Jefferson County, Kentucky and is a junior at the DuPont Manual High School in Jefferson County. He is represented in this action by Tracie Colvin, as parent and next friend.

12. Plaintiff Danielle Chivero is a resident of Fayette County, Kentucky and is a junior at Tates Creek High School. She is represented in this action by Michael Chivero, as parent and next friend.

13. Plaintiff Charlstyn Heath is a resident of Trigg County, Kentucky and is a senior at Trigg County High School.

14. Abigail Ladwig is a resident of Daviess County, Kentucky and is a junior at Owensboro High School. She is represented in this action by Sarah Ladwig as parent and next friend.

15. Plaintiff Andrew Ordonez is a resident of Pulaski County, Kentucky and is a freshman at Pulaski County High School. He is represented by Rebecca Ordonez, as parent and next friend.

16. Plaintiff Crystal Ordonez is a resident of Pulaski County, Kentucky and is a sophomore at Pulaski County High School. She is represented by Rebecca Ordonez, as parent and next friend.

17. Plaintiff Lacey Paige is a resident of Christian County, Kentucky and is a junior at Christian County High School. She is represented in this action by Kimberly Paige, as parent and next friend.

18. Plaintiff Raymond Robinson is a resident of Christian County, Kentucky and is a senior at Christian County High School. He is represented in this action by Theda Smith, as parent and next friend.

19. Plaintiff Luisa Sanchez is a resident of Boyle County, Kentucky and is a junior at Boyle County High School. She is represented in this action by Luis Sanchez, as parent and next friend.

20. Plaintiff Tristan Viveros is a resident of Boyle County, Kentucky and is a senior at Danville High School.

21. Plaintiff Bryan Xia is a resident of Oldham County, Kentucky and is a junior at North Oldham High School. He is represented in this action by Fei Wang, as parent and next friend.

22. Plaintiff Michelle Zheng is a resident of Hardin County, Kentucky and is a senior at Elizabethtown High School.

23. Defendant Commonwealth of Kentucky, through its General Assembly, is the entity required by the Constitution to “provide for an efficient system of common schools throughout the State.” Ky. Const. § 183.

24. Defendant Robert Stivers is President of Kentucky’s Senate. Defendant David W. Osborne is the Speaker of Kentucky's House of Representatives. These Defendants are the presiding officers and are representative of their respective legislative bodies. They are named in their official capacities as President of the Kentucky Senate and Speaker of the Kentucky House of Representatives, respectively. Section 183 of the Kentucky Constitution mandates that the General Assembly must enact appropriate legislation to provide an efficient system of common schools throughout the state.

25. Defendant Kentucky Board of Education has the responsibility and the duty to manage and supervise all the common schools and all programs operated in these schools. It also has the power and responsibility to develop and adopt policies and administrative regulations by

which the Department of Education is governed in planning, coordinating, administering, supervising, operating, and evaluating the educational programs and services within the Commonwealth of Kentucky.

26. Defendant Robbie Fletcher is the Commissioner of Education for the Commonwealth of Kentucky. He is the Chief State School Officer of the Commonwealth and the executive and administrative officer of the Kentucky Board of Education in its administration of all educational matters and functions placed under its management and control. He carries out all duties assigned to him by law; executes, under the direction of the state board, the educational policies, orders, directives, and administrative functions of the board; and directs the work of all persons employed in the Department of Education.

JURISDICTION AND VENUE

27. An actual, justiciable controversy exists, and this Court has subject matter jurisdiction over this action pursuant to KRS 418.040, KRS 23A.010, CR 57, and CR 65.

28. Venue is proper in the Franklin County Circuit Court pursuant to KRS 452.430, because this “action against the Kentucky Board of Education, of this state, must be brought in the county that includes the seat of government.” *Id.* Furthermore, this action is being brought against defendant KBE and other government officials, the primary offices of which are located in Frankfort, Franklin County, Kentucky.

CONTEXTUAL FACTS

The *Rose* Decision

29. In a landmark ruling issued in 1989 in *Rose v. Council for Better Education*, 790 SW 2d 186, the Kentucky Supreme Court held that “education is a fundamental right in Kentucky,” *id.* at 206, and that “the General Assembly of the Commonwealth has failed to

establish an efficient system of common schools throughout the Commonwealth,” *id.* at 216. In its lengthy opinion, the Court examined the intent of the framers of the 1891 constitution, as well as contemporary needs, and concluded that Article 183, the education article of the Kentucky Constitution, requires that:

- a. The establishment, maintenance and funding of common schools in Kentucky is the sole responsibility of the General Assembly.
- b. Common schools shall be free to all.
- c. Common schools shall be available to all Kentucky children
- d. Common schools shall be substantially uniform throughout the state
- e. Common schools shall provide equal educational opportunities to all Kentucky children, regardless of place of residence or economic circumstances
- f. Common schools shall be monitored by the General Assembly to assure that they are operated with no waste, no duplication, no mismanagement, and with no political influence.
- g. The premise for the existence of common schools is that all children in Kentucky have a constitutional right to an adequate education.
- h. The General Assembly shall provide funding which is sufficient to provide each child in Kentucky an adequate education.
- i. An adequate education is one which has as its goal the development of ... seven capacities.

Id. at 212-213.

30. The seven capacities that constitute the “minimum quality” of an “adequate education” as articulated by the Court were:

- i. sufficient oral and written communication skills to enable students to function in a complex and rapidly changing civilization;
- ii. sufficient knowledge of economic, social, and political systems to enable them to make informed choices;
- iii. sufficient understanding of governmental processes to enable the student to understand the issues that affect his or her community, state, and nation;
- iv. sufficient self-knowledge and knowledge of his or her mental and physical wellness;
- v. grounding in the arts to enable each student to appreciate his or her cultural and historical heritage;
- vi. sufficient training or preparation for advanced training in either academic or vocational fields so as to enable each child to choose and pursue life work intelligently; and

- vii. sufficient levels of academic or vocational skills to enable public school students to compete favorably with their counterparts in surrounding states, in academics or in the job market.

Id at 212-213.

31. The Kentucky Supreme Court's decision in *Rose*, and especially its substantive definition of the essential elements of an adequate education, has been followed and explicitly cited by state supreme courts throughout the country. *See, e.g., Gannon v. State*, 319 P.3d 1196 (Kan. 2014), *McDuffy v. Sec'y of the Exec. Office of Educ.*, 615 N.E.2d 516, 554 (Mass. 1993); *Claremont v. Governor*, 703 A.2d 1353, 1359 (N.H. 1997). *See also Alabama Opinion of the Justices*, 624 So.2d 107 (Ala. 1993); *Lake View Sch. Dist. No. 25 v. Huckabee*, 91 S.W.3d 472 (Ark. 2002); *Leandro v. State*, 488 S.E.2d 249, 255 (N.C. 1997); *Abbeville Cty. Sch. Dist. v. State*, 515 S.E.2d 535 (S.C. 1999).

The Kentucky Education Reform Act (KERA)

32. Less than a year after the Supreme Court issued its decision in *Rose*, the General Assembly enacted the Kentucky Education Reform Act ("KERA"). The statute instituted sweeping reforms, including academic expectations reflecting high standards, a new school funding formula that substantially increased funding for all students and aimed to ensure equity in funding among school districts, an assessment and accountability system, extensive professional development for teachers, expanded use of technology, support services for at-risk and disabled students, family resource/youth services centers for low income students, school-based councils to promote local decision-making, and a robust infrastructure for implementation and monitoring, including a system of regional service centers throughout the Commonwealth and an Office of Educational Accountability within the legislature. 1990 KY HB 940.

33. In its first decade, KERA resulted in substantial increases in funding for education and dramatic educational improvements throughout the Commonwealth. For example, a first five-year review found, among other things, that:

- a. From 1989-90 to 1992-93, teachers' salaries increased by 19.8% on the average with the highest percentage increases in property-poor districts;
- b. 72.4% of the new funds made available under KERA had been allocated to instruction with only 4.2% to administration;
- c. The gap in spending between the wealthiest and poorest districts decreased and average per pupil revenue from state and local sources increased by 39.4%, rising from \$3,079 to \$4,291.
- d. Approximately 925 of Kentucky's 1,365 schools had established school-based decision making (SBDM) councils.
- e. The quality of the statewide Preschool Program for at-risk low income children and children with disabilities helped close the achievement gap between low-income children who participated in the program and their economically more fortunate peers.
- f. The installation of the Kentucky Educational Technology System progressed significantly, propelling Kentucky to the rank of seventh in the nation in terms of numbers of computers per student.
- g. Funding for Professional Development increased from \$1.00 per student in 1989 to \$23.00 per student in 1995-1996.

Kentucky Education Research Institute and the University of Kentucky and the University of Louisville, A Review of Research on the Kentucky Education Reform Act 1995 (KERA) (1996), 11, 15, 44-46, 60, 142-48 (1996) (<https://files.eric.ed.gov/fulltext/ED394976.pdf>).

34. These added resources and educational improvements resulted in significant gains in student achievement during KERA's first decade and a half. For example, while in the 1980s, Kentucky "ranked nationally in the lower 20–25% in virtually every category that is used to evaluate educational performance," *Rose*, 790 S.W.2d at 197, by 2007, Kentucky's scores on the National Assessment of Educational Progress ("NAEP") (known as "the nation's report card"¹), were close to catching up with the nation. Fourth-grade students were just 4 points below the national average overall, with free or reduced-price lunch students only 1 point behind and

¹ About NAEP, <https://nces.ed.gov/nationsreportcard/about/> (last visited December 5, 2024).

African American students just 3 points behind the average scores of similar students throughout the United States. In eighth grade, Kentucky's students were just one point behind the national average, with free or reduced-price lunch students 2 points ahead and African American students 2 points behind similar students nationwide. Susan Perkins Weston and Robert F. Sexton, *Substantial and Yet Not Sufficient: Kentucky's Effort to Build Kentucky's Effort to Build Proficiency for Each and Every Child*, pp. 23-24 (2009) (<https://files.eric.ed.gov/fulltext/ED523999.pdf>).

35. In science, Kentucky students were 9 points ahead of the nation in 2007, while free or reduced-price lunch students in Kentucky were 16 points ahead of similar students elsewhere, and African American students were 10 points ahead. *Id.*

36. KERA and subsequent education reform statutes also codified and, in places, expanded upon the specific requirements mandated by the *Rose* decision. Most of these statutes are still in force – in theory. For example, KRS 158.645 codified and expanded upon the seven core capacities that define an “adequate education,” adding an additional “capacity” regarding “core values and qualities of good character.” It provides in relevant part that:

It is the intent of the General Assembly to create a system of public education which shall allow and assist all students to acquire the following capacities:

- 1) Communication skills necessary to function in a complex and changing civilization;
- 2) Knowledge to make economic, social, and political choices;
- 3) Core values and qualities of good character to make moral and ethical decisions throughout his or her life;
- 4) Understanding of governmental processes as they affect the community, the state, and the nation;
- 5) Sufficient self-knowledge and knowledge of his mental and physical wellness;
- 6) Sufficient grounding in the arts to enable each student to appreciate his or her cultural and historical heritage;
- 7) Sufficient preparation to choose and pursue his life's work intelligently; and
- 8) Skills to enable him to compete favorably with students in other states.

37. KRS 158.6451 similarly emphasizes and expands upon many of the *Rose* capacities:

The General Assembly finds, declares, and establishes that:

- a) Schools shall expect a high level of achievement of all students.
- b) Schools shall develop their students' ability to:
 1. Use basic communication and mathematics skills for purposes and situations they will encounter throughout their lives;
 2. Apply core concepts and principles from mathematics, the sciences, the arts, the humanities, social studies, and practical living studies to situations they will encounter throughout their lives;
 3. Become self-sufficient individuals of good character exhibiting the qualities of altruism, citizenship, courtesy, hard work, honesty, human worth, justice, knowledge, patriotism, respect, responsibility, and self-discipline;
 4. Become responsible members of a family, work group, or community, including demonstrating effectiveness in community service;
 5. Think and solve problems in school situations and in a variety of situations they will encounter in life;
 6. Connect and integrate experiences and new knowledge from all subject matter fields with what they have previously learned and build on past learning experiences to acquire new information through various media sources; and
 7. Express their creative talents and interests in visual arts, music, dance, and dramatic arts.
- c) Schools shall increase their students' rate of school attendance.
- d) Schools shall increase their students' graduation rates and reduce their students' dropout and retention rates.
- e) Schools shall reduce physical and mental health barriers to learning.
- f) Schools shall be measured on the proportion of students who make a successful transition to work, post-secondary education, and the military.

SPECIFIC ALLEGATIONS

Failure to Comply with Constitutional and Statutory Requirements

38. Kentucky made substantial progress in implementing the *Rose* mandates and the KERA requirements during the first decade after *Rose* was decided. However, since the early 2000s – and especially after the 2008 recession – the Defendants have failed to maintain reasonable efforts to comply with *Rose* and KERA. As a result, Kentucky has once again fallen behind the rest of the nation and most Kentucky students no longer receive a constitutionally adequate education.

39. One of the main reasons for Kentucky's rapidly declining standard of education is that the Commonwealth has substantially reduced state funding for education in recent years. Since the 1990s, base funding of education by the state has declined by approximately 25% in inflation-adjusted terms, and the state share of total education costs has fallen from 75% to 50%, placing a heavier and often unmanageable financial burden on local school districts. As a result, the gap in per capita spending between low income, property poor districts and wealthier districts, which had substantially narrowed in the 1990s, now exceeds the disparities the Kentucky Supreme Court held to be unconstitutional in *Rose*, 790 S.W.2d at 198-99.

40. In recent years, student achievement has declined, and the school system is currently failing to provide most Kentucky students the adequate and equitable education to which they are constitutionally and statutorily entitled.

41. The high point in Kentucky's reading and math scores was in 2013 when Kentucky's reading scores on NAEP were at or above the national average. Since then, Kentucky students' scores have substantially declined under the Defendants' watch.

42. The percentage of Kentucky fourth graders and eighth graders who were reading at or above NAEP proficiency levels in 2013 was 36% and 38% respectively, but these numbers fell to 31% and 29% in 2022. These 2022 scores brought Kentucky's reading achievement levels essentially back to where they were in 1998.²

43. The percentage of Kentucky fourth and eighth graders who were at or above NAEP proficiency levels in mathematics in 2013 were 41% and 30% respectively, but these numbers fell to 33% and 21% in 2022. These 2022 scores brought Kentucky's math achievement levels back to where they were in 2000.

44. These low proficiency scores demonstrate that Kentucky's schools are not providing their students with an adequate education and the "high level of achievement" expected of them pursuant to *Rose* and KRS 158.6451.

45. Most of the seven *Rose* capacities emphasize the skills students will need to function productively as capable citizens. As former U.S. Supreme Court Justice Sandra Day O'Connor stated, "We are failing to impart to today's students the information and skills they need to be responsible citizens." Sandra Day O'Connor, *Foreword to No Excuse: Eleven Schools and Districts That Make Preparing for Citizenship a Priority and How Others Can Do It Too*, Campaign for Civic Mission of the Schools, 5 (Jan. 2010) (https://civxnow.org/wp-content/uploads/2021/09/LabReport_Booklet_August_2010.authcheckdam.pdf).

46. Although the *Rose* decision and initial KERA implementation put Kentucky in the forefront of states that recognized and acted upon the need to prepare all students for capable citizenship, Kentucky has now fallen far behind the rest of the nation. For example, the Fordham

² NAEP statistics cited in this complaint are obtained from the National Center for Education Statistics, available at <https://nces.ed.gov/nationsreportcard/>. On average, students in the majority of states perform below NAEP proficiency levels.

Institute’s ranking of state civics standards gave Kentucky a “C” rating in civics because “Kentucky’s civics standards are mediocre due to the scant attention given to the nuts and bolts of government, fundamental information about elections, and individual rights.” Jeremy A. Stern et al., *The State of State Standards for Civics and U.S. History in 2021*, Thomas B. Fordham Institute, 147 (2021) (<https://fordhaminstitute.org/sites/default/files/publication/pdfs/20210623-state-state-standards-civics-and-us-history-20210.pdf>).

47. In 2022-2023, only 35% of Kentucky’s 8th grade students and 38% of 11th grade students were proficient or better on the state’s social studies exam.³

48. The 2023 Civic Health Assessment conducted at the University of Louisville similarly gave Kentucky an overall civic health grade of “C”, citing, among other things, the fact that only 5 of 10 Kentuckians could name all three branches of government and only 49% could name a local official; even more troubling was the fact that more than one-fourth of regular voters “could not successfully name ONE branch of government. Of this group, 71.3 percent could not name either of Kentucky’s senators and 36% could also not name the Governor.”

Secretary of State Michael G. Adams, *2023 Civic Health Assessment*, 9-10

(<https://www.sos.ky.gov/SiteAssets/Pages/Civic-Health-Assessment/Civic%20Health%20Report%20Final.pdf>).

49. Students and parents today are largely unaware that the Kentucky Constitution guarantees all students an adequate and equitable education or of the goals of an adequate and equitable education. In fact, prior to KSVT’s decision to research the history of the *Rose* case and consider its relevance to current educational problems, none of the student members of

³ Unless otherwise indicated, all statistics on student performance and student characteristics in this complaint, other than NAEP statistics, are taken from the Kentucky Department of Education School Report Card, available at <https://www.kyschoolreportcard.com/home>.

KSVT and none of the individual plaintiffs had even heard of the *Rose* case or understood its significance.

50. Over the past year, KSVT has conducted a “*Rose* Revival” public engagement campaign to inform students, parents, educators, and the public at large about students’ constitutional rights to an adequate and equitable education. Virtually none of the students and few of the parents attending these forums knew of students’ rights under the *Rose* decision or had even heard of the case and its significance.

51. Wide-spread ignorance among contemporary students and parents about this core constitutional right in and of itself demonstrates the inadequacy of civic education throughout the Commonwealth.

Deficiencies in All Seven of the *Rose* “Capacities”

52. Today, more than 35 years after the issuance of the *Rose* decision, the Defendants are failing to meet their constitutional obligations to ensure that Kentucky students develop every one of the seven capacities that define the “adequate education” required by Article 183 of the Kentucky Constitution.

Sufficient Oral and Written Communication Skills

53. The Kentucky Supreme Court specified in *Rose* that all students need to develop “sufficient oral and written communication skills to enable students to function in a complex and rapidly changing civilization.” 790 S.W.2d, at 212. This capacity requires, at a minimum, sufficient reading, writing, and oral skills to participate effectively in civic, business, and social activities, and, especially today, information literacy skills that enable students to know how to effectively access information in libraries and on the internet and how to distinguish accurate from inaccurate information on the internet and social media.

54. Most Kentucky students are substantially deficient in each of these areas.

55. NAEP statistics indicate that as of 2022, a large majority of Kentucky students did not reach the proficiency level in 4th and 8th grade reading, with just 31% and 29% of students scoring at or above proficiency, respectively.

56. Similarly, on the Kentucky Summative Assessment only 47% of elementary school students, 45% of middle school students, and 44% of high school students reached the proficiency level in reading. In writing, only 43% of elementary school students, 43% of middle school students, and 41% of high school students reached the proficiency level.

57. On information and belief, oral and written communication skills are taught insufficiently in Kentucky schools except in advanced courses, such as AP and dual credit courses, where students enroll in college-level courses – and often not even in these courses. Many Kentucky students are unable to enroll in these courses and are therefore denied the opportunity to develop adequate oral and written communications skills. Most Kentucky teachers emphasize specific information students need to pass tests, not on developing writing skills or love of reading.

58. Large proportions of high school students across Kentucky do not have access to advanced coursework in oral and written communications. An analysis of the 2022-2023 Kentucky Report Card indicates that 32% of Kentucky school districts do not offer any form of advanced coursework in English Language Arts (“ELA”).

59. In the 2022-2023 school year, for example, 46% of Kentucky school districts (78 districts) did not offer AP Language and Composition. In districts that did offer the course, it was not available to most students. Only 15% of Kentucky students statewide had the opportunity to take the course. Other advanced courses in ELA are offered at similarly low rates and have

similarly low statewide enrollments.

60. Many students who enroll in advanced coursework do not earn qualifying grades or scores on exams and, therefore, are not deemed to be proficient. A qualifying score is defined as a “3” or above for an AP course. In 2022-2023, of the students who completed AP Language and Composition, only 36% received a qualifying score.

61. Nearly 1 in 4 Kentucky adults are functionally illiterate, meaning that they can read and comprehend only basic material. Based on studies from 2012, 2014, and 2017, adults in only two Kentucky counties were, on average, considered proficient readers. Mandy McLaren, *A \$335 billion loss: The hidden ways Kentucky’s reading battle is costing us*, Louisville Courier Journal, Oct. 19, 2022 (<https://www.courier-journal.com/in-depth/news/investigations/2022/10/19/between-the-lines-kentucky-early-literacy-crisis-costs-state-billions/69560076007/>) (updated Oct. 27, 2022).

62. Recognizing the seriousness of the low level of reading proficiency throughout the Commonwealth and that “reading proficiency is a gateway skill necessary for all of Kentucky students to achieve the academic goals established in KRS 158.6451,” the General Assembly enacted the “Read to Succeed Act” in 2022. KRS 158.791. This statute requires every elementary school to provide evidence-based reading and writing instruction, quality instruction by highly trained teachers, and a multi-tiered system of supports to engage all students in learning to read at the proficiency level by the end of third grade.

63. Although the General Assembly has now acknowledged the Commonwealth’s past failure to teach basic reading skills to all or most Kentucky students as required by *Rose* and KERA, it has failed to provide school districts with sufficient resources to properly implement the Read to Succeed Act, including but not limited to, by hiring sufficient numbers of qualified

teachers and reading intervention specialists, offering adequate teacher pre-service and in-service training, and providing sufficient instructional materials to meet these goals in the foreseeable future.

64. On information and belief, few teachers provide students meaningful opportunities to give oral presentations in class or other opportunities that would allow them to develop adequate oral communication skills. Without these opportunities, most Kentucky students are ill-prepared to make public presentations and engage in reasoned argument.

65. On information and belief, most schools in Kentucky fail to provide their students with adequate opportunities in speech and drama, debate, mock UN, and other school-based activities that would develop and enhance oral communication skills. Programs like Kentucky Youth Advocates and Kentucky United Nations Assembly provide opportunities to develop these skills; however, these are generally community-based programs administered by the Kentucky YMCA. On information and belief, they are only available to a select group of students and are not integrated with the curriculum that all students receive in school.

66. Although Kentucky's academic standards call for schools to develop students' ability to engage in critical thinking, on information and belief, most schools in Kentucky do not implement these standards. Inadequate accountability and assessment systems and widespread reliance on rote learning and standardized testing in Kentucky's schools, in fact, discourages development of critical analytic skills.

67. On information and belief, most schools in Kentucky deny their students meaningful opportunities to have a "voice" and to participate in student government in order to develop and enhance their oral communication skills.

68. Basic communication skills today require information literacy, i.e., knowing how to distinguish erroneous information online, understand media bias, apply critical thinking skills to media messages, utilize artificial intelligence effectively, and understand how to avoid the damaging effects of social media on emotional health and wellbeing.

69. On information and belief, most Kentucky schools fail to properly instruct their students in information literacy and fail to comply with the requirements of the Kentucky Academic Standards for Technology.

70. KRS 158.102 requires local school districts to “establish and maintain a library media center in every elementary and secondary school to promote information literacy and technology in the curriculum, and to facilitate teaching, student achievement, and lifelong learning.” *Id.* That statute also requires all schools to hire certified school media librarians to “organize, equip, and manage the operations of the school media library.” *Id.*

71. School media librarians are trained and equipped to provide effective information literacy instruction directly to students and to provide support and in-service training in information literacy to classroom teachers.

72. On information and belief, many schools in Kentucky do not have library media centers at all and many that do have such centers use them only as spaces for students to study, rather than as resources for learning. Similarly, on information and belief, most schools do not have certified school media librarians, and many do not even have any adult staffing the library.

73. For example, in Plaintiff Abigail Ladwig described her school’s library stating, “My limited knowledge of our school library speaks volumes. I have no idea what it is used for, and I have never seen a student check out a book. I hardly ever see any adults in the library.” She said that sometimes the “library” space is used as a place to take a test if a student missed a class.

The books that are there are very outdated, and she has had to borrow most of the classic literature she has read—like *1984* and *Fahrenheit 451*—from her English teacher. She believes this prevents most students from having access to important works of literature. In addition, there is no systematic attempt to instruct students in information literacy or on how to distinguish accurate from inaccurate information, although some teachers will advise students not to use Wikipedia as a source.

Sufficient Knowledge of Economic, Social, and Political Systems

74. The Kentucky Supreme Court specified in *Rose* that all students need to acquire “sufficient knowledge of economic, social, and political systems to enable the student to make informed choices.” 790 S.W.2d at 212. Such skills require, at a minimum, substantial knowledge of history, economics, and the workings of the American political system at the federal, state, and local levels.

75. On information and belief, most Kentucky students are not provided adequate learning opportunities in each of these areas. Students leave school with insufficient knowledge of economic, social, and political systems to make informed choices in their personal lives and to participate as capable voters and jurors in the federal, state, and local political systems.

76. Kentucky does not require students to take courses in economics or civics, and many schools do not even offer such courses.

77. Kentucky schools do provide all students instruction in American history, world history, and social studies. However, since the enactment of the federal No Child Left Behind Act (NCLB) in 2002, many schools have reduced the amount of instructional time allotted to instruction in history and social studies in order to increase the amount of time available for instruction in reading and mathematics, especially in the elementary and middle schools.

Although NCLB requires states to track and report student progress in reading and mathematics, NCLB neither requires nor condones reducing instruction in social studies and civics.

78. On paper, Kentucky has appropriate academic standards for the teaching of American history, world history, and social studies. These standards are organized around and substantially emphasize the “inquiry method” for understanding history and social studies:

The KAS [Kentucky Academic Standards] for Social Studies is organized around the inquiry practices of questioning, investigating, using evidence and communicating conclusions. Students will consider or pose questions and then investigate those questions through the disciplinary lenses of civics, economics, geography and history. Students complete the inquiry process by communicating evidence-based conclusions. ...

Throughout a child’s social studies education, students engage in the inquiry practices – questioning, investigating, using evidence and communicating conclusions. Students use these practices to acquire, refine and extend knowledge and understanding of key social studies concepts within the four disciplinary lenses of civics, economics, geography, and history. ... *[C]oncept knowledge cannot be achieved effectively without the practice of inquiry. Neither development of the practices nor development of the knowledge and understanding within the lenses is sufficient on its own to equip young people with the knowledge and skills necessary to carry on the ideals of the founders.*

Kentucky Department of Education, *Kentucky Academic Standards for Social Studies*, 10 (Dec. 2022)(https://www.education.ky.gov/curriculum/standards/kyacadstand/Documents/Kentucky_Academic_Standards_for_Social_Studies.pdf) (emphasis added) (hereinafter Kentucky Academic Standards for Social Studies).

79. The inquiry method requires teachers to focus their instruction on the following processes:

Questioning - The development of two types of questions – compelling and supporting – is essential to the study of each social studies discipline. Compelling questions are open-ended, enduring and centered on significant unresolved issues.

Investigating - The Investigating portion of the inquiry process enables students to gain insight into compelling and supporting questions using content, concepts and

tools from each social studies discipline. Investigating involves the skills students need to analyze information and develop substantiated conclusions.

Using Evidence - All valid claims must be based on logical evidence. In order for students to construct coherent arguments and explanations using their understanding of the social studies disciplines, they must understand how to substantiate those claims using evidence. This skill requires students to collect, evaluate and synthesize evidence from primary and secondary sources to develop and support a claim.

Communicating Conclusions - A student's ability to communicate their own conclusions effectively and listen carefully to the conclusions of others can be considered a capstone of social studies disciplinary practices. Traditional products such as essays, reports, tables, diagrams, graphs, multimedia presentations and discussions can be used to share conclusions with a variety of audiences. In a world of ever-expanding communication opportunities inside and outside their school walls, students should also be able to utilize newer media forms in order to share their conclusions and hear the voices of those whose conclusions may be different.

Kentucky Academic Standards for Social Studies, at 11.

80. Most social studies teachers in Kentucky lack sufficient training in how to teach using the inquiry method, especially in the disciplines of civics and economics.

81. With the exception of some Advanced Placement and other advanced honors classes, on information and belief, teachers throughout the Commonwealth do not teach social studies through the inquiry method. Therefore, most students do not meet the minimum content requirements established in the required social studies academic standards before graduating from high school. 704 KAR 3:303.

82. On information and belief, students can obtain sufficient knowledge of economic, social, and political systems in Kentucky schools only by enrolling in AP and dual credit courses (but not even in all of these courses), and students who do not or cannot enroll and earn qualifying scores in these courses are being denied an adequate opportunity to acquire sufficient knowledge of economic, social, and political systems.

83. Among all the advanced courses in this area offered by Kentucky school districts, the one with the highest enrollment is AP U.S. History. However, only 10.6% of Kentucky students who were in high school during the four-year period from 2019-2020 to 2022-23 enrolled in this course.

84. In AP U.S. History and 6 other AP courses that deal with economic, political and social issues, only between 31% and 49% of students earned a score of “3” on the qualifying exam and were therefore deemed “proficient.” There was only one course, AP Comparative Government and Politics, where most students (90%) earned a qualifying score.

85. On information and belief, most social studies instruction in Kentucky schools involves only superficial discussion of historical facts, addresses only a limited range of subject matter domains, and fails to cover important current economic and political events. For example, on information and belief, most American history and world history courses do not cover events or issues that occurred after World War II or even after World War I.

86. Accordingly, most Kentucky students graduate from high school without sufficient knowledge of basic history, civics, and social studies, as demonstrated by the fact that on the most recent state social studies exam, only 38% of 11th graders scored at or above proficiency.

87. For example, plaintiff Bryan Xia states that his school “has not sufficiently prepared us to make fully informed choices in these complex areas. The curriculum often focuses on theoretical aspects without connecting them to real-world applications and current events. This lack of practical context limits our ability to understand and analyze contemporary economic, social, and political issues effectively. Additionally, there is a significant emphasis on rote learning and standardized testing, which does not encourage critical thinking or in-depth

exploration of these systems. The school also falls short in offering extracurricular opportunities, such as debates, model UN, or internships, that could enhance our understanding and engagement with these topics.”

88. The inquiry method and the development of skills that enable students to make informed economic, social, and political decisions require, among other things, exposing students to controversial ideas in the classroom. The teaching of controversial subjects in a non-partisan manner instills in students a sense of the complexity of issues, awareness of positions different from those they are likely to encounter at home or among friends, and an understanding of why respectful discussions about these issues with those who hold different views is essential in a democratic society. Discussing controversial issues in the classroom also teaches students the importance of obtaining and relying on accurate facts, since one cannot engage in respectful discussion with individuals with differing viewpoints without creating an agreed factual basis upon which to argue each viewpoint.

89. Indeed, the General Assembly has recognized the importance of teaching students how to engage respectfully with someone who holds a different opinion; KRS 158.1413(1)(g) requires, as a component of essential workplace ethics, that students receive instruction in “respect for different points of view and diversity of coworkers.”

90. But, on information and belief, the majority of middle schools and high schools in Kentucky do not even attempt to promote active classroom discussion of controversial topics and do not, in fact, provide effective instruction to enable students to make informed civic, economic, social, and political choices. Plaintiff Charlstyn Heath notes in this regard that “I haven’t had any courses that ask us to discuss controversial issues with students we disagree with. Yes, I think

that would be extremely helpful. It's very important to be socially aware, and we're getting ready to vote in this election. And we don't know anything. I'm 18, I get to vote.”

91. The Commonwealth's general failure to support Kentucky teachers to allow them to utilize the inquiry method effectively and to facilitate discussion of controversial issues in the classroom has been exacerbated by the enactment of KRS 158.196 in 2022. That statute modified the social studies academic standards by requiring educators to teach certain specified, definitive understandings and positions concerning values such as equality, freedom, and the significance of certain historical events. By declaring certain views to be orthodox, and proscribing any differing understandings of values or events, KRS 158.196 is inconsistent with the inquiry method. Because teachers are unsure of how supervisors or parents may interpret the application of the vague requirements of KRS 158.196 to particular lessons they may teach in American history, civics, economics, or other areas of social studies, many of them avoid posing controversial questions for class discussion or even attempting to teach through the inquiry method.

92. According to Plaintiff Danielle Chivero, there is no discussion of controversial issues in her school because “the teachers are saying they don't want to get in trouble for participating in such topics – so they discourage students from participating. Students are told not to discuss certain topics because they are controversial.”

93. Nor do Kentucky schools fare any better regarding their obligation to ensure students have sufficient understanding of economic systems. KSA 158.1411 requires all students to complete one course or program in financial literacy. Implementation guidance on teaching financial literacy developed by KDE makes clear that Kentucky schools do not have to provide a stand-alone financial literacy course, but instead can provide students access to the financial

literacy academic standards through “enrichment programs and/or experiences” and “aligned integration into other content areas.” In many Kentucky schools, these courses are taught in a superficial, rushed manner and students learn few practical financial literacy skills.

94. Many schools allow students to satisfy this requirement by taking an online “course” in financial literacy that offers no actual instruction by any teacher and consists of slide shows and PowerPoint summaries of information. Many – and on information and belief most – students in Kentucky opt to satisfy the statutory requirement by taking the online course. In some schools, the online course can be taken during the summer.

95. Plaintiff Charlstyn Heath describes her experience with economics and financial literacy courses as follows:

Our school has no economics course. We do have a financial literacy course, but it’s completely online. We have a teacher who essentially babysits. I just googled a lot of answers and typed them in. We had videos we had to watch every week, and we would just skip past those, and go to the test and google the answers. So, we’d just slack off and do whatever for the rest of the week. It’s all completely self-directed. As long as you get it done by the end of the year/semester, it’s fine. I did not become financially literate by the end of the class.

96. Some Kentucky schools that are short on qualified teachers also permit students to satisfy statutory requirements in American history and other social studies courses through similar online alternatives that offer little or no actual instruction by qualified teachers.

Sufficient Understanding of Governmental Processes

97. The Kentucky Supreme Court specified in *Rose* that every student needs to acquire “sufficient understanding of governmental processes to enable the student to understand the issues that affect his or her community, state, and nation.” 790 S.W.2d at 212. Such skills require an understanding of the basic powers and responsibilities of government at the federal,

state, and local levels, as well as knowledge and experience in civic responsibility and civic engagement.

98. On information and belief, most Kentucky students are substantially deficient in each of these areas. In particular, most Kentucky students are not aware of the major provisions of the Kentucky Constitution, including their right to an adequate and equitable education.

99. Kentucky is one of only eight states in the country that does not require a course in civics.

100. On information and belief, most schools in Kentucky do not even offer elective courses in civics. On information and belief, those few schools that do offer elective courses in civics do not sufficiently cover issues involving state and local government, as exemplified by the fact that none of the Plaintiff students had ever heard of Article 183 of the Kentucky constitution or the *Rose* decision before KSVT decided to research these issues.

101. On information and belief, most courses in American history and government offered in Kentucky schools cover some historical aspects of the structure and origin of governmental institutions, but do not cover current issues involving governmental processes and issues involving state and local government.

102. KRS 158.6451 (1)(b)(4) specifically mandates that schools develop their students' ability to "[b]ecome responsible members of a family, work group, or community, including demonstrating effectiveness in community service." However, the Defendants have failed to provide schools with the support necessary to meet this statutory – and constitutional – requirement.

103. On information and belief, most schools in Kentucky do not provide students with opportunities for service learning or civic projects that involve participation and engagement

with local community issues. Plaintiff Luisa Sanchez noted that in her school only students with a 3.5 average or above are those allowed in the national honors society, which provides them with the resources to engage in community volunteering opportunities, support to undertake individual service projects, and certificates to recognize their service.

104. On information and belief, most schools in Kentucky do not provide students with opportunities to visit local village, town, or state governmental offices, attend local council meetings, meet with governmental officials, or otherwise learn about the workings of state and local government processes first-hand. Plaintiff Raymond Robinson explained that “We never had trips to government offices or any educational field trips. One time we had a field trip to watch a movie at a movie theater – a reward for taking the ACT.”

105. On information and belief, most students in Kentucky do not receive instruction about the responsibilities of citizenship, the importance of voting, or the mechanics of registering to vote and voting.

106. On information and belief, most schools in Kentucky do not provide students meaningful opportunities and voice in discussing and influencing civic, social and educational issues at their local schools. Student councils, to the extent they exist, are expected to raise money for proms and other school events but are provided no meaningful opportunities to discuss or influence school policies that affect student life. Though KERA allows for discretion to permit students to serve on SBDMs, most schools and districts do not exercise this discretion and allow students to serve.

107. The Kentucky Supreme Court understood that the functioning of a democratic system requires its young people to be prepared to be productive civic participants capable of voting, serving on juries, and undertaking other civic responsibilities intelligently and capably.

That is why in *Rose* it emphasized the importance of civic education by setting forth the essential components of civic preparation as the first three of the seven capacities it delineated to define the constitutional purposes of an adequate education. Accordingly, the development of these three capacities not only requires the schools to impart knowledge about government functions, but also to understand governmental processes and to function in a complex and rapidly changing civilization; to do so capably by having sufficient understanding of economic, social, and political systems to enable the student to vote and make other make choices in an informed manner; and overall to develop skills that allow them to become civically engaged in their local communities and with political and social issues at the state and federal levels.

108. Despite the passage last legislative session of KRS 158.141, which mandates as a graduation requirement beginning for students entering the 9th grade in the 2025-2006 school year either “[a] the successful completion of a one-half (1/2) credit course in civic literacy or [b] a civics test,” Kentucky’s education system still fails to meet the constitutional requirement to adequately prepare students to function productively as civic participants.

109. The requirement for the half-credit course set forth in the statute consists solely of knowledge of the principles and workings of the federal and state constitutions and of certain governmental and political institutions and does not address the core constitutional requirements to develop students’ civic skills and prepare them for civic engagement.

110. More importantly, the fact that schools and students can take advantage of the alternative approach to take a “civics test,” means that, in effect, Kentucky remains one of the few states in the country that has no requirement that all students take a civics course.

111. This alternative “civics test” is not new to Kentucky. In fact, it has been the sole civics requirement in Kentucky for a number of years. The alternative “civics test” allowed by KRS 158.141 (1)(b) consists solely of:

[O]ne hundred (100) questions drawn from those that are set forth within the civics test administered by the United States Citizenship and Immigration Services to persons seeking to become naturalized citizens.

112. Most educators do not consider this “naturalization test” to be an effective way to assess civic readiness. Although some of the questions assess general social studies knowledge, the test does not comprehensively evaluate civic knowledge and does not assess civic skills, civic experiences, or civic dispositions at all. The National Council for the Social Studies stated that:

The [Naturalization Test], as constructed, was not designed to measure civic literacy and learning but rather memorization of information. ... It does not get to the knowledge, skills, and dispositions so necessary for civic life; instead, it assesses memorized answers, freely available online. ... There is also no evidence that implementing a version of this test would result in greater civic engagement ... if the USCIS [U.S. Citizenship and Immigration Services] Naturalization Test becomes the cornerstone of civic literacy ... the negative impact on instruction is likely to be significant.

Stephen S. Masyada et al, *Affirming Support for Alternatives to the USCIS Naturalization Test as a Measure of the Civic Knowledge, Skills, and Dispositions of Students*, National Council for the Social Studies (March 2018), <https://www.socialstudies.org/position-statements/affirming-support-alternatives-uscis-naturalization-test-measure-civic>.

113. Indeed, many Kentucky students believe that a student can pass this exam with little effort and little real knowledge. Generally, no instruction in civics is provided to students before they take this online exam. Student cheating is rampant, since students take the course online, usually with no teacher supervision, and can easily look up the answers to any question before they answer it.

114. Plaintiff Lacey Paige summarized her experience with the Naturalization Exam and with the state of civics education in her school as follows:

We are required to take a civics exam, but it isn't taken seriously – we can look up the answers – just get it out of the way so that you can graduate – we take it during freshman seminar class. Most people have never heard of the stuff that they ask about on the test.

Most of the students in my class didn't know when the constitution was written, etc. – people didn't know basic things about America and the political system – scary to think that these are the people who will be voting in a couple years.

Our school really does not help us learn about political systems. People don't even come to inform us about voter registration.

115. Passing this Naturalization Exam is not a reasonable substitute for an adequate civics course. As discussed above, the test does not evaluate – let alone teach – civic preparation and values.

116. The original KERA law recognized that teachers and parents must be involved in developing and implementing important school policies, to provide an environment where students can succeed and to achieve major policy goals outlined in KERA and the *Rose* opinion.

117. But student voice and participation in the development and implementation of major school policies is also necessary for the achievement of major educational policy goals, including but not limited to, civic preparation.

118. Defendants have failed to encourage and maintain effective teacher, parent, and student involvement in developing and implementing educational policies, including civic preparation, at the school level. As a result, Kentucky students are not receiving constitutionally adequate civics education.

Mental and Physical Wellness

119. The Kentucky Supreme Court specified in *Rose* that every student needs to acquire “sufficient self-knowledge and knowledge of his or her mental and physical wellness.” 790 S.W.2d at 212. This means that students must not only learn the fundamentals of mental and physical wellness, but they must also learn how to address mental and physical wellness issues they may be experiencing.

120. In addition, KRS 158.6451(1)(e) mandates that “Schools shall reduce physical and mental barriers to learning.”

121. The Defendants have failed to comply with the constitutional and statutory requirements set forth in the previous two paragraphs.

122. 704 KAR 3:305 requires all high school students to take a one-semester course in health education.

123. However, according to the 2022-2023 Kentucky Report Cards, 18% of Kentucky schools did not offer any health education in 2022-23.

124. In many schools that do offer health education, students are permitted to meet the health class requirement by taking an online class, similar to the online class to satisfy the financial literacy requirement discussed in paragraphs 94-95 above. This course provides little or no teacher instruction and consists of slides and PowerPoint presentations that can be quickly run through in a day or two. This is inadequate to equip students to maintain their physical and mental wellness and to overcome health challenges they encounter.

125. On information and belief, the health course provided in schools that do offer it provides minimal information about physical and mental wellness and instead merely provides superficial coverage of bodily autonomy and drug use.

126. Kentucky requires students to take only one semester of physical education in high school, 704 KAR 3:305, Section 3(4)(f), although most states require high school students to take physical education for several semesters or even all eight semesters.

127. Mental wellness is a serious problem among Kentucky's youth. In 2019, 14% of Kentucky students had a mental health disorder, 50% of middle school students reported that their mental health was not good, and 8.8% of middle school students and 8.1% of high school students reported that they had attempted suicide. Kentucky Association for Psychology in the Schools, *Kentucky's School Mental Health Toolkit*, 9 (2021) (available at <https://kapsonline.org/wp-content/uploads/2021/09/KAPS-School-Mental-Health-Toolkit-web.pdf>).

128. Indicators of mental distress among Kentucky teenagers have increased since the pandemic. For example, the percentage of youth reporting serious psychological distress increased from 13.9% in 2012 to 21.7% in 2021, and the number of 6th grade students seriously considering suicide rose from 5.8% in 2014 to 9.9% in 2021. State Interagency Council, *Indicators of Social and Emotional Health and Wellbeing of Kentucky Youth* (2021), <https://www.reacheval.com/kentucky-youth-sehwb>. In 2023, 18.6% of Kentucky high school students seriously considered attempting suicide during the previous 12 months. Kentucky Department of Education, *2023 Kentucky Youth Risk Behavior Survey Results*, 15 (June 21, 2024, 3:01 PM), <https://www.education.ky.gov/curriculum/WSCC/data/Documents/2023%20High%20School%20Summary%20Tables.pdf> (hereinafter 2023 Youth Risk Behavior Survey).

129. Over 30% of Kentucky high school students missed one or more days of school because of mental health struggles, including stress, anxiety, and depression, during the previous 30 days. 2023 Youth Risk Behavior Survey, 111.

130. The Defendants have enacted some laws and regulations that seek to prevent or ameliorate the manifestation of mental health problems in the schools. For example, KRS 158.4416(2) calls upon all public schools:

to adopt a trauma informed approach to education in order to better recognize, understand, and address the learning needs of students impacted by trauma and to foster a learning environment where all students, including those who have been traumatized, can be safe, successful, and known well by at least one (1) adult in the school setting.

Similarly, 158.4416(3) states that:

It shall be the goal that each school district and each public charter school shall provide at least one (1) school counselor or school-based mental health services provider who is employed by the school district for every two hundred fifty (250) students, including but not limited to the school counselor required in subparagraph 1 of this paragraph

and that:

A school counselor or school-based mental health services provider at each school shall facilitate the creation of a trauma-informed team to identify and assist students whose learning, behavior, and relationships have been impacted by trauma.

131. However, the General Assembly has not provided sufficient funds to reach these goals and, on information and belief, at least 100 schools in Kentucky lack any school counselors and approximately half of Kentucky's schools do not meet the 1:250 counselor to student ratio goal.

132. In an apparent effort to comply with the requirement in KRS 158.4416(c)(2) that the trauma informed team “[i]dentify ways to recognize and respond to mental health issues in all students,” KDE has established a Kentucky Multi-Tiered System of Supports (“KyMTSS”)

system. KyMTSS is a comprehensive framework that integrates mental health, social-emotional learning, and other initiatives to support students' academic, behavioral, and mental health needs.

133. KyMTSS purports to use a three-tiered delivery model for instruction, assessment, intervention, and support. Tier 1 provides universal instruction and support for all students. Tier 2 provides targeted support for students who need specific interventions in addition to Tier 1. Tier 3 provides intensive, individualized support for students.

134. According to KDE's description of its KyMTSS system, 80% of students should have their needs met by Tier 1 preventive services like wellness check-ins, calming spaces, suicide prevention, and bullying prevention; 10-15% of students require Tier 2 support services like small groups and individual counseling and social and emotional learning and behavioral interventions; and 3-5% of students should receive Tier 3 intensive services such as individual counseling, threat and risk assessments, and crisis management. *Tiered Delivery System with a Continuum of Supports*, KyMTSS (last visited Dec. 9, 2024), <https://kymtss.org/essential-elements/tiered-delivery-system-with-a-continuum-of-supports/>.

135. On information and belief, only a small fraction of students in Kentucky schools actually receive the mental health services described in the KyMTSS system.

136. In many schools, the available counselors concentrate solely on scheduling and college advising issues and provide no mental health support whatsoever. On information and belief, most schools also lack any other health professionals to provide these services.

137. Only 22% of Kentucky high school students who report having felt sad, empty, hopeless, angry, or anxious report getting the help they need. 2023 Kentucky Youth Risk Behavior Survey.

138. In order to maintain a safe learning environment where orderly learning is possible and encouraged, KRS 158.148 requires each local school board to develop and enforce a discipline code that, among other things, specifically prohibits bullying. The statute also requires KDE to issue statewide student discipline guidelines to ensure safe schools and update the guidelines every two years. KRS 158.444 requires the KBE to promulgate appropriate administrative regulations relating to school safety, student discipline, and related matters.

139. On information and belief, most schools in the Commonwealth do not effectively implement their anti-bullying codes or the state's anti-bullying regulations and guidelines.

140. According to the 2023 Kentucky Youth Risk Behavior Survey, 22.5% of Kentucky students said that they were bullied on school property during the previous 12 months, and 18.3% said that they were bullied through texting, Instagram, Facebook, or other social media. *Id.*, at 12-13. Accordingly, serious instances of bullying and harassment, especially against refugee and minority students, occur regularly at many schools without serious efforts being made by the administrators to avoid such behavior and by the Defendants to enforce the requirements of KRS 158.148.

141. Although many instances of bullying and harassment go unreported, even KDE's reported data indicates that bullying is a serious problem. In 2022-2023, there were 18,909 reported incidents of bullying or harassment, up 9% from 2018-2019. School discipline figures have reached alarming levels: over the past five years, the number of out-of-school suspensions has risen 22% from 61,877 to 75,620, the number of incidents of assault or violence has increased 35% from 5,104 to 6,875, and the number of behavior incidents involving a gun or other deadly weapon has doubled. KDE, 2022-23 Safe Schools Annual Statistical Report (2023),

<https://www.education.ky.gov/school/sdfs/Documents/2022-23%20School%20Safety%20Annual%20Statistical%20Report.pdf>.

142. On information and belief, most Kentucky schools do not provide safeguards or mental health supports for students who are victims of bullying or harassment.

143. As Plaintiff Danielle Chivero has put it, “Our school has normalized bullying. . . I experienced a bullying incident last semester along with some other black students because we joined a new African club that was formed. When incidents like this happen, some teachers or administrators might try to intervene. But there are still students who continue to make fun of other people’s race. The school’s efforts are not effective at promoting interracial understanding. No action is taken if a student reports a bullying incident. Students will make a comment about someone’s race and think it’s a joke; the school will do nothing about it and nothing to promote interracial understanding. There are mental or physical fights going on all the time that interfere with learning. Occasionally, a student may get suspended, but he will then come back and do the same thing.”

144. Although vaping is theoretically prohibited in Kentucky schools, vaping is rampant in most schools. Over 11% of Kentucky students acknowledge using electronic vaping products on school grounds, and many Kentucky schools need to close down their rest rooms to try to limit use of vaping products. 2023 Kentucky Youth Risk Behavior Survey, 102. According to the survey, almost 20% of Kentucky high school students self-report as current users of vaping products. *Id.*, at 28.

145. According to Plaintiff Raymond Robinson, “A lot of vaping goes on at my school – it’s very terrible. We have metal detectors and searches – but kids still bring stuff in. Kids sell the marijuana vapes inside of school. Teachers would know and wouldn’t say anything.”

146. Involvement of parents, teachers – and students – in developing and implementing physical and mental wellness policies is essential to the success of such policies in the schools. Nearly 50% of schools fail to involve students’ families in developing or implementing policies or programs related to student health. Kentucky Department of Education, 2022 School Health Profiles Report, Weighted Principal Survey Results (2022), p. 66.

147. Over the past 35 years, the Commonwealth has not sufficiently inculcated self-knowledge of physical wellness in most of its population, as is demonstrated by the fact that Kentuckians have worse health outcomes than the U.S. median on nearly every health metric. The chart below compares Kentucky health outcomes to the U.S. median in 2021:

Metric	Kentucky	U.S.
Percent of adult population reporting <i>fair or poor health</i>	22.6%	14.8%
Percent of adults who did not participate in any <i>physical activity</i> in the past 30 days	30.5%	23.7%
Percent of adults who are <i>current smokers</i>	19.6%	14.4%
<i>Youth obesity</i>	19.6%	16.3%
Youth – Regularly drinks two servings of <i>soda</i> daily	18.5%	8.5%
Youth – Regularly <i>skips breakfast</i>	77.0%	75.0%
Youth – Does not regularly eat <i>vegetables</i>	10.8%	9.3%
Youth – <i>Teen pregnancy</i> (births per 1,000 females 15-19 years of age)	22.3	14.3
Youth – Experienced <i>dating violence</i>	13.5%	9.7%.

Kentucky Department of Health, State Health Assessment (2023); Center for Disease Control, Teen Birth Rate by State (2022).

148. Kentucky’s high teen pregnancy and dating violence rates are likely to increase in the future since KRS 158.1415, enacted in 2023, requires that parents’ written consent be obtained before any middle or high school student receives any instruction on human sexuality. Even if parents consent to their children being taught these essential health concepts, teachers are not being trained on how to teach sexual health to middle and high school students. Less than 30% of schools had any staff receive professional development on sexual health topics over the past two years. Kentucky Department of Education, 2022 School Health Profiles Report, Trend Analysis Report - Principal Survey (2022).

Art and Cultural Appreciation

149. The Kentucky Supreme Court specified in *Rose* that students need to obtain “grounding in the arts to enable each student to appreciate his or her cultural and historical heritage.” 790 S.W.2d at 212. Compliance with this requirement requires knowledge and appreciation of art in general, of the cultural and historical heritage of American and Kentuckian culture and of students’ own cultural and historical heritages.

150. KRS 158.6451(1)(b)(7) mandates that schools develop their students’ ability to “[e]xpress their creative talents and interests in visual arts, music, dance and dramatic arts,” and 704 KAR 3:305 Section 4. (4)(g) requires students to take a full-year course that includes “the content contained in the Kentucky academic standards for [visual and performing arts] or a standards-based specialized arts course based on the student's individual learning plan.”

151. The Defendants have failed to comply with these constitutional and statutory requirements, and on information and belief, most Kentucky students are being denied an adequate education in all or most of these areas.

152. The state has approved a generic high school arts course called the History and Appreciation of Visual and Performing Arts (HAVPA) Survey, but only 73.5% of high schools offer this course.

153. On information and belief, in most schools, most students do not have access to a course that adequately covers visual arts, music, dance and dramatic arts, or that includes all of the content required by the state's Academic Standards for the Visual and Performing Arts.

154. In most schools, specialized arts courses beyond the survey course are not available to most students. As a result, students receive little or no opportunity to participate in creative or performance-oriented art activities, despite the statutory mandate in KRS 158.6451(1)(b)(7).

155. On information and belief, most elementary students do not receive instruction in the arts that is aligned with state standards.

156. Many Kentucky elementary students do not receive arts instruction from "art teachers" or "music teachers." All teachers with elementary education degrees are certified by the Commonwealth to teach music and visual arts. The sole requirement for this certification is one three-hour course during their undergraduate degree, which is insufficient to adequately ground students in the arts.

157. In Kentucky, all physical education teachers are certified to teach dance even if they have no education or training in dance or the performing arts. Similarly, all English teachers and school librarians are certified to teach theater even if they have no training in this artform.

158. On information and belief, in many schools, students are permitted to meet the art requirements by taking an online humanities class, similar to the financial literacy and health education online classes discussed in paragraphs 94-95 and 124, above, respectively, that

includes little or no teacher instruction and consists of slides and PowerPoint presentations that can be completed in a day or two.

159. On information and belief, most schools in Kentucky fail to provide their students with opportunities to understand and appreciate Kentucky's cultural and historical heritage and individual students' own cultural and historical heritage.

160. Schoolwide holiday celebrations in most schools are limited to mainstream cultural concepts, and students are discouraged from discussing their own cultural traditions and heritage in the classroom.

161. Kentucky schools' failure to appreciate and respect the cultural and historical heritage of many minority students contributes to harassment and bullying of those students. For example, one of Plaintiff Michelle Zheng's teachers mocked minority cultures, especially Chinese culture, which greatly offended Michelle. According to Michelle, "Many students make very micro aggressive comments, students call each other slurs, and authority figures are complacent in addressing it. And sometimes they make microaggressive comments themselves."

162. Last year, a Tunisian foreign exchange student in Plaintiff Charlstyn Heath's school was bullied by a student who repeatedly asked him if he was really Muslim because she thought he was gay. The Tunisian student cried and said that he wanted to go home. This year, the school has a Norwegian exchange student who also feels harassed by some of the students. She does not feel that people are respecting of her culture. Some students asked her to say the "N" word in her language.

163. Involvement of parents, teachers, and students in developing and implementing cultural and historical appreciation policies is essential to the success of those policies. On information and belief, however, parents, teachers, and students are not involved in the

development and implementation of cultural and historical appreciation policies in most Kentucky schools.

164. There is virtually no monitoring of instruction in the arts in Kentucky schools, thwarting oversight and enforcement of the constitutional and statutory mandates. In the first decades after enactment of KERA, there were performance assessments and written testing requirements in the arts. Because art scores counted toward a school's overall performance assessment, there was meaningful compliance with the basic arts requirements. After 2009, KDE eliminated these tests and replaced them with program reviews. Those reviews have also now been eliminated and schools are merely required to submit forms indicating the number of certified arts educators on staff and (for high schools) which approved arts courses are being offered.

165. On information and belief, the program reviews sought to assess program quality and when such reviews were required, attention was paid to the *Rose* requirement that arts instruction include appreciation of students' own cultural and historical heritage. Today, accountability for compliance with this constitutional requirement is limited to checking a box on a form to attest that a single required course is offered at the school.

Sufficient Academic or Vocational Training to Pursue Life Work

166. The Kentucky Supreme Court specified in *Rose* that students need to obtain "sufficient training or preparation for advanced training in either academic or vocational fields so as to enable each child to choose and pursue life work intelligently." 790 S.W.2d at 212. In addition, KRS § 158.6451 (1)(f) states that: "Schools shall be measured on the proportion of students who make a successful transition to work, postsecondary education, and the military."

This means that academically-oriented students must be well prepared for college and vocationally-oriented students must be well-prepared for productive careers.

167. On information and belief, most Kentucky schools lack sufficient guidance counselors to provide proper college and career counseling and advice. In Owensboro High School, for example, there is one college counselor for 1,500 students and most college-bound students are granted one 10-20-minute counseling session with this individual.

168. 704 KAR 3:305, Section 2 requires each school district to “implement an advising and guidance process throughout the middle and high schools to provide support for the development and implementation of an individual learning plan for each student. The plan shall include career development and awareness and specifically address the content as provided in the Kentucky academic standards for career studies.”

169. That section further provides that “Beginning with a student's eighth grade year, the individual learning plan shall set learning goals for the student based on academic and career interests and shall identify required academic courses, electives, and extracurricular opportunities aligned to the student's postsecondary goals. The school shall use information from the individual learning plans about student needs for academic and elective courses to plan academic and elective offerings.”

170. On information and belief, many Kentucky middle and high schools have not developed individual learning plans for their students, in part because of the shortage of guidance counselors. In many of the schools where such plans are created, the “individual learning plan” consists of checking boxes and answering questions on a Google form that students fill out online in 5 or 10 minutes with no input by a teacher or counselor and no discussion beforehand or feedback afterwards with a teacher or counselor.

171. According to the KDE measure of “post-secondary readiness” in 2023, only 79.1% of 12th grade students are “post-secondary ready.” That figure does not include the additional number of students who dropped out of school before the 12th grade. This means that 34 years after the Kentucky Supreme Court held that “each” student was entitled to “sufficient training or preparation for advanced training in either academic or vocational fields so as to enable [them] to choose and pursue life work intelligently,” *Rose*, 790 S.W.2d at 212, by the KDE’s own statistics more than 20% of Kentucky students do not, in fact, receive sufficient academic or vocational training to prepare them adequately for college or career.

172. The percentage of Kentucky high school graduates entering college has plummeted from 62% in 2020-11 to 53% in 2022-2023. In 2022, Kentucky’s Postsecondary Degree Attainment Rate (associate degree and higher) was 38%, and the Commonwealth ranked 44th in the nation on this measure. Prichard Committee, *Building a Groundswell for a Big Bold Future* (2022), <https://www.prichardcommittee.org/big-bold-future>.

173. On key indicators of college readiness, including benchmark scores on college admissions and college placement exams like the ACT, Kentucky students score below the national average.

174. In 2024, only 59% of students who took the Career and Technical Education assessment received a passing score. Prichard Committee, *The Case for a Meaningful High School Diploma* (2024), <https://www.prichardcommittee.org/resources/the-case-for-a-meaningful-high-school-diploma>.

175. Compared to students in other states, few Kentucky students enroll in AP courses. From 2019 to 2023, only 2-6% of Kentucky high school students were enrolled in AP courses like AP Biology, AP Calculus AB, AP Chemistry, AP Physics I: Algebra Based, and AP

Statistics and only 30-42% who took AP exams received a qualifying score. According to the College Board, the average AP score in Kentucky was 2.69, compared to the national average of 2.91.

176. Employment statistics indicate that Kentucky schools are not preparing students to enter the workforce or to stay there. In 2023, only 75% of Kentuckians aged 25-64 participated in the workforce and the Commonwealth was 44th in the nation on this measure.

177. The problem is not that there are not enough jobs. Despite the high unemployment rates cited above, 80% of Kentucky employers say there are not enough workers in their local market and 70% have difficulties filling open positions. The shortage is worse for skilled and semi-skilled workers at 64 and 62%, respectively, indicating that Kentucky schools simply are not preparing students to work in skilled and semi-skilled professions. Employers do not have the same problem finding unskilled labor – only 36% reported difficulties recruiting unskilled workers. Charles Aul, New survey data shows Kentucky employers' views on the economy, public policy, and business challenges, Kentucky Chamber Bottom Line (Oct. 25, 2023), <https://kychamberbottomline.com/2023/10/25/new-survey-data-shows-kentucky-employers-views-on-the-economy-public-policy-and-business-challenges>. These statistics indicate that the Defendants are failing to ensure Kentucky students are prepared to pursue life work, and that students are not the only ones paying the price: Kentucky employers and the Kentucky economy are suffering as a result, too.

Competing Favorably with Counterparts in Surrounding States

178. The Kentucky Supreme Court specified in *Rose* that Kentucky students need to attain “sufficient levels of academic or vocational skills to enable public school students to

compete favorably with their counterparts in surrounding states, in academics or in the job market.” 790 S.W.2d at 212.

179. By all available measures, Kentucky students are not competing favorably with their counterparts in surrounding states. For example, data maintained by the federal government shows that Kentucky is behind most of its surrounding states with respect to adult literacy and numeracy rates as shown below:

Adult Literacy Rate		Adult Numeracy Rate	
State	National Rank	State	National Rank
Virginia	23	Virginia	22
Ohio	25	Ohio	26
Indiana	27	Missouri	29
Missouri	30	Illinois	30
Illinois	31	Indiana	31
Kentucky	38	Kentucky	37
Tennessee	40	West Virginia	40
West Virginia	41	Tennessee	41

Institute of Education Sciences, *Comparison Charts of State and County Estimates – Program for the International Assessment of Adult Competencies: U.S. States*,

<https://nces.ed.gov/surveys/piaac/skillsmap/src/PDF/STATE.pdf>.

180. Compared to surrounding states, Kentucky has the lowest percentage of 18–24-year-olds enrolled in college.

State	National Rank in 2017
West Virginia	9
Virginia	22

Indiana	23
Ohio	24
Missouri	26
Illinois	37
Tennessee	41
Kentucky	43

National Information Center for Higher Education Policymaking and Analysis,

[http://www.higheredinfo.org/dbrowser/index.php?submeasure=331&year=2017&level=nation&mode=graph&state=.](http://www.higheredinfo.org/dbrowser/index.php?submeasure=331&year=2017&level=nation&mode=graph&state=)

181. Compared to surrounding states, Kentucky has the second lowest six-year graduation rate for students pursuing bachelor’s degrees.

State	National Rank in 2018
Virginia	9
Illinois	16
Indiana	17
Missouri	23
Ohio	24
Tennessee	28
Kentucky	36
West Virginia	46

National Information Center for Higher Education Policymaking and Analysis,

[http://www.higheredinfo.org/dbrowser/?level=nation&mode=graph&state=&submeasure=27.](http://www.higheredinfo.org/dbrowser/?level=nation&mode=graph&state=&submeasure=27)

182. Kentucky students have obtained fewer college and graduate school degrees than 5 of the 7 surrounding states and are also below the national average on this measure.

State	Postsecondary Degree Attainment Rate
<i>National Average</i>	54.3
Virginia	59
Illinois	57.1
Indiana	53.3
Ohio	52.3
Missouri	50.5
Kentucky	50
Tennessee	47.9
West Virginia	45.4

Lumina Foundation, <https://www.luminafoundation.org/stronger-nation/report/#/progress>.

183. Similarly, in terms of Workforce Participation Rates, Kentucky is behind all of the surrounding states except West Virginia.

State	Workforce Participation Rates
<i>National Average</i>	62.6
Virginia	66.6
Illinois	65.5
Missouri	64.5
Ohio	63.4
Indiana	63.1
Tennessee	59.9
Kentucky	58.3
West Virginia	55.9

Federal Reserve Bank of St. Louis,

<https://fred.stlouisfed.org/release/tables?eid=784070&rid=446>

Inequitable Educational Opportunities

184. The Kentucky Supreme Court held that Article 183 of the state constitution requires the public schools to “provide equal educational opportunities to all Kentucky children, regardless of place of residence or economic circumstances,” and that “[c]ommon [public]schools shall be substantially uniform throughout the state.” *Rose*, 790 S.W.2d at 212. In violation of this constitutional mandate, Kentucky’s schools are not substantially uniform and large numbers of Kentucky students are not, in fact, currently being provided equal educational opportunities.

Disparities in Funding for School Districts

185. Many school districts operate with substantially less funding per pupil than school districts in other areas, and many students do not receive educational opportunities that are available to students in other school districts in the Commonwealth.

186. KERA made substantial progress toward equalizing per-pupil expenditures across rich and poor districts during its first decade. Ten years after KERA was implemented, the gap in per capita spending between low-income and wealthier districts had narrowed substantially, and the poorest districts were able to support dramatic increases in teacher salaries relative to the wealthier districts.

187. The General Assembly’s failure to maintain adequate base amounts over the past two decades, as described in paragraphs 248 through 251 below, has undermined the equitable intent of the SEEK program. As a result, the difference in per-pupil funding between the state’s poorest and wealthiest districts now exceeds the level deemed unconstitutional by the Kentucky Supreme Court in the *Rose* decision more than three decades ago. In 1990, there was a \$3,489 per-pupil funding gap between the wealthiest and poorest school districts, in 2022 dollars. By

2022, the per-pupil gap reached \$3,902. Jason Bailey et al., *The Funding Gap Between Kentucky's Wealthy and Poor School Districts Is Now Worse Than Levels Declared Unconstitutional*, (Kentucky Center for Educational Policy, 2023), <https://kypolicy.org/kentucky-school-funding-returns-to-pre-keras-levels/>.

Disparities in Academic Achievement by District

188. Academic achievement in every subject varies widely between school districts across Kentucky. For example, the percentage of students scoring at or above proficient on the Kentucky Summative Assessment 4th Grade Reading test ranged from 13% in the Caverna Independent School District to 89% in the Anchorage Independent School District. Similarly, in Writing, the percentage of proficient 5th graders ranged from 4% in both Middlesboro Independent and Newport Independent School Districts to 84% in East Bernstadt Independent. In Math, the percentage of proficient 6th graders ranged from 11% in Carroll County to 87% in Anchorage Independent School district. In 4th Grade Science, the percentage of proficient students ranged from 13% in Menifee County to 78% in Anchorage Independent School District. These vast disparities in achievement by district, in many cases of over 70 percentage points, are present in every subject in virtually every grade level tested and demonstrate that Kentucky students are being denied equal access to the educational capacities enumerated in *Rose* and in KERA, based on where they happen to live.

189. Access to courses varies substantially for students in school districts across the Commonwealth. For example, although KDE has approved a total of 75 distinct History and Appreciation of the Visual and Performing Arts courses, 69 high schools (17.8% of all high schools) offer *only one* of these approved courses and 40 high schools (10.3%) offer *only two* of

these approved courses. Meanwhile, there are 20 high schools (5.2%) that offer 20 or more of the approved arts courses evidencing great inequity of opportunity.

Discrimination Against Racial and Ethnic Groups

190. Students from minority groups suffer racial and ethnic discrimination in many Kentucky schools. For example, when Plaintiff Luisa Sanchez, a student of Hispanic/Latino ancestry, transferred to the 6th grade in Boyle County from out of state, she was not given a math placement test and was placed in the lowest track math class despite the fact that she is an outstanding math student. Many students in lower tracks remain there and then have limited access to additional academic and career opportunities. Luisa, however, complained about her lower track placement the next year and was finally allowed to move to a higher track after taking an online summer makeup course. She is now an honors student in her high school but has missed the opportunity to take certain AP courses because of the need to fill her schedule with additional make-up math classes.

191. According to the 2023 Kentucky Youth Risk Behavior survey, 67% of Black high school students, 62% of Asian students and 49% of Hispanic/Latino students felt that they were treated badly or unfairly in school because of their race or ethnicity. *Id.*, at 11.

192. On information and belief, most Kentucky schools do little or nothing to promote minority students' feelings of acceptance and belonging or to advance interracial and intergroup understanding.

193. There are glaring gaps in student achievement scores between white students and students of color, and between average income and low-income students. The fact that these gaps exist 36 years after the *Rose* decision was issued indicates that students of color and low-income students have been denied substantially equal educational opportunities for decades.

194. For example, NAEP Grade 4 reading proficiency scores for 2022 reveal a 19% gap between Black and White Kentucky students (15% and 34%, respectively) and an 11% gap between Hispanic and White students (23% and 34%).

195. The proficiency score gaps in 8th grade mathematics were even more pronounced. In 2022, the differentials between proficiency scores of Black and White students was 29% (8 and 37%, respectively) and 15% between Hispanic and White students (22% and 37%).

196. Similarly, on the Kentucky 8th grade social studies exam, a rough gauge of civic knowledge, in 2023, 38% of White students were proficient, compared to 16% of Black students and 26% of Hispanic students.

197. Also, while 34.5% of all White students in Kentucky enrolled in advanced courses (including both AP and dual credit courses where students enroll in college-level courses), only 22.8% of all Hispanic or Latino and only 21.5% of all Black students enrolled in such courses. Of those who enrolled, 32.6% of Black students and 28.3% of Latino students did not achieve qualifying scores, compared to only 19.6% of White students.

198. In 2022-2023, only 60.6% of Black and 66.5% of Hispanic or Latino high school students in Kentucky were deemed postsecondary ready, compared to 83% of White students.

199. Thirty-five percent of Black students in Kentucky were chronically absent in the 2022-2023 school year, compared to 29.4% of white students.

200. Schools with high proportions of minority populations experience much higher teacher turnover rates than schools with low proportions of minority students. From 2018-2022, the quartile of schools with the highest teacher turnover rates (24.8%) had 22.4% minority students and 28.6% of their teachers had less than four years teaching experience; by contrast,

the schools with the lowest teacher turnover rates (9.1%) had the lowest percentage of minority students (14.6%) and only 12.4% of their teachers had less than four years of experience.

Economically Disadvantaged Students

201. Students who are economically disadvantaged (“ED”) experience similar disparities in educational attainment. For example, in 2022-2023, on the Kentucky state exams, 64% of ED students scored below proficient in reading, compared to 40% of non-ED students; 73% of ED students scored below proficient in math, compared to 47% of non-ED students; and 72% of ED students scored below proficient in social studies, compared to 49% of non-ED students.

202. Only 24.1% of ED high school students in Kentucky took an advanced course during the 2022-2023 school year, compared with 33.4% of all high school students.

203. ED students also underperformed their non-ED peers in Advanced Placement courses—when they were able to take those courses, at all—with only 21.7% obtaining a qualifying score, compared to 42.2% of non-ED peers.

204. The original KERA sought to equalize opportunities for economically disadvantaged students by creating Family Resource and Youth Service Centers (“FRYSCs”). KRS 156.496.

205. Family Resource Centers (“FRCs”) serve elementary schools. The core components required of each FRC are full-time preschool childcare, after-school childcare, families in training (an educational program for new and expectant parents), family literacy services, and health services or referrals to health services. Youth Service Centers (“YSCs”) are meant for middle and high schools. Their required components are referrals to health and social

services, career development programming, summer and part-time job programming for high school students, substance abuse counseling, and mental health counseling.

206. Schools are eligible for FRYSCs when at least 20% of the student population qualifies for free or reduced school meals. KRS 156.496. Over 90% of Kentucky schools are eligible for FRYSC funding, but currently only about 56% of the schools are being funded.

207. In the first year of KERA funding (1991-1992), the General Assembly allocated \$200 per eligible student. Adjusted for inflation, the 1991-1992 funding was \$454 per student in 2024 dollars. But the General Assembly allocated \$212 per eligible student in 2024 – less than half of the per-student funding thirty years ago.

Students with Disabilities

208. Students with disabilities have also been denied equal educational opportunities in Kentucky's schools.

209. Many Kentucky schools do not employ sufficient certified special education teachers to ensure that students with disabilities receive a constitutionally adequate education. As a result, many of those certified teachers who do provide services to students with disabilities often carry caseloads well beyond the established maximums.

210. On information and belief, substantial numbers of students with disabilities are taught by uncertified teachers who lack appropriate training to meet their needs.

211. On information and belief, substantial numbers of students with disabilities are being denied specific services and supports required by their Individualized Education Programs (“IEPs”) because the schools lack sufficient numbers of psychologists, counselors, occupational therapists, physical therapists, speech therapists, paraprofessional assistants, and other related service providers and support staff. For example, last fall, there were 44 unfilled positions for

speech pathologists or therapists and 43 unfilled positions for school psychologist positions throughout the state. Joe Ragusa, *Commissioner Fletcher, KDE leaders discuss teacher shortage*, Kentucky Teacher, (October 24, 2024) <https://www.kentuckyteacher.org/news/2024/10/commissioner-fletcher-kde-leaders-discuss-teacher-shortage-assessment-and-accountability-with-interim-joint-committee-on-education/>.

212. On information and belief, many students with disabilities are denied mainstreaming and inclusion opportunities to which they are entitled by law.

213. There also are glaring disparities in the achievement scores of students with disabilities. The 2022 4th grade NAEP reading scores showed that only 12% of students with disabilities were proficient or above, compared to 31% of all students; in 8th grade mathematics the percentage of students with disabilities who scored at proficiency or above was below 1%, compared with 21% of all students.

214. Only 2% of Kentucky students with disabilities enroll in advanced courses, compared with 11% of all students.

215. Students with disabilities were more than 10 percentage points less likely to graduate within five years than students without disabilities (83.2% vs. 93.5%).

216. Only 49% of students with disabilities met standards for post-secondary readiness compared with 82% of students without disabilities.

English Learners

217. English Learners (“ELs”), a rapidly growing demographic group in Kentucky, have also been denied equal educational opportunities.

218. There is a severe shortage of certified EL teachers throughout the Commonwealth. The General Assembly’s decision to remove the requirement of a master’s

degree to be a teacher exacerbated this shortage because in the past, many educators had obtained supplemental endorsements to teach ELs as part of their master's programs.

219. For example, in the Madison County School District, there are only seven EL teachers to serve 340 EL students, a ratio of 1:49. Furthermore, these seven teachers must teach students in 18 school buildings, eating up valuable instruction time with travel time.

220. Because of a shortage of bilingual and EL teachers, many ELs are denied appropriate bilingual or English as a Second Language ("ESL") Instruction. In some schools, teacher advise EL students to use Google translate to understand their lessons.

221. Few EL students each year attain English language proficiency. In 2022-2023, only 9.1% of the 41,063 Kentucky ELs tested reached attainment (defined as achieving an overall composite score of 4.5 or higher on the ACCESS for ELLs assessment).

222. Large gaps exist in achievement scores for English Learners. In the 2022 NAEP outcomes, less than 1% of ELs were proficient in 4th grade reading, compared to 31% of all students, and less than 1% of ELs were proficient in 8th grade mathematics compared with 21% of all students.

223. On the state's math assessments, on average, only 12% of ELs scored proficient or above in math, compared to 39% of non-ELs. Only 13% of ELs scored proficient or above in reading compared to 47% of non-ELs. And only 9% of ELs scored proficient or above in social studies, compared to 39% of non-ELs.

224. In 2022-2023, the chronic absentee rate for ELs was 36% compared to 28% for all students.

Additional Areas of Constitutional and Statutory Non-Compliance

Teacher Training, Teacher Retention and Teacher Quality

225. The original KERA statute emphasized the need to improve teacher quality, recognizing that competent and effective educators are crucial for student success. The statute implemented more stringent certification requirements, mandatory professional development programs, and increased teacher compensation and incentives. 1990 Ky. HB 940 12, 56(a), 99(a).

226. In the 1990s, following the *Rose* decision and the enactment of KERA, the legislature dramatically increased funding for professional development from less than \$1 per student to \$23 per student, and permitted districts to request up to five additional days of professional development per year for all teachers on top of the four days required by law.

227. In recent years, however, the Defendants have failed to maintain these basic standards. As a result, major problems have developed in regard to teacher quality, teacher retention, and teacher professional development.

228. Schools throughout the Commonwealth are experiencing critical shortages of teachers of mathematics, science, social studies, special education, English learners, and world languages. Open teacher positions at Kentucky schools increased by 260% between 2019 and 2023. Sabrina J. Cummins, et al., *Kentucky Public School Employee Staffing Shortages*, Office of Educational Accountability, 17-18 (2023). <https://legislature.ky.gov/LRC/Publications/Research%20Reports/RR486.pdf>. For the 2023-2024 school year, 13% of all vacancies across Kentucky remained unfilled for the entire school year. Joe Ragusa, *Commissioner Fletcher, KDE leaders discuss teacher shortage*, Kentucky Teacher, (October 24, 2024)

<https://www.kentuckyteacher.org/news/2024/10/commissioner-fletcher-kde-leaders-discuss-teacher-shortage-assessment-and-accountability-with-interim-joint-committee-on-education/>.

229. Fewer candidates are enrolling in teacher preparation programs, exacerbating the shortage. From 2018-2022, 1,573 fewer people completed these programs compared to the previous five years, a decline of 11.6%. *Id.* at 25.

230. Teacher turnover rose from 14.4% in 2021 to 20.0% in 2023 a 39-percent increase in just two academic years. *Id.* At 13.

231. These shortages and high turnover rates are largely caused by low salaries and poor working conditions.

232. In 2022-2023, Kentucky's average teacher salary was 41st in the nation at \$56,296, compared with the national average of \$69,544. The Commonwealth's average starting salary was 45th in the nation at \$39,204, compared to the national average of \$44,530. National Educational Association, *2024 Reports: Educator Pay in America*, <https://www.nea.org/resource-library/educator-pay-and-student-spending-how-does-your-state-rank>.

233. Kentucky's average teacher salary is substantially below that of neighboring states like Ohio, where the average salary in 2021-2022 was \$77,000, 36% higher than the Kentucky average. *Id.*

234. Teacher pay in the Commonwealth has declined substantially in recent years. When adjusted for inflation, Kentucky teachers earned \$9,736 less per year in the 2023-2024 school year than they did 16 years ago, a 14.2% decline.

235. Because there are not enough teachers, districts retain staff who otherwise would have been terminated or non-renewed and rely on teachers who are teaching out of their

certification area, substitute teachers, or individuals with lesser or no qualifications who are teaching on emergency or provisional certificates.

236. Administrators, instructional support staff, and other specialists are often required to cover classes due to the shortage of teachers, thus undermining the continuity and quality of leadership, supervision, and instructional support.

237. Because of the teacher shortage emergency, in 2022, the Defendants approved regulations now codified in KRS 161.048 that provide a series of alternative certification options aimed at increasing the number of teachers but that do so at the cost of failing to ensure those teachers are properly qualified to provide a constitutionally adequate education. Among other things, the statute allows individuals with a bachelor's degree but no teacher training to teach on a "provisional certificate" in their academic major area for up to five years while they complete a teacher training program at an approved college or participate in a local school district training program. It also allows individuals who do not have a bachelor's degree to enroll in a three-year program that allows them to obtain a bachelor's degree from an approved college together with their teacher certification. Therefore, such individuals are teaching classes during their training period, even though they lack both a college degree and any kind of teacher certification.

238. The legislature several years ago eliminated the requirement that all teachers obtain a master's degree.

239. All of the recent regulatory and statutory changes described in the preceding paragraphs have substantially lowered instructional quality in many Kentucky schools.

240. The individual plaintiffs have experienced the impact of this pattern of teacher shortages, teacher turnover, and lowered teacher certification requirements. Plaintiff Tristan Viveros had no math teacher for his 11th grade math class; the class was taught by a teacher who

was certified in another subject and, as a result, he is currently struggling in math – as are many of his classmates. Plaintiff Lacey Paige thinks that “high teacher turnover is the biggest issue – most only last a year – my freshman teachers are all gone – many were not certified. Usually before teachers leave, they mostly quit teaching in the months preceding their departure.”

241. These teacher shortage and teacher quality issues also affect students in AP classes. Plaintiff Michelle Zheng has enrolled in a large number of AP courses during her high school career, but every year her school struggles to find qualified teachers to teach those courses because of high turnover rates. In her sophomore year, the AP Biology teacher quit, and a physics teacher who had never taught the course before struggled through with a lot of self-preparation. Michelle’s AP Statistics teacher also quit. The AP Calculus teacher picked up the class but experienced some family issues and, according to Michelle, “we were on our own for the rest of the class; he did not prepare us for the exam.” In AP Language and Composition, none of Michelle’s teachers actually taught. “They gave us busy-like assignments like ‘answer these questions on page 200 from the book in 5 sentences or more.’ There was no feedback. In AP Spanish, none of the English-speaking students reached the passing level. The AP Spanish teacher genuinely tried and did his best to prepare us for the exam, but we were lacking a lot of foundations because my previous Spanish classes were taught online by an unqualified Spanish teacher who only minored in Spanish in college.”

242. More than half (53%) of Kentucky’s teachers believe that they do not have sufficient resources to meet their students’ needs. Kentucky Department of Education, *2023-24 Impact Kentucky Working Conditions Survey*, https://secure.panoramaed.com/impactky/understand/8122905/survey_results/26258192#/questions/topics/24264. Many Kentucky teachers spend their own money to supplement their classroom supply budgets, and some teachers seek

donations from local community organizations or individuals to purchase necessary supplies for their classrooms.

243. KRS 156.095(3) requires Defendant KDE to:

...establish, direct, and maintain a statewide program of professional development to improve instruction in the public schools. Professional development programs shall be made available to teachers based on their needs which shall include but not be limited to the following areas:

- (a) Strategies to reduce the achievement gaps among various groups of students and to provide continuous progress;
- (b) Curriculum content and methods of instruction for each content area, including differentiated instruction;
- (c) School-based decision making;
- (d) Assessment literacy;
- (e) Integration of performance-based student assessment into daily classroom instruction;
- (f) Nongraded primary programs;
- (g) Research-based instructional practices;
- (h) Instructional uses of technology;
- (i) Curriculum design to serve the needs of students with diverse learning styles and skills and of students of diverse cultures;
- (j) Instruction in reading, including phonics, phonemic awareness, comprehension, fluency, and vocabulary;
- (k) Educational leadership; and
- (l) Strategies to incorporate character education throughout the curriculum.

244. The Department has failed to ensure adequate professional development in each of the areas required by the statute.

245. Since 2018, the General Assembly has suspended all funding for the teacher professional development fund, established under KRS 156.553 to “provide teachers with high quality professional development.”

246. The state mandates four professional development days but, on information and belief, these are used in most schools for understanding school regulations and procedures and cover few, if any, of the specific instructional improvement practices set forth in KRS 156.095.

247. Four days is clearly not enough time for the extensive professional development that the statute requires. Defendants do not monitor how teachers meet the minimum professional development requirements. Some school districts require some additional professional development hours, but in some of their schools, parent-teacher conferences attending the school graduation and enrolling in unmonitored online virtual programs count as professional development time.

The SEEK Funding Formula

248. A major reason for the constitutionally and statutorily inadequate education in Kentucky's schools is that the General Assembly has failed to adequately fund education, despite the Kentucky Supreme Court's mandate that "The General Assembly shall provide funding which is sufficient to provide each child in Kentucky an adequate education." *Rose*, 790 S.W.2d at 213.

249. To ensure adequate school funding, in 1990, KERA established the Support Education Excellence in Kentucky ("SEEK") program that is now codified in 702 KAR 3:270. The majority of state aid to Kentucky schools is provided through the SEEK formula.

250. The SEEK formula is based primarily on the guaranteed base amount per pupil established annually by the General Assembly. In 1990-91, the base amount per pupil was \$2,305, the equivalent of \$5,556 in 2024, adjusted for inflation. The actual base amount that the General Assembly established for the schools in 2024-2025 was \$4,200, 24% below where it should have been to retain the original SEEK base funding levels. In short, the General Assembly has allowed inflation to drastically reduce actual base funding for education.

251. In 1990, the state paid about 75% of total state-wide education costs and local districts paid approximately 25%. By 2022, the state share declined to below 50% of total state-wide education spending.

252. The inadequate level of state aid to education is a major cause of Kentucky's exceptionally low teacher salary level, which is the prime cause of the teacher shortages, teacher turnover, and low teacher quality discussed above in paragraphs 225 through 247.

253. The General Assembly's failure to adequately fund the SEEK program has a substantial detrimental effect on schools' ability to provide students an adequate and equitable education.

254. Another problem schools face is that, while KRS 157.370 requires the General Assembly to reimburse school districts for the "the average cost per pupil per day of transporting pupils" plus depreciation costs each year, every year since 2004 the General Assembly has suspended the implementation of this statute and has failed to fully fund transportation costs. For the current school year, transportation is being reimbursed to school districts at a rate of about 74% of the statutorily required amount.

255. Accordingly, school districts must take funds from core instruction and other basic education operating expenditures to support necessary and appropriate actual transportation costs or risk not being able to provide necessary transportation for all students.

256. This has led to low pay for bus drivers and support staff, severe shortages of drivers and other personnel, and substantial delays and service interruptions.

257. For example, bussing problems caused an unplanned and unexpected cancellation of classes for over a week at the beginning of the 2023-2024 school year in Jefferson County. Jefferson County Public Schools (JCPS) attempted to adjust its bussing system to accommodate

the decreased funding from the state. JCPS relied on an external vendor to create new bus routes and attempted to streamline student transportation, but the resulting fiasco left some elementary-age students stranded for hours far from home, and prompted the district to cancel school for over a week while the district addressed the problem.

Inadequate Monitoring and Accountability

258. The Kentucky Supreme Court decreed in *Rose* that “The General Assembly must not only establish the system, but it must monitor it on a continuing basis so that it will always be maintained in a constitutional manner.” 790 S.W.2d at 211. In enacting KERA, the General Assembly established the structure for an effective education system, but the Defendants have failed to monitor and maintain that system “in a *constitutional manner*.” *Id.* (emphasis added).

259. KERA established an Office of Educational Accountability (“OEA”) to monitor Kentucky’s schools in response to *Rose*’s monitoring mandate. The OEA was placed under the General Assembly’s Legislative Research Commission. As such, the OEA was entirely separate from the Kentucky Board of Education, which existed under the executive branch.

260. OEA’s primary duties included overall monitoring of KERA’s implementation, establishing a financial division to conduct an ongoing review of school financing, researching the efficiency of the school system, creating comprehensive research reports, regularly reporting to the legislature, and investigating reports of wrongdoing.

261. In the early 1990s, the OEA took a proactive approach to its watchdog duties. The early OEA annual reports to the General Assembly described staff work to monitor each KERA initiative and analyze the results of third-party evaluations as well as funding and assessment initiatives. OEA took a strong role in investigating complaints of corruption and resistance to the

new changes, and it was a major defender of the rights of new school councils. Beginning in the early 2000s, however, OEA's diligent monitoring efforts began to wane.

262. In 2000, the General Assembly created the Education Assessment and Accountability Review Subcommittee ("EAARS"). The creation of EAARS added a layer of politics to the work of the OEA, which had previously been relatively shielded from political influence. Under the 2000 amendment, much of the OEA's work—like creating annual reports and researching on academic assessments—was required to go through EAARS before being sent to the Legislative Research Commission.

263. OEA's reports between 1991-2001 had generally ranged from 150 to 300 pages and featured comprehensive discussions about KERA initiatives. For example, the 2001 annual report was 288 pages long and discussed, in detail, 13 specific instructional and service areas such as assessment and accountability, Family Resource and Youth Service Centers, and Professional Development.

264. Beginning in 2002, as a result of changes enacted by EAARS, the length of the OEA annual report dropped significantly, and the focus of the reports became far narrower in scope. For example, the OEA report for 2023 was only 24 pages long, and did not highlight issues, provide any specific recommendations by the OEA, or analyze any KERA initiatives.

265. In 2006, the General Assembly significantly expanded the power of EAARS over the OEA. Specifically, it amended the statute to allow EAARS to adopt an annual research agenda for the OEA. EAARS was also given the power to identify finance issues for the OEA to study. On information and belief, these changes increased political influence over the OEA's work.

266. The original KERA statute and numerous statutes adopted in the years since have required the Defendants to maintain statistical records of an array of student characteristics, academic achievement and educational opportunities, many of which have been cited in the previous paragraphs.

267. Defendants have failed, however, to properly utilize this information to maintain an effective, constitutionally compliant educational system. They have put a premium on requiring school administrators to check boxes on forms and have done little to follow up on the shortcomings revealed by this data, to enforce existing statutory and regulatory standards, and to provide the additional resources, programs and supports, guidance, and supervision that are necessary to monitor and maintain constitutional compliance.

268. Defendant KDE has articulated challenging 10-year goals that would, for example, raise 8th grade math scores from the current level of 26% proficiency to 75% proficiency by 2032, but, on information and belief, the Defendants have done no substantive planning on how to achieve these goals and have adopted no policies and applied no additional resources toward actually achieving them.

269. Defendants' assessment and accountability systems emphasize paper compliance and punitive action, with little or no qualitative assessment of information; they provide virtually no formative information or guidance to assist schools and districts in improving instruction and services.

270. Defendants have left much of the responsibility for establishing and maintaining adequate and equitable educational opportunities to the discretion of local school districts and local school authorities. It is, however, the Defendants' constitutional responsibility to establish, fund, and maintain a constitutionally compliant education system.

271. The Kentucky Supreme Court held in *Rose* that “Common schools shall be monitored by the General Assembly to assure that they are operated with no waste, no duplication, no mismanagement, and with no political influence.” 790 S.W.2d at 212. Because of the Defendants’ inadequate supervision and monitoring of the education system, on information and belief, there is substantial waste, duplication, mismanagement, and political influence in the operation of the common schools today.

272. Substantial progress was made toward achieving adequacy and equity in education throughout the Commonwealth during the first decade of KERA’s implementation because the state’s legislative and educational leaders sought to organize education to promote the *Rose* capacities. They made educational opportunity a high priority, raised and maintained public awareness of the importance of the rights accorded students under *Rose* and KERA, and provided the schools the resources, guidance, and supervision necessary to keep them on a steady course toward constitutional compliance.

273. In recent years, however, Defendants have disregarded their duty to ensure constitutionally adequate education for every Kentucky student. They have substantially reduced education funding, routinized practices and procedures, remade the monitoring system into a series of check-the-box bureaucratic requirements, deprived students of the excitement of learning, and diverted the public schools of Kentucky from the path of constitutional compliance.

FIRST COUNT – Declaratory Judgment

274. Plaintiffs repeat and incorporate herein the allegations of paragraphs 1 through 273.

275. The Defendants have violated Plaintiffs' right to an "efficient" education under Article 183 of the Kentucky Constitution by denying the members of KSVT and the named plaintiffs an adequate and equitable education.

276. Education is a fundamental interest under the Kentucky Constitution and the State has no compelling interest in providing students an inadequate education.

SECOND COUNT – Declaratory Judgment

277. Plaintiffs repeat and incorporate herein the allegations of paragraphs 1 through 276.

278. Defendants have denied many of the named plaintiffs and members of Plaintiff KSVT equal educational opportunities in violation of Articles 3 and 183 of the Kentucky Constitution.

THIRD COUNT – Declaratory Judgment

279. Plaintiffs repeat and incorporate herein the allegations of paragraphs 1 through 278.

280. The Defendants have denied Plaintiffs their rights to adequate and equitable services and supports to which they are entitled under KERA, and specifically under KRS 158.645 and KRS 158.6451, and to the specific educational rights and services to which they are entitled under KRS 158.791, KRS 158.102, KRS 158.1411, KRS 158.1413 (1)(g), KRS 158.4416, KRS 158.148, KRS 158.444, KRS 156.095, KRS 156.496, KRS 156.553, KRS 157.370, 704 KAR 3:303 and 704 KAR 3:305.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs, by their counsel, pray for relief as follows:

- a. An expedited review of this action pursuant to KRS 418.050 and CR 57.
- b. An order declaring that Plaintiffs have been denied an adequate and equitable education as guaranteed by Article 183 of the Kentucky Constitution, and the decision of the Kentucky Supreme Court in *Rose v. Council for Better Education* and applicable statutes and regulations.
- c. An order declaring that an efficient education requires inclusion of parents, teachers and students in developing and implementing educational capacities regarding civic preparation, physical and mental wellness, appreciation of cultural history and traditions, and other areas.
- d. An order declaring that KRS 158.196 does not prohibit teachers from promoting discussion of controversial historical issues and current issues in the classroom and encouraging students to enter into respectful discussion with individuals holding different views on controversial issues, that such classroom discussions are necessary to prepare students to function productively as civic participants and that no teacher shall suffer any penalty for promoting such discussions.
- e. That the Plaintiffs be awarded costs and legal fees.
- f. That the Court retain jurisdiction of this cause to review the constitutional appropriateness of the steps Defendants take toward constitutional compliance.
- g. For such other and further relief as the Court may deem the Plaintiffs to be entitled.

Dated: January 14, 2025

Respectfully submitted,

/s/ Michael P. Abate

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Jeremy Lister-Perlman, Esq.
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Motion to appear pro hac vice forthcoming

/s/ Michael Gregory

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mgregory@law.harvard.edu
Motion to appear pro hac vice forthcoming



CIVIL SUMMONS

Plaintiff, **KENTUCKY STUDENT VOICE TEAM ET AL VS. COMMONWEALTH OF KENTUC**, *Defendant*

**TO: COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL
700 CAPITAL AVENUE, SUITE 118
FRANKFORT, KY 40601**

The Commonwealth of Kentucky to Defendant:

You are hereby notified that a **legal action has been filed against you** in this Court demanding relief as shown on the document delivered to you with this Summons. **Unless a written defense is made by you or by an attorney on your behalf within twenty (20) days** following the day this paper is delivered to you, judgment by default may be taken against you for the relief demanded in the attached complaint.

The name(s) and address(es) of the party or parties demanding relief against you or his/her (their) attorney(s) are shown on the document delivered to you with this Summons.

Franklin Circuit Clerk
Date: **1/14/2025**

Proof of Service

This Summons was:

Served by delivering a true copy and the Complaint (or other initiating document)

To: _____

Not Served because: _____

Date: _____, 20____

Served By

Title



3FB80082-B853-4145-AE6E-09BEF72FB295 : 000071 of 000077
Presiding Judge: HON. PHILLIP J. SHEPHERD (648260)
CI : 000001 of 000001



CIVIL SUMMONS

Plaintiff, KENTUCKY STUDENT VOICE TEAM ET AL VS. COMMONWEALTH OF KENTUC, Defendant

TO: ROBERT STIVERS
702 CAPITAL AVE ANNEX ROOM 236
FRANKFORT, KY 40601

The Commonwealth of Kentucky to Defendant:

You are hereby notified that a **legal action has been filed against you** in this Court demanding relief as shown on the document delivered to you with this Summons. **Unless a written defense is made by you or by an attorney on your behalf within twenty (20) days** following the day this paper is delivered to you, judgment by default may be taken against you for the relief demanded in the attached complaint.

The name(s) and address(es) of the party or parties demanding relief against you or his/her (their) attorney(s) are shown on the document delivered to you with this Summons.

Katlynn Marshall

Franklin Circuit Clerk

Date: 1/14/2025

Proof of Service

This Summons was:

Served by delivering a true copy and the Complaint (or other initiating document)

To: _____

Not Served because: _____

Date: _____, 20____

Served By

Title



3FB80082-B853-4145-AE6E-09BEF72FB295 : 000072 of 000077

Presiding Judge: HON. PHILLIP J. SHEPHERD (648260)

CI : 000001 of 000001



CIVIL SUMMONS

Plaintiff, KENTUCKY STUDENT VOICE TEAM ET AL VS. COMMONWEALTH OF KENTUC, Defendant

TO: DAVID OSBORNE
700 CAPITAL AVE CAPITOL ROOM 308
FRANKFORT, KY 40601

The Commonwealth of Kentucky to Defendant:

You are hereby notified that a **legal action has been filed against you** in this Court demanding relief as shown on the document delivered to you with this Summons. **Unless a written defense is made by you or by an attorney on your behalf within twenty (20) days** following the day this paper is delivered to you, judgment by default may be taken against you for the relief demanded in the attached complaint.

The name(s) and address(es) of the party or parties demanding relief against you or his/her (their) attorney(s) are shown on the document delivered to you with this Summons.

Katlynn Marshall

Franklin Circuit Clerk

Date: 1/14/2025

Proof of Service

This Summons was:

Served by delivering a true copy and the Complaint (or other initiating document)

To: _____

Not Served because: _____

Date: _____, 20____

Served By

Title



3FB80082-B853-4145-AE6E-09BEF72FB295 : 000073 of 000077

Presiding Judge: HON. PHILLIP J. SHEPHERD (648260)

CI : 000001 of 000001



CIVIL SUMMONS

Plaintiff, **KENTUCKY STUDENT VOICE TEAM ET AL VS. COMMONWEALTH OF KENTUC**, *Defendant*

**TO: KENTUCKY BOARD OF EDUCATION
OFFICE OF THE ATTORNEY GENERAL
700 CAPITAL AVENUE, SUITE 118
FRANKFORT, KY 40601**

The Commonwealth of Kentucky to Defendant:

You are hereby notified that a **legal action has been filed against you** in this Court demanding relief as shown on the document delivered to you with this Summons. **Unless a written defense is made by you or by an attorney on your behalf within twenty (20) days** following the day this paper is delivered to you, judgment by default may be taken against you for the relief demanded in the attached complaint.

The name(s) and address(es) of the party or parties demanding relief against you or his/her (their) attorney(s) are shown on the document delivered to you with this Summons.

Franklin Circuit Clerk
Date: **1/14/2025**

Proof of Service

This Summons was:

Served by delivering a true copy and the Complaint (or other initiating document)

To: _____

Not Served because: _____

Date: _____, 20____

Served By

Title



3FB80082-B853-4145-AE6E-09BEF72FB295 : 000074 of 000077

Presiding Judge: HON. PHILLIP J. SHEPHERD (648260)

CI : 000001 of 000001



CIVIL SUMMONS

Plaintiff, KENTUCKY STUDENT VOICE TEAM ET AL VS. COMMONWEALTH OF KENTUC, Defendant

TO: ROBBIE FLETCHER
300 SOWER BLVD., 5TH FLOOR
FRANKFORT, KY 40601

The Commonwealth of Kentucky to Defendant:

You are hereby notified that a **legal action has been filed against you** in this Court demanding relief as shown on the document delivered to you with this Summons. **Unless a written defense is made by you or by an attorney on your behalf within twenty (20) days** following the day this paper is delivered to you, judgment by default may be taken against you for the relief demanded in the attached complaint.

The name(s) and address(es) of the party or parties demanding relief against you or his/her (their) attorney(s) are shown on the document delivered to you with this Summons.

Katlynn Marshall

Franklin Circuit Clerk

Date: 1/14/2025

Proof of Service

This Summons was:

Served by delivering a true copy and the Complaint (or other initiating document)

To: _____

Not Served because: _____

Date: _____, 20____

Served By

Title



3FB80082-B853-4145-AE6E-09BEF72FB295 : 000075 of 000077

Presiding Judge: HON. PHILLIP J. SHEPHERD (648260)

CI : 000001 of 000001



CIVIL SUMMONS

Plaintiff, KENTUCKY STUDENT VOICE TEAM ET AL VS. COMMONWEALTH OF KENTUC, Defendant

TO: RUSSELL COLEMAN
OFFICE OF THE ATTORNEY GENERAL
700 CAPITAL AVENUE, SUITE 118
FRANKFORT, KY 40601

Email: SERVETHECOMMONWEALTH@KY.GOV

Memo: Service will also be effected via email to servethecommonwealth@ky.gov pursuant to the Attorney General's policy.

The Commonwealth of Kentucky to Defendant:

You are hereby notified that a **legal action has been filed against you** in this Court demanding relief as shown on the document delivered to you with this Summons. **Unless a written defense is made by you or by an attorney on your behalf within twenty (20) days** following the day this paper is delivered to you, judgment by default may be taken against you for the relief demanded in the attached complaint.

The name(s) and address(es) of the party or parties demanding relief against you or his/her (their) attorney(s) are shown on the document delivered to you with this Summons.

Kattinger Marshall

Franklin Circuit Clerk

Date: 1/14/2025

Proof of Service

This Summons was:

Served by delivering a true copy and the Complaint (or other initiating document)

To: _____

Not Served because: _____

Date: _____, 20____

Served By

Title



3FB80082-B853-4145-AE6E-09BEF72FB295 : 000076 of 000077

Presiding Judge: HON. PHILLIP J. SHEPHERD (648260)

CI : 000001 of 000001



Commonwealth of Kentucky
Kathryn Marshall, Franklin Circuit Clerk

Case #: 25-CI-00026

Envelope #: 9642627

Received From: MICHAEL ABATE

Account Of: MICHAEL ABATE

Case Title: KENTUCKY STUDENT VOICE TEAM ET AL VS. **Confirmation Number:** 194364950

COMMONWEALTH OF KENTUCKY
 Filed On 1/14/2025 12:18:33PM

#	<u>Item Description</u>	<u>Amount</u>
1	Court Facilities Fee	\$25.00
2	Access To Justice Fee	\$20.00
3	Money Collected For Others(Court Tech. Fee)	\$20.00
4	Money Collected For Others(Postage)	\$160.20
5	Money Collected For Others(Attorney Tax Fee)	\$5.00
6	Library Fee	\$3.00
7	Civil Filing Fee	\$150.00
8	Charges For Services(Copy - Photocopy)	\$43.20
	TOTAL:	<u>\$426.40</u>

3FB80082-B853-4145-AE6E-09BEF72FB295 : 000077 of 000077