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**Defining and Requiring Academic Achievement:
*Carnegie Units, MCAS, and the Meaning of a
High School Education***

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Defining and requiring academic achievement: Carnegie units, MCAS, and the meaning of a high school education

Barney J. Brawer

I. What is a high school education? From Carnegie units to MCAS

In June 2003, the Commonwealth of Massachusetts implemented new requirements for earning a high school diploma, thereby transforming the century-old definition of a high school education. To graduate from a public high school in Massachusetts, it is no longer sufficient for a student to accumulate credits based on receiving passing grades in a required list of courses. A student now must demonstrate mastery of high school level academic skills. All public school students¹ – including all English language learners and all students with disabilities – must pass the MCAS (Massachusetts Comprehensive Assessment System) tests in both English and mathematics. They must show not merely that they have *attended* high school and *passed* their courses; they now must demonstrate that they *learned* high school material. The significance of this change should not be underestimated.

Massachusetts is not the first or the only state requiring students to pass an exit exam to receive a high school diploma. It joins eighteen other states with exit exams in place, and five more planning to implement such policies within the next few years.² Nonetheless, Massachusetts' implementation of the MCAS exam as a requirement for graduation marks a critical juncture in the nationwide efforts to improve student achievement for four reasons: (1) the challenging nature of the MCAS tests' content, which differs notably from basic skills tests implemented elsewhere; (2) the relationship of the MCAS requirement to other critical elements of the state's ten-year education reform process; (3) the state's attainment of a 92% passing rate on these challenging tests in the first year of the no-diploma policy; and (4) the intersection of this change with the ramping up of the federal No Child Left Behind Act of 2001.

For most of the twentieth century, the definition of a high school education has been

based on completion of 14 to 16 Carnegie units, a measure invented in 1906 by the Carnegie Foundation for the Advancement of Teaching. Ironically, this formula for defining a high school education – repeatedly derided by critics as measuring only “seat time” – was initially designed as a mere byproduct of the Carnegie Foundation’s real *raison d’être*: the creation of a retirement fund for elderly college professors. The pension fund, established in 1905 with a \$10 million gift from Andrew Carnegie, is TIAA-CREF³ – now the world’s largest.

How did the creation of a retirement fund for college professors lead to the wholesale restructuring of American high schools a century ago? Mr. Carnegie left it to the trustees of the foundation to decide which universities, colleges, and technical schools (state universities and religious institutions were excluded) would be eligible to participate in the new fund. The decision proved more complicated – and to have broader impact – than one might have imagined. Henry Pritchett, first president of the Carnegie Foundation, outlined the organization’s dilemma:

An inspection of the list of institutions which have been put down tentatively as eligible shows the widest variations. Many of these are in larger measure preparatory schools than colleges, and the most important question with which the Board has to deal ... is that of determining what educational standard shall be set up: in other words, *what is a “college”* in the sense in which this Board will construe it?⁴

Believing that “a college system with fair entrance requirements” and “a good system of high schools” were inextricably linked, he noted that

Teachers in colleges say, quite truthfully, that the high schools do not furnish to them pupils fitted to sustain high entrance conditions. Principals of high schools complain, with equal truth, that they cannot keep students in the high schools when they are allowed to enter the colleges and universities after completion of half or three-quarters of their high school work.⁵

The blurring of the line between high school and college was not a trivial matter. The trustees’ solution to their dilemma – their creation of “Carnegie units” – defined the meaning of a high school education throughout the nation, throughout the twentieth century.

In 1885, Charles Foster Smith of Vanderbilt University had attributed the scarcity of high schools in the South to the admissions practices of the region’s colleges:

All colleges publish requirements for admission; very few enforce them. Since the boy is not required to prepare for college, he comes to college without preparation.

The state of Tennessee at the time had twenty-one “male colleges and universities” and sixteen “female colleges and seminaries,” but only four public high schools.⁶ Nor was the problem restricted to the South. Even the nation’s most prestigious colleges were admitting half or more of their students “on condition” – that is, deficient in preparation. In 1908, students admitted “on condition” at Harvard, Yale, and Princeton constituted 49 %, 53%, and 58% of their respective classes.⁷ Many students were as young as 14 years old.

Moreover, the number of secondary schools was expanding very rapidly at the turn of the century. In 1890, there were 2,526 four-year high schools in the United States; in 1900, 6,005; by 1910, there were 10,213.⁸

The trustees of the Carnegie Foundation first answered their question, “What is a college?” using “an arbitrary definition” based on ordinances of the state of New York.

An institution to be ranked a college, must have at least six (6) professors giving their entire time to college and university work, a course of four full years in liberal arts and sciences, and *should require for admission, not less than the usual four years of academic or high school preparation, or its equivalent*, in addition to the preacademic or grammar school studies.⁹

Tucked into this declaration was the determination that both high schools and colleges should be standardized as four-year institutions.

Many secondary schools at that time offered less than a four-year program. On the other hand, the National Education Association’s Committee of Ten in 1893 had recommended that high schools should be six-year institutions, including grades 7 through 12. The Carnegie Foundation decided to require that colleges, as a condition of their participation in the new retirement fund, must accept *only* students who had completed four years of high school preparation – or its equivalent.

What defined a year of high school preparation? The foundation turned next to “a plan commonly adopted by college entrance examination boards” based on “units”:

By this plan college entrance requirements are designated in terms of units, a unit being a

course of five periods weekly throughout an academic year of the preparatory school. ... Thus, plane geometry, which is usually studied five periods weekly through an academic year, ... is estimated as one unit.

But things are never simple.

A difficulty, however, arises in estimating by this method. ... In the courses of “approved” [preparatory] schools it frequently happens that there is a marked discrepancy between the amount of work required and the time specified for the preparation of the work, when judged by the definitions of the units. ... For example, plane geometry may be accepted as an entrance requirement ... although that subject has been studied in the preparatory school for only two periods weekly throughout the academic year.

In such cases the officers of the Foundation will credit the institution with plane geometry *solely upon the basis of the time given* to the preparation of the subject. Thus, plane geometry, studied two periods weekly throughout an academic year, would be counted as two-fifths of a unit and not as one unit.¹⁰

Fourteen units, they concluded, would constitute “the minimum preparation which may be interpreted as ‘four years of academic or high-school preparation.’ ”¹¹

How did this “arbitrary definition” of units, based on “time given,” come to be adopted by virtually all of the nation’s school districts? How did the accumulation of units or credits become the near-universal definition of an American high school education? In 1954, U. S. Commissioner of Education Samuel M. Brownell authorized a study to examine such questions. The report’s authors, Ellsworth Tompkins and Walter Gaumnitz, began by confirming that

The deep entrenchment of the Carnegie Unit in the practices of secondary education in the United States has become evident to everyone who has probed its status or sought to challenge its sway.¹²

They noted that

Almost every high school in the country states *in units* its subject offerings and graduation requirements. Somewhere in the pages of a pupil’s handbook, curriculum bulletin, or program of studies there will be a statement, such as the following excerpt ... issued by a large high school in the Midwest:

CREDIT – One credit is given for completing a subject which meets five times a week
(per semester) ...
UNIT – Two credits.¹³

“How did the Carnegie Foundation achieve agreement ... so quickly?” Tomkins and Gaumnitz asked. Their answer was blunt: “In brief, it was a case of ‘money talks.’ ”

[From] its beginning, the Carnegie Foundation for the Advancement of Teaching, *whose function was the dispensing of pensions to college professors*, acquired an equally important function of determining, and in a sense, compelling acceptance of “educational standards.” ...

[There was no] forcible compulsion: but to receive income from the Carnegie Foundation, colleges had to comply with the rules established by the trustees of the Foundation. Henry S. Pritchett made it clear that he would permit no relaxation of regulations. To that extent, therefore, the Carnegie Foundation “compelled” colleges either to alter their policies and procedures or fail to gain and retain status. And the colleges “compelled” the high schools.¹⁴

David Tyack and William Tobin, in a 1993 essay, argued that the Carnegie unit organized the “grammar” of secondary schooling “in a manner analogous to the way grammar organizes meaning in language.”

Neither the grammar of schooling nor the grammar of speech needs to be consciously understood to operate smoothly. Indeed, much of the grammar of schooling has become so well established that it is typically taken for granted as just the way schools are.¹⁵

Tomkins and Gaumnitz, in their mid-century report, had explained how the credit system comes to define the *meaning* of a high school education:

- It encourages a rigid schedule of subjects and classes, which makes needed innovations in the high-school program difficult. ...
- It gives undue emphasis to the time served, to subjects and to textbooks, without appropriate emphasis on amount learned in subjects. ...
- It has fostered the notion that pupils go to high school to get enough credits to obtain a diploma. Consequently, pupils often try to achieve the required number of graduation units in a shorter time and are inclined to regard their high-school education as over when they reach that point.
- This tendency ... by pupils encourages a “Thank Heavens! That’s over!” attitude. Real measures of *growth* would focus on mastery of subject matter and other desired objectives rather than on accumulation of Carnegie Units or credits.¹⁶

The definition of a high school education as “time served” remained firmly in place in Massachusetts, as elsewhere, until a decade ago when two major initiatives led to the simultaneous restructuring of the state’s financing of public schools and dramatic change in the definition of a high school education. The two initiatives – which together culminated in passage

of the Massachusetts Education Reform Act of 1993 – were the *McDuffy* school finance case and the research and lobbying efforts of the Massachusetts Business Alliance for Education (MBAE).

II. The Commonwealth’s duty to educate its children:

The *McDuffy* case

In the late 1970’s, lawsuits attacking inequities in the financing of public schools were initiated in twenty-eight states after the U.S. Supreme Court’s 1973 ruling that “education was not a right afforded explicit or implicit protection under the [U.S.] Constitution,” but that “nothing in the Court’s decision ... should inhibit further review of state educational funding schemes, under state constitutional provisions.”¹⁷

The *McDuffy* case in Massachusetts was initially filed in May, 1978 as *Webby v. Dukakis*, but the passage of new school funding legislation led to the suspension of court proceedings several times. Fifteen years later, the case was finally heard by the state’s Supreme Judicial Court; the name of the case had changed repeatedly as plaintiff children grew to adulthood and state officials were replaced. It was finally argued as *McDuffy vs. Robertson* in February, 1993.

In 1991 and 1992, the plaintiffs and state defendants in the case had filed 546 “stipulations of agreed facts” with six volumes of documentary material, essentially agreeing to the reality of major inequities among districts. The stipulations focused on the low-income districts of Brockton, Winchendon, Leicester, and Lowell and “comparison” communities of Brookline, Concord, and Wellesley. Widespread interest in the outcome of the *McDuffy* case was indicated by the fact that no fewer than forty organizations – ranging from the Boston Latino Parents Association and the Chinese Progressive Association to the town of Brookline, the Massachusetts AFL-CIO, and Choice Through Education, Inc. – participated in filing briefs as *amici curiae*, friends of the court.¹⁸

The Supreme Judicial Court declined to use what it called “the blunderbuss approach” of addressing directly the state’s “complex and frequently changing” school-financing scheme. Instead, it restricted its focus to determining whether the state’s constitution imposed a

“constitutional duty” on the Commonwealth to educate its children in public schools.¹⁹ In addition, the Court noted that “Who is to ‘blame’ between local governments or the Commonwealth appears to us to be totally irrelevant to the difficult questions put before us.”²⁰

The plaintiffs, for their part, did not seek a ruling requiring the *equalization* of educational spending across all cities and towns, an outcome they considered politically and economically unrealistic. Whatever funding level might be set for poor towns, wealthier districts were likely to find ways to provide additional resources for their own schools. The plaintiffs did not argue, even, that the Commonwealth had an obligation to provide “equal educational *opportunities*” to all its students. Instead, they sought a “declaratory judgment” from the state’s highest court that the Massachusetts Constitution requires the state “to provide every young person in the Commonwealth ... with an ‘adequate’ education,” that is, “equal access to an adequate education, not absolute equality.”²¹

The Court hearing focused on the meaning of the state constitution’s “education clause”:

Wisdom and knowledge, as well as virtue, diffused generally among the body of the people, being necessary for the preservation of their rights and liberties; and as these depend on spreading the opportunities and advantages of education in the various parts of the country, and among the different orders of the people, it shall be the duty of legislatures and magistrates, in all future periods of this Commonwealth, *to cherish the interests of literature and the sciences, and all seminaries of them; especially the university at Cambridge, public schools and grammar schools in the towns ...*²²

Plaintiffs argued that this language defines “an enforceable obligation” of the Commonwealth; the state defendants proposed that the language was “aspirational” and a “noble expression of the high esteem in which the framers held education,” but not “mandatory.”²³

The Court’s decision examined in detail the eighteenth century usage of the word “cherish” to mean “support,” “nourish,” or “nurture.” The judges reviewed the legal history of public schooling in Massachusetts, beginning with a 1647 law that required the towns to maintain a system of public school – “a law,” they noted, “that is credited with beginning the history of public education in America.”²⁴ They observed that penalties had been levied in the

early 1700's against towns which had "shamefully neglected" their responsibility to provide public schools, and that specific provisions had been made to see that *poor* children – even those "bound out" for work – would be educated.²⁵ By 1780, when the state's constitution was enacted,

a system of public schools had been in existence for over 130 years in Massachusetts, a college had been in existence for over 140 years, and the values of public education had been expressed and supported in a wide variety of ways.

It was against this background and with this experience that the delegates to the Constitutional Convention of 1779-1780 framed, and the people of Massachusetts adopted, the Constitution of the Commonwealth, including [the education clause].²⁶

The Court stated its conclusion: The words "duty" and "cherish"

are not merely aspirational or hortatory, but obligatory. What emerges ... is that *the Commonwealth has a duty to provide an education for all its children, rich and poor, in every city and town of the Commonwealth at the public school level.*²⁷

Had the Commonwealth been carrying out its constitutional obligation?

The essential facts are not in dispute. It is ... clear ... that fiscal support, or the lack of it, has a significant impact on the quality of education each child may receive. Additionally, the record shows clearly that, while the present statutory and financial schemes purport to provide equal educational opportunity in the public schools for every child, rich or poor, *the reality is that children in the less affluent communities (or in the less affluent parts of them) are not receiving their constitutional entitlement of education as intended and mandated by the framers of the Constitution.*²⁸

In the state Board of Education's own 1991 *Report of the Committee on Distressed School Systems and School Reform*,

the defendant members of the board speak of a "state of emergency due to grossly inadequate financial support" and admit that "certain classrooms simply warehouse children at this time, with no effective education being provided."

"Arguably," the judges stated, "this admission, by itself, suffices to establish the constitutional violations, but there is more." In the "stipulations of fact,"

Harold Reynolds, Jr., the former Commissioner of Education (and a former defendant) ... stated that "in many of the communities in Massachusetts, particularly less affluent communities such as the ones in which the plaintiffs attend school, Massachusetts is failing – and failing more than ever before – to achieve [the] goal [of providing every child with an opportunity for success in learning]." ²⁹

Four Superintendents of Schools described conditions in their own districts, considered “typical” of the low-income districts in which the plaintiff children attended school. The Brockton superintendent had stated, “Brockton is not adequately teaching its students to read.” The Leicester superintendent said that his district “does not provide an adequate education to its students.” The superintendent in Lowell explained that class sizes were “too large for teachers to be effective.” Winchendon’s superintendent said his district “tends to end up with inexperienced and poor quality teachers” and “is unable to provide an adequate science education for today’s world to its students.” In contrast, the Court noted, the comparison districts were able to offer “significantly greater educational opportunities” including “multi-faceted reading programs, extensive writing programs,” teacher training and development, student support services, and “a wide variety of courses in the visual and performing arts.” In sum, “These districts are able to educate their children.”³⁰

The Court determined that:

The bleak portrait of the plaintiffs’ schools and those they typify, painted in large part by the defendants’ own statements and about which no lack of consensus has been shown, leads us to conclude that *the Commonwealth has failed to fulfill its obligation*.³¹

What would be the components of an adequate education? The Court quoted a formulation from the Kentucky Supreme Court’s decision in *Rose v. Council for Better Education* (1989) to articulate “broad guidelines” – now known as the “*Rose* factors” – for the state to use “to fulfill its duty to remedy the constitutional violations that we have identified.”³²

An educated child must possess “at least the seven following capabilities:

- (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 students to make informed choices;
- (iii) sufficient understanding of governmental processes to enable the student to understand the issues which affect his or her community, state, and nation;
- (iv) sufficient self-knowledge and knowledge of his or her mental and physical wellness;
- (v) sufficient 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 level 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.”³³

The Court’s decision accepted that “the content of the duty to educate, which the Constitution places on the Commonwealth, necessarily will evolve together with our society” and directed “the magistrates and the Legislatures” to define and implement actions necessary to fulfill “their constitutional duty to educate our children, today, and in the future.”³⁴

III. Education reform in Massachusetts:

High standards, adequate financing, and accountability

By the time the *McDuffy* decision was announced on June 15, 1993, a second major initiative had built a strong political consensus for sweeping education reform in Massachusetts and had already won passage by the legislature of a detailed plan of action.

The creation of the Massachusetts Business Alliance for Education (MBAE) in 1988 had grown from the work of a State Advisory Committee on School-Business Partnerships, a group of businesspeople, education activists, and school administrators which had been assembled at the request of state education officials. S. Paul Reville, then Executive Director of a local education fund in the Worcester area, served on the Partnerships Committee.

Many of us came to the belief that – while partnerships were helpful for classroom improvement, school improvement, occasionally for district improvement – they were totally inadequate to the scope and scale of change that was needed in public education, as various partners had come to understand it through the familiarity bred in the partnerships.

It was apparent to many of us that ... large scale, systemic changes ... were needed in Massachusetts public education if the systems were to have the resources and the support and the infrastructure and the goals and the direction to prepare children for the challenges of the 21st century.

They also understood that “some kind of independent outside effort” would be necessary to advocate for systemic change as well as to frame the specific measures that such change would

require.

We created an outside organization called the Massachusetts Business Alliance for Education which, with the support of business organizations around the state took upon itself – this was sort of leadership without authority – took upon itself the mission of bringing about systemic change in Massachusetts public education and in the framework of state laws that covered it.³⁵

Jack Rennie, founder and CEO of Pacer Systems, Inc., a growing high-tech company, served as chairman of the MBAE and became a tireless and widely-respected advocate for sweeping change.

Advocacy calls for being patient and impatient at the same time. You have to understand the process, but to move the system you have to jab it. ... You have to keep your eye on the doughnut, not the hole.³⁶

Rennie's understanding of the close relationship between the state's economic needs and the quality of its public schools derived in part from painful realities he had observed at his own firm. His rapidly-expanding aerospace company was routinely turning away job applicants who held valid diplomas from Massachusetts high schools. Their literacy and math skills were so weak that there was not a single job in his company – not even the most routine maintenance job – for which they could safely be hired.³⁷

The gap between the capabilities of kids getting out of school and what industry needs is widening. ... If we're looking to develop industries and prosperity in the Commonwealth, where are the workers? We'll either have to go offshore to get them or train them ourselves.

It's a very troubling problem. ... I've visited classrooms in Holyoke, for example, and those children aren't getting an even chance in life. We can't operate in our little fiefdoms and not worry about what goes on outside the walls, not when there's 22 percent unemployment in Roxbury.³⁸

After creating the MBAE, the group chose a rigorous process to frame its education reform proposals. First, they contacted “virtually every major stakeholder” in the public, private, and educational sectors “to advise them of the intended MBAE effort, welcoming their opinions.” Based on these discussions, the MBAE chose four areas as the focus of its efforts: the future of the teacher workforce, the education financing system, youth at risk / early childhood education, and school organization / restructuring.³⁹

Next, the MBAE hired expert consultants to examine each of the priority areas in detail, considering both existing Massachusetts programs and model initiatives in other states. “Certain fundamental conclusions emerged as a consensus,” the MBAE stated in its 1990 *Interim Report*:

- Improving the Public Education System is a compelling priority for the Business Community. ...
- Any effort to reform the system must acknowledge and accommodate the enormous range of individual differences in the needs of both schools and students. ...
- An effective, long-term plan for improvement must include built-in incentives to ensure that the needed changes will be implemented and self-regenerating over time.
- Substantial improvement in public education cannot and will not occur in Massachusetts without revisions in the Law to provide adequate revenues targeted directly and specifically to public education.⁴⁰

The MBAE then translated its findings into “actionable items,” and the group committed itself to using “the force of persuasion and the political power of its collective companies and allies” to push for “systemic reform.”⁴¹

The MBAE’s exquisitely detailed plan, *Every Child A Winner! A Proposal for a Legislative Action Plan for Systemic Reform of Massachusetts’ Public Primary and Secondary Education System*, was published in June, 1991. It proclaimed

that the crisis is real; that time-trends are not favorable; that thoughtful change will be needed to overcome the difficulties; and that, despite near-time fiscal difficulties, this may be a propitious time to initiative meaningful long term reform.⁴²

The plan had three elements:

- **Setting the course toward a higher plane of student achievement** ... tied to international norms, ... [with] expectations at world class levels and greater emphasis on outcomes and accountability.
- **Improving the operational characteristics of the system itself** through a series of reforms improving the quality of the teacher work force and school system management, and by increasing the focus on student preparation, knowledge, and measurable achievement.
- **Changing the educational finance system** to guarantee overall funding, sufficient to provide for a quality education for all students, equity across all school districts, and improved year-to-year stability ... and to give special attention to economically disadvantaged youth.⁴³

Most notably, the report included a “detailed functional and financial model” of a school system “designed to provide quality education to all students.” The financial model calculated, in very specific terms, MBAE’s answer to the question, “What *should* be spent on education?”

This “foundation budget” spelled out in dollars and cents – statewide, per district, and per child – the cost of an adequate education. It included a formula for determining the appropriate balance of state and local financial responsibility for school funding and took into account, for each district, the proportions of low income families, age distribution of students, Special and Bilingual Education requirements, the needs of vocational-technical high schools, and variations in wage scales across the state. A specific “foundation level” budget was developed for every school district in Massachusetts.

We recommend that each school district provide at least this foundation level of school funding. This addresses the heart of the equity issue. The required level floats with enrollment and inflation, guaranteeing stability and adequate funding in all communities.⁴⁴

The MBAE’s extensive research, its credibility as the representative of the Massachusetts business community, its involvement of educators, teachers’ organizations, and parent groups, its outreach to “all stakeholders,” and its unrelenting commitment to not merely proposing – but, in fact, *enacting* – “systemic reform” bore fruit. Its “foundation budget” formula crystallized for Massachusetts a specific, workable solution to the school financing puzzle which continues to bedevil dozens of states across the nation.

As MBAE’s blueprint was translated into legislation, the joining of raised academic standards with a plan for adequate financing of schools formed the bedrock of the new consensus. Political leaders also knew that the progress of the education reform bill in the legislature and the unfolding of the *McDuffy* case were inextricably linked. Robert A. Jordan of the *Boston Globe* explained in a January, 1993 column:

This bill, whatever the cost, is a wise investment in the future of our state, our nation. ... There may also be another compelling reason why the Legislature should pass this bill. If

it fails to gain passage, it is very possible that the courts will order educational reform that could be even more costly to the cities and towns that may fight the legislative reform measure.

Expected to be heard next month is the pending *McDuffy vs. Robertson* case. ... In similar cases, there have been rulings redistributing property tax revenues from wealthy communities to fund school systems in poorer communities.⁴⁵

Mindful of Boston's painful history of court-ordered school busing, Speaker of the House Charles Flaherty summed up the situation:

Our state has a habit of waiting for the courts to do the right thing. ... I'd like to see this done because it's the right thing, not because we are ordered to do so.⁴⁶

On June 2, 1993, the House of Representatives – by a vote of 108-46, a margin the *Boston Globe* called “surprisingly wide” – passed the education reform bill with its multi-billion dollar price tag, despite continuing concerns about the bill's long-term impact on state and local finances. The bill:

- guaranteed that, by the year 2000, state school aid would be doubled and every city and town, no matter how rich or poor, would be able to spend at least \$5500 to \$6,000 (depending on adjustments for inflation) per student per year. This constituted a 50 to 100% improvement in spending for the state's poorer communities;
- required the state to develop high-standard curriculum frameworks and a battery of new student assessment tests that would be used to evaluate how well individual schools were doing; and
- set June 1998 (later postponed to 2003) as the date when all public school students would be required to pass subject-matter tests for graduation from high school.

In addition, the legislation changed rules concerning teacher tenure and the role of local school committees, authorized the state to seize, close, and reorganize its worst-performing schools, and provided limited options for “school choice” and the creation of charter schools.⁴⁷

The bill passed the state Senate – also by a large margin: 31-8 – but questions continued to be raised about its cost and potential impact. Steven F. Wilson, an assistant to Gov. William Weld, commented, “We are buying very little real reform. We are simply pumping money into the failed structure with a little tinkering.”⁴⁸ The governor indicated he would “probably” sign

the bill, but vowed he would return to the legislature to seek expansion of charter schools and inter-district choice.⁴⁹

The bill was awaiting the governor's decision when, on June 15, the Supreme Judicial Court issued its 4-1 ruling in the *McDuffy* case, declaring that Massachusetts had “failed to meet its constitutional duty to provide an adequate education to all public school children” and ordering the legislative and executive branches to respond. Three days later, Gov. Weld signed the Massachusetts Education Reform Act of 1993 into law.

IV. What is a high school education? – revisited

The content of the MCAS tests

The Massachusetts Education Reform Act of 1993 (MERA) re-defined a high school education. No longer would the accumulation of credits be sufficient to earn a public high school diploma in Massachusetts. The new law called for the creation of “curriculum frameworks” defining the academic capabilities a student should possess at the conclusion of particular grades. It declared that the new standards should apply to *all* students, both those who would enter the workforce after high school and those pursuing higher education.

A “competency determination” based on the tenth grade standards would confirm that a student had demonstrated “mastery of a common core of skills, competencies and knowledge” and would be required for high school graduation.⁵⁰ A new “certificate of mastery” would acknowledge superior performance in high school, and a “certificate of occupational proficiency” would be awarded to students who had completed comprehensive training in a trade or professional skill, but only if the student had also received the competency determination. Anticipating the likelihood of legal challenges to the new requirements, the law attempted to limit the range of such litigation by declaring:

Nothing in this section shall be construed to provide a parent, guardian, person acting as a parent or student with an entitlement to contest the proposed plan or with a cause of action for educational malpractice if the students fails to obtain a competency determination.⁵¹

Academic performance would be measured by a new criterion-referenced assessment system, to be designed for multiple purposes:

- to evaluate annually the extent to which school districts and individual schools succeeded or failed to improve student performance;
- to compare student performance among the various school systems and communities in the Commonwealth, and with students in other states and nations; and
- to provide “comprehensive diagnostic assessment” of individual students in at least grades 4, 8, and 10 – informing parents, teachers, administrators, and the students themselves about each student’s level of academic performance.

The MCAS tests are the key instrument created to meet these needs.⁵² In January, 2000 the state Board of Education issued regulation 603 C.M.R. § 30.03, establishing that students would, in June 2003, need to pass only the English Language Arts and math tests to receive the competency determination required for a public high school diploma. Other subjects would be added at a later, still undetermined, date. The Board’s authority to issue this regulation became the focus of the March, 2003 legal challenge in Massachusetts Superior Court, seeking a last-minute halt to implementation of the MCAS requirement.⁵³

The MCAS English tests include a Composition section, which requires each student to write a long essay based on a writing prompt, and a Language and Literature section with literary passages followed by multiple choice and short essay (“open response”) questions. The long composition is graded by Massachusetts teachers, with separate scores for topic development and the use of standard English. The math test also contains a mix of multiple choice and open response questions. Open response questions in math require students to “show their work” in solving a multi-step problem. MCAS tests are given to all students on an untimed basis.

To achieve the competency determination, students may take the tenth grade test five times before the end of their senior year, and as many times as necessary after that, if they have not achieved passing scores in time for their class’ traditional graduation day. The English and math tests each contain about forty questions. To provide comparability across subject matter

and across the years, MCAS raw scores are converted to scaled scores from 200 to 280 in four performance categories: Warning / Failing,⁵⁴ Needs Improvement, Proficient, and Advanced. “Passing” grades are currently scores at the beginning of the Needs Improvement level, 220 or above. The Board of Education has expressed its intention to raise the passing standard in future years.

MCAS tests are given in April and May of each year, with re-tests in December for students who failed the tenth grade exams. The December re-tests are given in a “focused” format, with the hardest questions removed and questions added at the “passing” level. Because these re-tests do not contain the more difficult material, students cannot score Proficient or Advanced.

The reform law called for standards based on “high expectations of student performance.” The final versions of the English and mathematics frameworks closely approximate the *college-preparatory* curriculum routinely taught to students seeking admission to selective colleges. The analysis of literature, the capacity to write a well-constructed essay, understanding and fluency with mathematics through the level of solving quadratic equations: these have been traditional staples of college preparation in English and math for a hundred years.

In the early years of the MCAS exam, this author conducted “Take the Test” events open to the public – offering students, parents, and interested citizens a chance to experience directly the new, controversial MCAS tests. Undergraduates from Boston’s selective colleges and well-educated adults, wading with trepidation into the tenth grade math test, frequently remarked, “Oh, yes. This is what I did in high school.” On the other hand, students entering the fifth and sixth grades at a new urban charter school, facing a short placement exam with questions comparable to those on the fourth grade MCAS test, turned to the tester and calmly explained, “They never gave us this.”

What are the standards in the Massachusetts curriculum frameworks? For English Language Arts (ELA), twenty-seven “general standards” outline the curriculum expectations for

all grades, K-12. Consider the seven standards that comprise the Composition strand. (Three other “strands” complete the ELA standards: Language; Reading and Literature; and Media.) They are straightforward, and the terrain will be familiar to adults who have themselves received a high-quality education.

Standard 19: Writing

Students will write with a clear focus, coherent organization, and sufficient detail.

Standard 20: Consideration of Audience and Purpose

Students will write for different audiences and purposes.

Standard 21: Revising

Students will demonstrate improvement in organization, content, paragraph development, level of detail, style, tone, and word choice (diction) in their compositions after revising them.

Standard 22: Standard English Conventions

Students will use knowledge of standard English conventions in their writing, revising, and editing.

Standard 23: Organizing Ideas in Writing

Students will organize ideas in writing in a way which makes sense for their purpose.

Standard 24: Research

Students will gather information from a variety of sources, analyze and evaluate the quality of the information they obtain, and use it to answer their own questions.

Standard 25: Evaluating Writing and Presentations

Students will develop and use appropriate rhetorical, logical, and stylistic criteria for assessing final versions of their compositions or research projects before presenting them to varied audiences.

Which prestigious private school or public high school in a wealthy suburb would not choose goals like these for its Honors-level students? Where can we find an *urban* school system that has routinely taught material at this level to the students in its Basic track? The standards are not new; the goal that *all* students – “rich and poor, in every city and town” – should be educated to this level *is* new.

What do these standards look like on the tests themselves? On the tenth grade English test in spring 2002, the writing prompt was the following:⁵⁵

In literature as in life, people struggle with principles or beliefs they hold.

From a work of literature you have read in or out of school, select a character who struggles with his or her own principles or beliefs. In a well-developed composition, identify that character and explain how the character's inner struggle is important to the work of literature.

Clearly, the question calls for a curriculum in which high school students study real works of literature, are taught to think deeply and to analyze the texts they read, and know how to express their ideas in "well-developed" essays.

The tests for younger grades posit comparable expectations. The Grade 7 writing prompt in 2002:

Respect. Singers sing about it. Some people inspire it. Think about someone you respect and admire. The person can be someone you know, or someone you have read or heard about.

In a well-developed composition, describe the person you have selected. Explain in detail at least two reasons why you respect this person.

The Grade 4 writing prompt:

All of us have had a special time or adventure in our lives. It could be anything such as a visit with a friend or relative, a party you went to, or a game you watched or played. Or it could be something completely different.

Write a story about a special time or adventure that you have had. Give enough details in your story to show what it was like and what made it so special.

The MCAS tests, for both English and math, are built upon what I would describe as three pillars of a high standards curriculum: big ideas, fluency with procedures, and the use of evidence.

The required **big ideas** include, in mathematics, the relationships of fractions, decimals, and percents; Cartesian coordinates; the graphing of linear equations. In English, they include topic development in a written composition; an understanding of theme, character, and setting; familiarity with metaphor and inferential comprehension.

Fluency with procedures describes the expectation that students know and can use Standard English punctuation, grammar, and sentence structure; that they have the capacity to

put their ideas on paper without undue anxiety or struggle; that they possess a rich vocabulary and are sensitive to nuances of meaning. In mathematics, students are expected to perform calculations efficiently and accurately without interrupting a multi-step data analysis or the application of geometric concepts to problem-solving.

The **use of evidence** can be noted in the many standards and MCAS problems that pose a task to be performed “using evidence from the text.” Students are expected to *find evidence*: the significant details or essential data in a literary text or math problem. They are expected to be able to *present evidence*: “Show your work.” “Explain in detail.” They are repeatedly asked to *construct an argument using evidence*. Open response questions frequently call for the student to pose or examine an idea and to support the analysis with specific details and logical argument. These are high-level skills.

For example, the seventh grade English test in 2002 included the poem, “A Drowsy Day” by Paul Laurence Dunbar:

 The air is dark, the sky is gray,
 The misty shadows come and go,
 And here within my dusky room
 Each chair looks ghostly in the gloom.
5 Outside the rain falls cold and slow –
 Half-stinging drops, half-blinding spray.
 Each slightest sound is magnified.
 For drowsy quiet holds her rein;
 The burnt stick in the fireplace breaks,
10 The nodding cat with start awakes,
 And then to sleep drops off again,
 Unheeding Towser¹ at her side.
 I look far out across the lawn,
 Where huddled stand the silly sheep;
15 My work lies idle at my hands,
 My thoughts fly out like scattered strands,
 Of thread, and on the verge of sleep –
 Still half awake – I dream and yawn.

 What spirits rise before my eyes!
20 How various of kind and form!
 Sweet memories of days long past,

The dreams of youth that could not last,
 Each smiling calm, each raging storm,
 That swept across my early skies.
 Half seen, the bare gaunt-fingered boughs
 25 Before my window sweep and sway,
 And chafe² in tortures of unrest.
 My chin sinks down upon my breast;
 I cannot work on such a day,
 But only sit and dream and drowse.

¹ *Towser* – traditional name for a dog

² *chafe* – to feel irritated or impatient

The two questions below are typical of the MCAS in that they require inferential comprehension, not simply factual recall.

Question 17: The exclamation points at the end of lines 19 and 20 are meant to express the speaker's

- A. grief
- B. anger
- C. curiosity
- D. amazement.

Question 19: In the poem, how does the weather influence the speaker's mood. Use details from the poem to support your answer.

Open response questions receive a score from 0 to 4. The Massachusetts Department of Education posts on its website samples of student work at each scoring level.⁵⁶ A response to Question 19 that received 4 points begins:

The weather that occurs in the poem greatly influences the speaker's mood and overall attitude. The speaker is drowsy, his spirit engulfed in the gloom. ...
The "Drowsy Day" is described as "dark ... the sky is gray." The speaker is sitting in a "dusky room," where "each chair looks ghostly in the gloom." The atmosphere inside while "the rain falls cold and slow" is dull enough to make anybody fall asleep.
 ...

A 3-point response begins:

The wheather Influences the speaker by making him daydream and be full of thoughts. He is also slightly irritated by the thought of he can only daydream and ponder and not work on such a day. This type of rain also reminds him of his past and all he has been through. ...

A 1-point response, in its entirety:

It's a gloomy day out so the writer is in a gloomy mood.

O points:

*The weather of the influence that the speakers it becomes rainy, misty and dirty.
When you smell of that combine together it smells musty.*

The Massachusetts Education Reform law called for an assessment system “designed ... to improve curriculum and instruction.” If teachers “teach to the test” – to *this* test – there is a clear message embedded in the construction of the test questions: students should be reading, analyzing, and writing about real literature. A classroom diet of “drill and kill” worksheets or trivial tricks cannot credibly be considered appropriate “test preparation” for the actual MCAS.

The curriculum frameworks for mathematics provide an equally challenging set of performance standards. The Number Sense and Operations strand maps a clear, sequential path of academic skills from the early grades through high school.

By the end of **grade 2**, students should be able to:

- write whole numbers to 1000
- identify the place value of digits
- compare and order numbers
- understand and use common fractions ($\frac{1}{2}$, $\frac{1}{3}$, $\frac{1}{4}$), odd and even numbers, and money.

By the end of **grade 4**, students should be able to:

- read, model, interpret and compare whole numbers to 100,000 in various forms, including expanded notation
- employ multiple meanings of fractions (parts of a whole, parts of a collection, locations on a number line)
- generate equivalent fractions, mixed numbers and decimals.

By the end of **grade 6**, students should:

- understand and use positive integer exponents
- understand place value and expanded notation from billions to thousandths
- compare, order, and use positive and negative integers, fractions, mixed numbers, decimals and percents.

By the end of **grade 8**, they should:

- add an understanding of rational and irrational numbers to fluency with integers, fractions, mixed numbers, decimals, and percents, scientific notation, powers, roots, and absolute value
- the use ratios and proportions for problem solving.

By the end of **grade 10**, students should be able to:

- put these skills to use analyzing linear, quadratic, and exponential relationships, manipulating polynomials, and solving quadratic equations and real-life examples embodying these concepts.

These are challenging expectations, as are those in the strands for Patterns, Relations, and Algebra; Measurement; Geometry; Data Analysis and Probability.⁵⁷

Understanding mathematical ideas, using procedures fluently to solve problems, analyzing data and drawing mathematical conclusions based on the evidence: these have always been skills considered essential for college-level study of such fields as engineering, economics, or biology. They are now skills required for well-paid jobs in manufacturing, for installing telephone systems and repairing cars, or to be a desired recruit for our nation's high-tech armed forces.

Large employers routinely give skill tests to job applicants. In 1999, when almost one-third of Massachusetts' tenth graders were failing the MCAS English exam and more than half were failing the math test, Massachusetts employers were reporting failure rates of 45 – 50 % on their *own* tests of English and math skills.⁵⁸ Neil Sullivan, of the Boston Private Industry Council, explained:

[Employers'] tests are about reading comprehension, problem solving, math skills. ... A test like Bell Atlantic's and the MCAS require the same academic skills, period. I'll go to the wall on that one.⁵⁹

Consider the following math questions from the 2001 MCAS tests. The math content is straightforward and mainstream. Each question has significant diagnostic power: the questions mark critical points on the path to success in mathematics. It is also important to remember that mathematics has been, throughout human history, a uniquely multicultural discipline. The *mathematics* content of these questions would be the same anywhere on the planet.

Grade 4 **Question #12** (Short answer)

Write this decimal as a fraction.

0.4 = _____

Grade 6 **Question #4** (Multiple choice)

Which has the greatest value: $\frac{1}{3}$, 30%, or 0.31?

A. $\frac{1}{3}$

B. 30%

C. 0.31

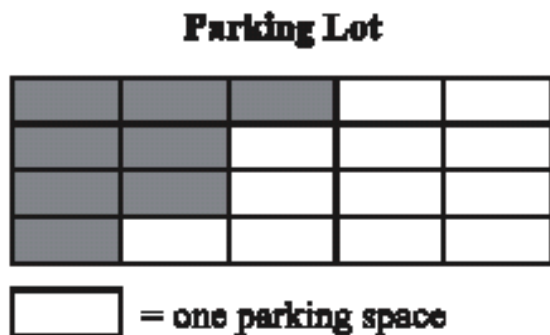
D. They all have exactly the same value.

Grade 8

Question #13

(Multiple choice)

Use the diagram below to answer question 13.



The shaded parts of the diagram represent the spaces that are reserved. What percent of the spaces is reserved?

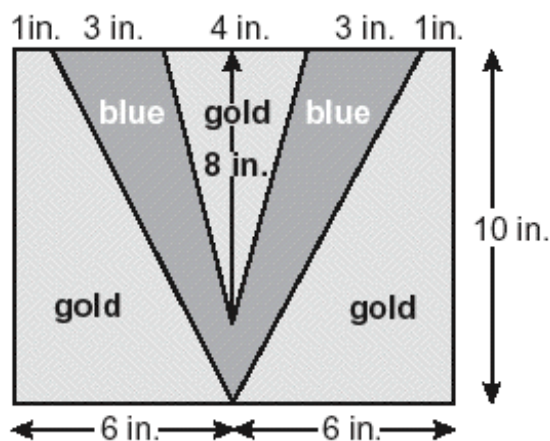
- A. 20%
- B. 30%
- C. 40%
- D. 50%

Grade 10

Question #22

(Open response)

Use the graphic below to answer question 22.



Students at Viking High School decide to have T-shirts made with a blue “V” inside a gold rectangle as shown in the diagram above.

The costs are as follows:

plain T-shirt	\$8.50
blue coloring	\$0.02 per square inch
gold coloring	\$0.04 per square inch

- a. What is the area of the blue “V” in the diagram above? Show your work.
- b. Explain how you can determine the area that will be colored gold.
- c. What will be the total cost for each T-shirt shown above? Show your work.

There is no question that the MCAS tests are challenging tests. They are designed to measure mastery of academic standards that the Massachusetts Education Reform Law specifically decreed “shall be formulated so as to set high expectations of student performance,” comparable to those of “the most educationally advanced nations.”⁶⁰

V. Patterns of performance: by race / ethnicity, Special Needs and Limited English Proficiency, urban and suburban, growth and “gaps”

How have Massachusetts students performed on the MCAS tests? Which groups have made progress in the first five years of testing? Which groups have not? What were the disparities and “achievement gaps” when the testing program began? What is the present situation?

MCAS tests were administered for the first time in spring 1998 and results were published in late November of that year. The first tenth grade English scores statewide showed more than half the students either failing or “needing improvement”:

MCAS English Language Arts		Grade 10 – 1998			
	Number of students	Failing	Nds.Imprvmt.	Proficient	Advanced
All test-takers ⁶¹	60,857	28.3%	33.7%	33.2%	4.8%

Math performance was even weaker. Three-fourths of the students performed at the Failing or Needs Improvement levels.

MCAS Mathematics		Grade 10 – 1998			
	Number of students	Failing	Nds.Imprvmt.	Proficient	Advanced
All test-takers	61,430	52.1%	24.2%	17.0%	6.7%

When the 1998 results were released publicly, the reactions of educators, students, and parents were wide-ranging, but many commented in ways which indicated that the initiation of MCAS had, indeed, set an agenda for greater focus on academic achievement.

“In many respects, today is a great day,” said Senate President Thomas Birmingham, D-Chelsea, and one of the co-authors of education reform. “For the first time, we know where we stand.” ⁶²

Northbridge Superintendent Henry J. Donnell: “We’re not dancing in the aisles. We still have a lot of work to do. This is the base we have to start from.” ⁶³

Nanci Canova, 16, a junior at Weymouth H.S. is apprehensive about receiving her scores.

Canova said she had to guess the answers to some questions. “I remember it was wicked hard. I didn’t feel prepared at all,” she said. “I don’t think I did very well on it, but I don’t think it’s my fault.” ⁶⁴

“I have already noticed that the way the teachers are teaching this year is different,” said Peter Harrison, whose daughter is in the 9th grade. “School is getting a lot harder, which I think is a great thing.” ⁶⁵

“I’m actually starting to study,” said [Salem student] Alex Duran, 13, who said in his spare time he likes to play sports and talk to girls. ⁶⁶

In 1998, the state had not begun releasing performance data disaggregated by race/ethnicity, disability, and LEP status, but a recent analysis of the 1998 data by this author and The National Classroom, Inc.⁶⁷ provides performance information about key student subgroups in the first year of MCAS testing.

MCAS English Language Arts			Grade 10 – 1998		
	Number of students	Failing	Nds.Imprvmt.	Proficient	Advanced
African-Amer.	3,236	49.6%	36.3%	13.3%	0.7%
Asian	2,392	25.8%	34.3%	33.0%	6.9%
Hispanic	3,612	57.7%	31.5%	10.3%	0.5%
Multiracial	2,889	30.4%	38.2%	28.0%	3.4%
Native Amer.	428	56.5%	28.7%	13.8%	0.9%
Other	6,436	60.6%	21.7%	16.0%	1.8%
White	41,864	18.9%	35.3%	39.9%	6.0%
Special Ed.	7,892	66.5%	26.8%	6.5%	0.2%
Limited Eng. Proficient	756	63.6%	28.3%	7.8%	0.3%
Regular Ed.	52,209	22.0%	34.9%	37.6%	5.6%
All test-takers	60,857	28.3%	33.7%	33.2%	4.8%

What can we say about the English performance of key student groups in 1998? There were glaring disparities. Roughly half or more of the African-American, Hispanic, and Native American students failed the tenth grade English test, while only 19% of white students failed. Roughly 2 out of 3 Special Education and Limited English Proficient students failed the English

test, compared with 1 out of 5 in “regular education.” 40% of Asians and 45% of whites scored at the Proficient or Advanced levels; less than 15% of blacks, Hispanics, and Native Americans did so.

MCAS Mathematics			Grade 10 – 1998		
	Number of students	Failing	Nds.Imprvmt.	Proficient	Advanced
African-Amer.	3,251	79.9%	14.2%	5.1%	0.8%
Asian	2,393	40.5%	24.4%	21.9%	13.3%
Hispanic	4,010	84.6%	10.9%	3.7%	0.7%
Multiracial	2,904	57.0%	24.0%	13.7%	5.3%
Native Amer.	434	79.3%	13.4%	6.0%	1.4%
Other	6,544	76.4%	13.6%	7.6%	2.3%
White	41,894	43.0%	28.0%	20.8%	8.2%
Special Ed.	7,960	87.5%	9.0%	3.0%	0.5%
Limited Eng. Proficient	1,099	82.1%	11.6%	5.2%	1.1%
Regular Ed.	52,371	46.0%	26.8%	19.4%	7.8%
All test-takers	61,430	52.1%	24.2%	17.0%	6.7%

On the math test, failure rates for all groups were higher, and the disparities were equally disconcerting. 43% of whites failed the Grade 10 math tests; the rates for blacks, Hispanics, and Native Americans all exceeded 75%. 7 out of 8 Special Education students and 4 out of 5 Limited English Proficient students failed; “only” 46% of regular education students did. 29% of white students and 35% of Asians scored Proficient or Advanced in math, but only 7.4% of Native Americans, 5.9% of blacks, and 4.4% of Hispanics did.

It is important to note that two-thirds of all students in Massachusetts’ public schools are white. Failure rates have been – and remain – much higher for black and Hispanic students than for whites and Asians, but there is a widespread misperception that *most* of the students who failed were minority students. In fact, whites constituted the largest group of failing students.⁶⁸

<u>Failing students</u>	Grade 10 – 1998			
	English Lang. Arts		Mathematics	
	<u>number</u> <u>failing</u>	<u>percent</u> <u>failing</u>	<u>number</u> <u>failing</u>	<u>percent</u> <u>failing</u>
White	7,896	18.9%	18,021	43.0%
Other	3,897	60.6%	5,002	76.4%
Hispanic	2,084	57.7%	3,394	84.6%
African-American	1,605	49.6%	2,599	79.9%
Multiracial	878	30.4%	1,654	57.0%
Asian	617	25.8%	968	40.5%
Native American	242	56.5%	344	79.3%
Total	17,219	28.3%	31,982	52.1%

After five years of MCAS – have we made progress? *Which groups* have made progress in this time period? Here are the numbers for English Language Arts:

<u>MCAS English Language Arts</u>					Grade 10	1998-2002
	Number of students		Failing	Nds.Imprvmt.	Proficient	Advanced
Afr.-Amer.	1998	3,236	49.6%	36.3%	13.3%	0.7%
	2002	4,063	32.9%	36.3%	25.8%	5.0%
Asian	1998	2,392	25.8%	34.3%	33.0%	6.9%
	2002	2,703	13.2%	25.5%	37.6%	23.8%
Hispanic	1998	3,612	57.7%	31.5%	10.3%	0.5%
	2002	4,242	37.6%	36.2%	22.2%	4.0%
Multiracial	1998	2,889	30.4%	38.2%	28.0%	3.4%
	2002	2,828	11.4%	27.4%	42.1%	19.1%
Native Amer.	1998	428	56.5%	28.7%	13.8%	0.9%
	2002	162 ⁶⁹	26.5%	35.2%	27.8%	10.5%
Other	1998	6,436	60.6%	21.7%	16.0%	1.8%
	2002	2,977	30.8%	31.2%	28.0%	9.9%
White	1998	41,864	18.9%	35.3%	39.9%	6.0%
	2002	48,710	8.3%	25.0%	44.2%	22.5%
Special Ed.	1998	7,892	66.5%	26.8%	6.5%	0.2%
	2002	7,471	42.1%	37.9%	17.5%	2.6%
LEP	1998	756	63.6%	28.3%	7.8%	0.3%
	2002	895	52.5%	34.5%	12.2%	0.8%
Regular Ed.	1998	52,209	22.0%	34.9%	37.6%	5.6%
	2002	57,319	8.7%	25.3%	44.0%	22.0%

		Number of students	Failing	Nds.Imprvmt.	Proficient	Advanced
All test-takers	1998	60,857	28.3%	33.7%	33.2%	4.8%
	2002	65,685	13.1%	26.8%	40.5%	19.5%

By 2002, the statewide percentage of students failing English was *half* what it had been in 1998. For *every student subgroup* – every racial/ethnic group as well as Special Education and Limited English students – there were dramatic declines in the percentage of students failing. For *every student subgroup* except Limited English Proficient students, the percentage scoring Advanced at least *tripled* in size.⁷⁰

Of course, anyone can spin statistics. When the percentage of students scoring Advanced increases, as it did, from 4.8% to 19.5%, does one report that the Advanced group's size *increased 400%* (19.5 is four times as large as 4.8) or that it increased *less than 15 percentage points*? Is this a large increase or a small one? While the size of the test-taking population increased by only 8% from 1998 to 2002, the *number* of students scoring Advanced leaped from 2,924 to 12,817. To this author, that looks like a genuine four-fold increase – a huge gain.

In 1998, the number of African-American tenth graders scoring Advanced in English totaled *24 students in the entire state*: 20 young women and 4 young men. These 24 students represented only 7/10 of one percent of the state's black tenth graders. By 2002, the number of African-American students scoring Advanced in English had grown to 202 – 5.0% of African-American test-takers.⁷¹ Is that a large increase: *almost 9 times as many* African-American students scoring Advanced? Or a small one: *0.7%* in 1998 – and *still only 5.0%* in 2002? Think of it this way: in 1998, 1 of every 140 African-American students scored Advanced in English; in 2002, 1 out of 20 did.

Here are the tenth grade mathematics figures for 1998 and 2002:

MCAS Mathematics					Grade 10	1998-2002
		Number of students	Failing	Nds.Imprvmt.	Proficient	Advanced
Afr.-Amer.	1998	3,251	79.9%	14.2%	5.1%	0.8%
	2002	4,246	54.0%	30.4%	12.0%	3.7%
Asian	1998	2,393	40.5%	24.4%	21.9%	13.3%
	2002	2,776	16.5%	23.7%	23.6%	36.2%
Hispanic	1998	4,010	84.6%	10.9%	3.7%	0.7%
	2002	4,762	56.9%	29.6%	9.7%	3.8%
Multiracial	1998	2,904	57.0%	24.0%	13.7%	5.3%
	2002	2,868	24.6%	34.0%	24.5%	17.0%
Native Amer.	1998	434	79.3%	13.4%	6.0%	1.4%
	2002	176	46.0%	30.1%	17.6%	6.3%
Other	1998	6,544	76.4%	13.6%	7.6%	2.3%
	2002	3,149	47.3%	28.5%	13.8%	10.4%
White	1998	41,894	43.0%	28.0%	20.8%	8.2%
	2002	49,106	17.6%	31.8%	27.4%	23.2%
Special Ed.	1998	7,960	87.5%	9.0%	3.0%	0.5%
	2002	7,653	59.5%	28.3%	9.2%	3.0%
LEP	1998	1,099	82.1%	11.6%	5.2%	1.1%
	2002	1,494	59.9%	25.6%	9.9%	4.6%
Regular Ed.	1998	52,371	46.0%	26.8%	19.4%	7.8%
	2002	57,936	18.9%	31.6%	26.6%	22.9%
All test-takers	1998	61,430	52.1%	24.2%	17.0%	6.7%
	2002	67,083	24.4%	31.1%	24.2%	20.2%

Have we made progress in mathematics? For every student subgroup, the percentage of students failing has declined dramatically, accompanied by major increases of Proficient and Advanced performance. But for African-American, Hispanic, and Native American students, Special Education and Limited English students, the failure rates remain startlingly high. For black students, the failure rate has declined from roughly 80% to “only” 54%, for Hispanic students, from 85% to “only” 57%. Is that real improvement? Yes, it is. But when *more than half* the black and Hispanic students are still failing a test *required for high school graduation*, and their rate is *three times* the rate for white students – it is not a time for rejoicing.

Have “achievement gaps” *between* groups narrowed?

<u>Failure gaps</u>				Grade 10	1998-2002
	Black students failing	Hispanic students failing	White students failing	Black-White failure gap	Hispanic-White failure gap
English Language Arts					
1998	49.6%	57.7%	18.9%	30.7 percentage pts.	38.8 percentage pts.
2002	32.9%	37.6%	8.3%	24.6 percentage pts.	29.3 percentage pts.
Mathematics					
1998	79.9%	84.6%	43.0%	36.9 percentage pts.	41.6 percentage pts.
2002	54.0%	56.9%	17.6%	36.4 percentage pts.	39.3 percentage pts.

Black, Hispanic, and white groups have all reduced their failure *rates* notably. Have we narrowed the *gap* between minority and white failure rates? In English, we’ve made some progress; in mathematics, the gaps remain *essentially unchanged*.

Consider the patterns at high levels of performance: Proficient + Advanced.

<u>Proficient + Advanced gaps</u>				Grade 10	1998-2002
	Black students Prof.+Adv.	Hispanic students Prof.+Adv.	White students Prof.+Adv.	White-Black Prof.+Adv. gap	White-Hispanic Prof.+Adv. gap
English Language Arts					
1998	14.0%	10.8%	45.9%	31.9 percentage pts.	35.1 percentage pts.
2002	30.8%	26.2%	66.7%	35.9 percentage pts.	40.5 percentage pts.
Mathematics					
1998	5.9%	4.4%	29.0%	23.1 percentage pts.	24.6 percentage pts.
2002	15.7%	13.5%	50.6%	34.9 percentage pts.	37.1 percentage pts.

Do you see a glass half full or half empty? One could say that the rates for minority students scoring Proficient and Advanced in math have *tripled* (e.g., from 4.4% to 13.5% for Hispanics), while the rate for whites *did not even double* (29.0% to 50.6%): minorities are advancing faster than whites. Or – *using exactly the same numbers* ! – one could point out that black and Hispanic Proficient + Advanced rates have *increased by only 9 or 10 percentage*

points (e.g., 4.4% to 13.5%) while the white rate *increased more than 20 points* (29.0% to 50.6%): whites are advancing faster than minorities.

What is true? There are multiple realities, all true.

- At both the Failing and Proficient + Advanced levels, *all* groups – all racial/ethnic groups, students with disabilities, and LEP students – have shown major performance improvement during the first five years of MCAS.
- On the Grade 10 English and math tests, failure rates have declined dramatically for *all* groups. Proficient and Advanced rates have increased dramatically for *all* groups.
- In English, the failure gap between minorities and whites has narrowed; in math, it has not.
- The Proficient+Advanced gaps between minorities and whites in English and math have *widened*, in math dramatically so.
- The achievement gaps between minority students and whites remain unacceptably large.

The MCAS data can also provide a more nuanced picture, directing our attention to *educational* differences among schools that are socioeconomically similar. Performance disparities associated with socioeconomic difference have been frequently noted and extensively documented in the educational research literature over the last four decades. Performance differences among socioeconomically comparable districts – striking differences to be found among schools with *similar* demographics – have received, to date, far less scrutiny.

The potential educational significance of such comparisons becomes clear when we consider, for example, the Grade 10 2001 data for African-American students.

It must be noted that only 72 of Massachusetts' 457 high schools had 10 or more African-American tenth graders in 2001.⁷² Robert Gaudet, a researcher at the University of Massachusetts' Donahue Institute, has developed a formula which calculates the socioeconomic level of each city and town in Massachusetts, on a scale ranging from affluent Weston at +2.91 to Lawrence, the poorest community, at -3.89.⁷³ The 72 high schools in Massachusetts with 10

or more black tenth graders in 2001 are socioeconomically of six kinds:

	Gaudet index	Range of African-American enrollment per school
11 schools in affluent suburbs	+ 0.17 to + 2.12	3% to 13%
15 in working-class communities	- 1.32 to - 0.26	2% to 25%
3 “exam” schools in an urban district*	- 1.93	9% to 34%.
34 urban (non-exam) high schools	- 3.58 to - 1.67	3% to 61%
8 vocational-technical schools	regional	3% to 46% .
1 urban charter school	- 1.93	29%

* These schools admit only high-performing students.

In general, the more affluent districts have lower rates of failure and higher Proficient + Advanced rates, but the patterns for student subgroups are not simple or consistent. For the combined suburban districts, failure rates for whites and blacks on the English test differed by 11 percentage points, but the Proficient + Advanced gap was 33 percentage points! The suburban districts, in 2001, were delivering to their black students – at both the Failing level and Proficient+Advanced level – rates of performance roughly comparable to what working class and urban districts were delivering to white students.

MCAS English		Grade 10		2001
	Number of test-takers	Failing	Prof.+Adv.	
11 suburban high schools				
Afr.-Amer. students	181	15%	49%	
White students	2,569	4%	82%	
Black-white gap		11 percentage pts.	33 percentage pts.	
15 working class high schools				
Afr.-Amer. students	445	28%	27%	
White students	2,786	14%	54%	
Black-white gap		14 percentage pts.	27 percentage pts.	
34 urban high schools				
Afr.-Amer. students	3,239	49%	16%	
White students	1,917	19%	44%	
Black-white gap		30 percentage pts.	28 percentage pts.	

Even more noteworthy were differences in the racial patterns among schools that were roughly *similar* in demographics. At one suburban high school, the “failure gap” between blacks and whites was zero. At a socioeconomically comparable school, the racial gap was 44 percentage points. Black-white gaps at the Proficient + Advanced level ranged from 12 percentage points to 52 points!

MCAS English						Grade 10				2001	
Failure rate Afr.-Americans		Failure rate whites		Failure gap		Prof.+Adv. rate Afr.Americans		Prof.+Adv. rate whites		Prof.+Adv.gap	
<u>lowest</u>	<u>highest</u>	<u>lowest</u>	<u>highest</u>	<u>lowest</u>	<u>highest</u>	<u>lowest</u>	<u>highest</u>	<u>lowest</u>	<u>highest</u>	<u>lowest</u>	<u>highest</u>
11 suburban high schools											
0%	50%	0%	8%	-1pt. [#]	44 pts.	31%	69%	70%	92%	12pts.	52pts.
15 working class high schools											
10%	46%	5%	20%	-7pts. [#]	29 pts.	0%	53%	40%	68%	2pts.	42pts.
34 urban high schools **											
14%.	95%	0%	67%	-4pts. [#]	35 pts.	5%	45%	0%	64%	-5pts. ^{##}	44pts.
** Urban high schools with fewer than 10 <i>white</i> students were not included in the “lowest” and “highest” rankings.											
# Failure rate for whites higher than for Afr.-Amer. students.											
## Adv.+Prof. rate for Afr.-Amer.students higher than for whites.											

While we must keep in mind the small sample size of black students in these schools, any suburban high school where 92% of its white students are scoring Proficient or Advanced in English – but only 40% of its black students are – needs to take a very careful look at the expectations, the instructional program, and the kinds of support that different groups of students may be receiving within the same school. It must also be remembered that these 11 schools represent the affluent districts with the *highest* proportion of minority students.

Individual schools in working class and poor communities are bringing higher proportions of African-American students to high performance than some of the suburban

schools. In the state's urban high schools,⁷⁴ failure rates for black students were as high as 79% at one school and as low as 14% at another.⁷⁵ The 14% failure rate for African-American students in an *urban* high school is to be compared with *suburban* high schools whose failure rates for African-American students on the same test were 31% or 50%. Analysis of subgroup performance on the MCAS enables us to identify the schools in Massachusetts where minority students are outperforming whites, and the urban or working-class schools which are outperforming their suburban counterparts.

What does this mean? First, it clearly demonstrates that a student's race and the socioeconomic level of the community are not the sole determinants of student performance. Second, the data enable us, now, to identify the schools where successful patterns of student performance cry out for expanded *qualitative* investigation, documentation, and the replication of key educational practices. Our own recent study of promising educational practices in Massachusetts schools where the achievement gaps are smallest,⁷⁶ found very few unexplainable anomalies of high performance. Rather, we found that the implementation of *multiple simultaneous educational initiatives* – as well as huge investments of thought, effort, and commitment – explained the narrowing of achievement gaps. The documentation and reproduction of best practices, implemented in real schools, must be accelerated if we are to end the traditional association of race, affluence, and family background with school success – an association which continues to characterize most of our schools. Consistent mining of MCAS data will tell us where to find the relatively few schools where that association is no longer the case, and to target the qualitative research which will make a school's best practices available to others.

The performance patterns and racial gaps on the mathematics tests are, if anything, even

more dramatic and provocative than the English results.

MCAS Math		Grade 10		2001
	Number of students	Failing	Prof.+Adv.	
11 suburban high schools				
Afr.-Amer. students	183	28%	39%	
White students	2,575	5%	79%	
Black-white gap		23 percentage pts.	40 percentage pts.	
15 working class high schools				
Afr.-Amer. students	448	43%	22%	
White students	2,803	19%	49%	
Black-white gap		24 percentage pts.	27 percentage pts.	
34 urban high schools				
Afr.-Amer. students	3,279	62%	9%	
White students	1,968	28%	35%	
Black-white gap		34 percentage pts.	26 percentage pts.	

As in English, the failure rates for black students in suburban schools mirror the rates for whites in urban schools, and the racial disparities are appallingly large. The largest racial disparity is the gap between blacks and whites scoring Proficient + Advanced in suburban schools.

MCAS Math		Grade 10		2001	
Failure rate		Failure rate		Failure gap	
Afr.-Americans		whites		Prof.+Adv. rate	
lowest	highest	lowest	highest	lowest	highest
lowest	highest	lowest	highest	lowest	highest
11 suburban high schools					
10%	50%	1%	14%	8pts.	41 pts.
15 working class high schools					
20%	70%	9%	31%	-4pts. [#]	39 pts.
34 urban high schools **					
25%.	86%	14%	64%	1pt.	44 pts.
** Urban high schools with fewer than 10 <i>white</i> students were not included in the “lowest” and “highest” rankings. # Failure rate for whites higher than for African-American students.					

On March 3, 2003, the Department of Education released the final retest results which would be available for the Class of 2003 before graduation day in June. The data below allow us

to compare the number and percentage of students in the “pioneer” class, and in key subgroups, who failed the tests initially in spring 2001 with those still failing after three more retests and extensive programs of remedial coursework and tutoring.

MCAS English Language Arts			Class of 2003 in Grades 10 and 12		2001-2003
			Test-takers	# Failing	% Failing
Afr.-Amer.	2001	Gr.10	3,544	1,431	40.4%
	2003	Gr.12	4,984	836	16.8%
Asian	2001	Gr.10	2,462	501	20.3%
	2003	Gr.12	2,888	217	7.5%
Hispanic	2001	Gr.10	4,055	1,953	48.2%
	2003	Gr.12	4,820	981	20.4%
Multiracial	2001	Gr.10	2,651	448	16.9%
	2003	Gr.12	“Multiracial” category not used. See increased numbers in other racial categories		
Native Am.	2001	Gr.10	136	41	30.1%
	2003	Gr.12	173	12	6.9%
Other	2001	Gr.10	5,170	1,355	26.2%
	2003	Gr.12	“Other” not used. See increased numbers in other racial categories.		
White	2001	Gr.10	45,815	5,722	12.5%
	2003	Gr.12	47,877	1,858	3.9%
Spec.Ed.	2001	Gr.10	8,495	4,393	51.7%
	2003	Gr.12	7,292	1,559	21.4%
LEP	2001	Gr.10	517	319	61.7%
	2003	Gr.12	2,615	725	27.7%
Reg.Ed .	2001	Gr.10	54,821	6,739	12.3%
	2003	Gr.12	50,835	1,620	3.2%
All test-takers	2001	Gr.10	63,833	11,451	17.9%
	2003	Gr.12	60,742	3,904	6.4%

MCAS Mathematics			Class of 2003 in Grades 10 and 12		2001-2003
			Test-takers	# Failing	% Failing
Afr.-Amer.	2001	Gr.10	3,622	1,916	52.9%
	2003	Gr.12	4,984	1,055	21.2%
Asian	2001	Gr.10	2,493	382	15.3%
	2003	Gr.12	2,888	210	7.3%
Hispanic	2001	Gr.10	4,456	2,598	58.3%
	2003	Gr.12	4,820	1,216	25.2%
Multiracial	2001	Gr.10	2,662	713	26.8%
	2003	Gr.12	“Multiracial” category not used. See increased numbers in other racial categories		
Native Am.	2001	Gr.10	141	64	45.4%
	2003	Gr.12	173	15	8.7%
Other	2001	Gr.10	5,575	2,012	36.1%
	2003	Gr.12	“Other” not used. See increased numbers in other racial categories		
White	2001	Gr.10	46,052	8,149	17.7%
	2003	Gr.12	47,877	2,712	5.7%
Spec.Ed.	2001	Gr.10	8,639	5,199	60.2%
	2003	Gr.12	7,292	2,044	28.0%
LEP	2001	Gr.10	830	475	57.2%
	2003	Gr.12	2,615	595	22.8%
Reg.Ed.	2001	Gr.10	55,532	10,160	18.3%
	2003	Gr.12	50,835	2,569	5.1%
All test-takers	2001	Gr.10	65,001	15,834	24.4%
	2003	Gr.12	60,742	5,208	8.6%

The changes over time are truly impressive. Roughly two-thirds of the students who had failed MCAS tests in their sophomore year had passed the tests by the spring of their senior year. This included more than half the special education students who had failed initially. In addition to the data above, a small number of students with scores close to 220, excellent attendance, and course grades comparable to those of classmates who had passed the MCAS tests, were able to receive the “competency determination” on the basis of a “performance appeal” submitted by their district’s Superintendent of Schools. A tiny number of special education students passed an

“alternative assessment.”

In all, roughly 92% of the Class of 2003 received high school diplomas in the first year of the MCAS requirement. This is an extraordinary accomplishment. The state appears to have made real progress on a critical goal of education reform: to raise the standards, expectations, and performance of students graduating from Massachusetts high schools.

Two indicators may help portray the importance of raised expectations and the changed meaning of a high school diploma.

The first is statistical. Students taking the MCAS test fill out an extensive questionnaire charting their parents’ levels of education, the amount of homework they do in each subject, whether they hold an after-school job, and their plans after high school. The most striking finding in the tenth grade questionnaire data was the overwhelming proportion of students who aspired to post-high school education – including students who were struggling or failing to meet the MCAS standard.

Post-high school plans	Class of 2003					
	4 year college	Comm.college, bus.or tech.sch.	Work full-time	Military	Other plans	No plans
Failing students	34.5%	20.1%	11.7%	7.7%	11.7%	14.3%
Needs imp. students	55.6%	16.1%	5.1%	5.6%	7.4%	10.2%
Proficient students	79.7%	6.3%	1.4%	2.6%	3.8%	6.1%
Advanced students	92.3%	1.5%	0.4%	0.9%	2.0%	2.9%
All test-takers	66.8%	10.9%	4.1%	4.1%	5.9%	8.2%

Three-fourths of all the students in Grade 10 indicated the plan or desire for post-high school education. *More than half* of the *failing students* hoped to continue their formal education beyond high school. This may indicate that the high-level expectations of the MCAS test – and the inclusion of skills traditionally required only for college-bound students – are well-matched

to the expressed aspirations of the students themselves.

A second, more personal, indicator is the speech a young man named Jonathan Galina gave on the tenth anniversary of the passage of the Massachusetts Education Reform Act.

My name is Jonathan Galina. I am a graduate from the Class of 2003 at Randolph High School. Here is my journey to a diploma. My biggest fear at Randolph High School for the past three years was that in June of 2003 I would not receive my high school diploma with the threat of MCAS being a graduation requirement.

As each day passed, I dreaded going to school. I had no energy to get out of bed, and became very depressed over my fear of failure. Because I was a special needs student, I felt completely hopeless, and I was ready to quit school if I didn't pass the MCAS. As I was walking into the test hall for the first attempt in 2001, I knew I wasn't taking the test seriously. I knew that I didn't have the background knowledge at the time to reach the passing score of 220.

I then took the December, 2001 retest with my head up high this time. It was my dream to get this high school diploma so I put in 100% effort at that time. I failed the second time. I was 4 points off from passing the English and 8 points off from passing the Math. After this, I realized it was time to really buckle down. I completed a five-week summer success program right before my senior year began. I attended MCAS Math and English prep classes plus my regular subjects. I even went to MCAS class on Saturdays and had a private math tutor.

After completing all of the MCAS preparation courses, it paid off because I passed the December, 2002 retest. I conquered my fear of failure and reached my goal. I ended up passing with some of the highest retest scores in the school, having a 230 in Math and 238 in English, well above the passing score of 220. To me this was a true miracle. I felt like I had just won a million dollars when I found out my scores. ...

I want to thank all of my teachers, especially my mother because she fought with me every morning to get up and go to school and most of all not to quit. ... I would like to use my success to motivate students to think positive of themselves and believing that they can do more than they think they can. MCAS, as I found out, pushed me forward academically and will prepare me to succeed in further education. ...

I believe that the law should remain that any student in Special Education programs should still meet a minimum score of 216 to be eligible for an appeal. ... If you lower the minimum score, you are only hurting the student's success. That will only hurt them when it comes to succeeding [at] their goal in College. We need to push Special Education students to the necessary standards so they will feel that they are no different than anyone else.

I am proud to hold up my high school diploma that I received at Randolph High School.

This diploma represents hard evidence that I did not slip out of high school, not knowing how to write an essay or complete an algebra problem.

Jonathan plans to attend Massasoit Community College in the fall.

Not everyone has been as successful as Jonathan Galina. What will happen to more than 5,000 students who did *not* graduate with their class in June 2003? What is the status of the legal challenge to the MCAS requirement and the continuing school finance litigation? What are the next steps in Massachusetts' education reform process, as the federal No Child Left Behind Act moves into high gear, in a time of economic retrenchment and budget cuts for public schools?

VI. The legal challenge to MCAS and the continuing struggle to define the state's obligation to educate all its children

On October 10, 2002, attorneys representing eight students in the Class of 2003 who had failed one or both of the Grade 10 MCAS exams (identified in court papers as "Student 1" through "Student 8") filed a class action suit in U.S. District Court "challenging, on constitutional and statutory grounds, the nature of the ... MCAS exam, and its use as a graduation requirement."⁷⁷ The complaint was filed as a class action on behalf of:

- the eight individual plaintiffs,
- all students who had failed the required MCAS exams,
- six subclasses of students: Black/African-American students, Hispanic students, students with limited English proficiency, students with disabilities, students attending vocational-technical schools, and students attending schools in the Holyoke district.

At that time, approximately 12,000 students⁷⁸ – almost one-fifth of the class – had not received the competency determination and were at risk of not receiving diplomas in June, 2003.

"The genesis of this lawsuit," the complaint alleged,

is the calculated and unlawful use of the MCAS exam as a means of covering-up the historical and continuing failure of various state and local education agencies and officials to ensure that all Massachusetts public school students receive a high quality education as required by law.⁷⁹

The Education Reform Act had proclaimed that a “paramount goal of the commonwealth” was to “provide a public education system of sufficient quality to extend to all children the opportunity to reach their full potential” The law had required the state Board of Education to establish an “effective mechanism” to monitor progress toward that goal and to hold “educators accountable for their achievement.”⁸⁰ State education officials, the plaintiffs charged, “have utterly failed to satisfy their important obligations and responsibilities”:⁸¹

- They did not establish the requisite “curriculum frameworks,” including those in Mathematics and English Language Arts, in a timely manner. The undue delay hampered teachers’ ability to learn the “curriculum frameworks” and then incorporate them in their class curriculum and instruction.
- The students, in turn, had insufficient time and opportunity to master the “academic standards” for the core subjects.
- The state education officials had further failed to ensure that teachers in all school districts actually taught students in conformance with the “curriculum frameworks.”
- [They] exceeded their statutory authority under the Massachusetts Education Reform Act by promulgating a regulation stating that all public school students must pass the MCAS exam as a graduation requirement beginning with the Class of 2003.
- State education officials compounded their inappropriate and unlawful conduct by developing an MCAS exam that is invalid and unlawful because it fails to comport with professionally accepted testing standards; unfairly discriminates against the plaintiffs; and has not been shown to test the plaintiffs on material they actually have been taught.
- Many of the students who failed the MCAS exam are enrolled in school systems deemed to be “low-performing” However, despite admitting that the students have not been provided with adequate learning opportunities, the state officials paradoxically seek to test these students on the content, knowledge, and skills that they have failed to ensure were actually taught to the students.
- Scores of students have dropped out of school after failing the MCAS exam, while many others have dropped-out to avoid taking the MCAS exam.
- Students who have failed the exam cannot continue their post-secondary education, and are disqualified from a host of public and private employment opportunities.

In sum, the complaint charged, “the state educational officials now seek to punish, sacrifice and abandon thousands of students for their own failure to properly educate those students.”⁸²

The plaintiffs sought a declaratory judgment from the U.S. District Court that the MCAS

requirement for a high school diploma violated the due process and equal protection clauses of the U.S. Constitution, Title VI of the U.S. Civil Rights Act of 1964, the federal Equal Educational Opportunity Act and Section 504 of the Rehabilitation Act, as well as the due process, equal protection, and education clauses of the Massachusetts Constitution⁸³ and that it was “void, illegal, and unenforceable.”⁸⁴ They requested the issuance of a “preliminary and permanent injunction” restraining the state from implementing the MCAS requirement.⁸⁵ The first hearing of the *Student 1* case was held on December 2, 2002 in the U.S. District Court in Springfield, MA, before Judge Michael A. Ponsor.

Many citizens (including this author) who are neither attorneys nor judges might hope that the wide range of issues raised by the plaintiffs could be resolved by the court decisions resulting from this litigation. Judge Ponsor, at a later hearing in the case, explained in colloquial terms the actual limitations of his role.

[T]he fact of the matter is legislatures have a right to make mistakes. Legislatures, democratically elected legislatures, have a right to issue bad policies. Make mistakes. Do things that damage people. And the courts don't have the role of being the Lone Ranger or a roving ombudsman riding around the legislature and making sure they don't do something that I don't like. Or that doesn't seem right. ...

That role, he explained, would make him a “king.”

This morning's hearing is not about whether the MCAS is a good idea or a bad idea, or represents good educational policy or bad educational policy. ... It's about whether the legislature has done something which is so bad that it violates the principles that we all agreed to, when we ... set up our [U. S.] Constitution.⁸⁶

Of the ten counts, or legal claims, in the plaintiffs' filing, Counts 6, 7, 8, and 10 addressed issues of Massachusetts' laws and its Constitution, while counts 1 through 5 raised claims based on federal law and the U.S. Constitution. The nature of Count 9, alleging that the state Board of Education had acted *ultra vires* – that is, without authority – in establishing the MCAS requirement, was in dispute. The plaintiffs argued that, in response to *ultra vires* actions

of state officials, federal courts could intervene in state matters. Judge Ponsor was, to say the least, skeptical:

I'm having a hard time seeing the *ultra vires* argument and I frankly would not give you a plug nickel for getting that argument past the First Circuit Court of Appeals.⁸⁷

The [U.S.] Supreme Court has said on a number of occasions that even when a federal judge might exercise jurisdiction – that is to say, even when it technically has a statutory or a constitutional basis for acting – it should refrain from acting. ... I'm a federal judge. If I make a decision about this particular test, it applies to the whole country. It doesn't just apply to the State of Massachusetts.⁸⁸

The allegations raised by the plaintiffs could be addressed more effectively in the state courts, Judge Ponsor stated, without the distraction of issues concerning federal jurisdiction.

The plaintiffs in this case have got a steep, rocky road to go up to convince any judge to eliminate this MCAS test. ... [In state court] you have an opportunity to present the facts, litigate the state statutory issues before a state judge and get a decision which is not saddled with all these concerns about federalism. ... If somebody is going to tell a state official to comply with state law, it ought to be a state court judge, not a federal judge.⁸⁹

Judge Ponsor ruled that the 11th Amendment to the U.S. Constitution barred him from addressing the alleged violations of state law by state officials. He dismissed the five state counts “without prejudice against their re-filing in state court” – that is, without judging the merit of the claims. He noted that the plaintiffs could return to federal court if “despite best efforts, no timely opportunity for relief” was provided by the state court.⁹⁰

On January 7, 2003 the plaintiffs re-filed their complaint, on behalf of *six* students, in Massachusetts' Suffolk Superior Court. The new complaint contained only one count, challenging the “legality, validity, and enforceability” of Regulation 603 C.M.R. § 30.03 which established the MCAS English and math requirement for graduation in 2003. The complaint charged that the regulation was “*ultra vires* and void” because it was in conflict with “numerous express provisions” and the “goal [and] intent” of the Education Reform Act.⁹¹

In the five months which separated the plaintiffs' October filing in federal court and the

March 25 hearing in state court, something surprising happened. Students 1, 2, 3, 4, 5, and 7 received their competency determination, either by passing the MCAS exams or through performance appeals. Student 6 had come within 2 points of passing the English exam, 4 points in math. He had completed the alternative assessment available to special needs students, and was awaiting review of his portfolio. Student 8 came within 2 points of passing both English and math, and had applied for a performance appeal, but missing paperwork meant that his performance review would not be completed in time for June graduation. These events were not central to the state judge's ruling, but they may have had a critical impact on the case when it returned to federal court, as it did a few months later.

The plaintiffs' February 20 state court memorandum requesting an injunction to halt implementation of the MCAS requirement focused on two aspects of the disputed regulation:

- its requirement of passing grades in only English and math, although the Education Reform Act, at § 1D(i), called for a competency determination based on “mathematics, science and technology, history and social science, foreign languages, and English” and
- the law's directive, at § 1I, that the state develop an assessment “system” using “a variety of assessment instruments” which, “as much as is practicable,” should include “work samples, projects and portfolios,” and facilitate “authentic and direct gauges of student performance.”

The plaintiffs portrayed a complex scenario of politically motivated actions by the state's Board of Education under three successive chairs: Martin Kaplan, John Silber, and current chair Jim Peyser, leading to the Peyser Board and Commissioner Driscoll “implement[ing] a philosophy of *holding students accountable* for the failures of adults, schools, districts ... as well as the Board's own delays.”⁹² They charged that:

- The Peyser Board decided to cover-up its failures to implement the Act and education reform by manipulating the “competency determination.”

- The Board chose to abrogate its mandate under the Act by unilaterally reformulating its legal obligations through an illegal regulation.
- [T]he Board intentionally issued the regulation with knowledge that it had absolutely no authority or legal right to do so.⁹³

The plaintiffs alleged that the MCAS regulation had harmed public education in Massachusetts.

- The implementation of [the regulation] has had a deleterious impact on the quality of education that students have received, particularly those attending under-performing schools. The regulation created an incentive for schools and districts with high MCAS failure rates to narrow their curricula and focus instruction on math and English to the exclusion of the other “core subjects.” Similarly, the regulation has caused teachers to “teach to the test,” which may result in increased test scores for some students, but has not enabled students to master the content, knowledge, and skills embodied in the “curriculum frameworks” or to develop critical thinking skills.
- The regulation has ... undermined the Act’s mandatory school accountability system [by focusing only on math and English].
- The ... implementation of their self-created version of education reform ... has also perpetuated a two-class educational system. Students in urban schools are suffering egregious MCAS exam failure rates. ... Students in wealthy suburban schools are receiving a full, comprehensive education, while those in less affluent areas are receiving a limited and defective education focusing mainly on mathematics and English.⁹⁴

Potential harm to the plaintiffs and to the public interest were described in strong terms:

- The consequences for these students will be harsh, cruel, and permanent. The dreams of many young people will be crippled as they approach adulthood. The dreams and aspirations of those who intend to attend college will be shattered. Doors will be closed to countless job opportunities
- The consequences for our society are equally troubling. Parents, educators and even law enforcement officials have grave concerns about how we will assimilate so many people with limited educational and employment opportunities.⁹⁵

The plaintiffs concluded:

The Court should not permit this injustice to occur. The separation of powers doctrine requires that the defendants be enjoined from enforcing or using 603 C.M.R. § 30.03 in any fashion.⁹⁶

A hearing before Judge Margot Botsford was held on March 25, 2003 and, on April 4, she denied the request for an injunction. Judge Botsford, like Judge Ponsor, explained in her ruling the limitations of her role:

In reviewing a regulation, it is not the court's function to consider the expediency of an enactment or the wisdom of its provisions, and the court cannot substitute its judgment as to the propriety of the means chosen to implement statutory goals, so long as the regulation is rationally related to those goals. ...

In addition, judicial deference "precludes the possibility that a plaintiff may frustrate administrative policy merely by amassing fact, statistics, and testimony before a judge, all of which may have little or nothing to do with the legislative facts which the administrative agency relied on in making its regulation."⁹⁷

In determining whether the regulation exceeded the Board of Education's authority as authorized by the legislature, the key issue was the legislature's purpose and intent.

Given that the purpose of § 1D [on academic standards] is to establish a certain level of knowledge and skills prerequisite to graduation, § 1D(i) [the competency determination] reasonably can be interpreted to direct the board to create a competency determination including all five subject areas, while permitting the board, in its discretion, to phase in those subjects in a reasonable manner (and on a reasonable timetable) over time.

Construing the statute to require the board to delay implementation of any graduation requirement until all five subjects are covered by the MCAS exam (or another form of competency determination) would frustrate significantly the accomplishment of the Legislature's purpose in enacting § 1D(i), an undesirable result to be avoided if reasonably possible. ... The Regulation's gradual approach to implementing the competency determination is reasonably related to the purposes of the enabling legislation.⁹⁸

Moreover, the legislature's intent can be discerned from legislative enactments *after* the promulgation of the regulation.

[T]he budget line items enacted in 2001 and 2002 do reflect a legislative awareness of the English and math portions of the MCAS exam being used as the high school graduation requirement, and an implicit acceptance of it. ... It would make no sense for the Legislature to provide for such targeted, remedial programs if it did not both recognize and accept the board's determination that passage of the English and math MCAS exam was to serve as the competency determination ... [T]hese 2001 and 2002 legislative enactments serve to ratify the board's limited-for-now approach.⁹⁹

The "variety of assessments" language could be subject to different interpretations, but

There is no need to resolve these arguments at this juncture ... because even if the plaintiffs are correct that the "variety of instruments" and "portfolio" language applies to the board's assessment of individual students under § 1I, the Legislature appears to have ratified [in its budget enactments] the board's reliance on use of the MCAS exam as the

method for determining student competency.¹⁰⁰

Concerning the plaintiffs' contention that the implementation of the regulation had resulted in students being held accountable before teachers, had narrowed the curriculum to "teaching to the test," and had de-emphasized subjects other than math and English:

Some or all of the plaintiffs' claims about the effect of the Regulation may well be valid, but ... problems in application are outside the purview of the present action alleging that the board lacked authority to adopt the Regulation.¹⁰¹

Finally, the subject of "irreparable harm." The judge's ruling mentions, but does not comment on, the fact that six of the eight plaintiffs had achieved the competency determination, and the remaining two were pursuing appeals and alternatives – but a lay observer might view those events as undercutting somewhat the plaintiffs' allegation that denial of diplomas is "permanent" and "irreparable." The judge does note that the plaintiffs who do not graduate in June "will be afforded continuing opportunities to pass the MCAS exam and obtain a high school diploma."

Judge Botsford points out that potential harm to any of the plaintiffs must be weighed in relation to "the irreparable harm, if any, that injunctive relief would create for other parties" and "whether the public interest would support the issuance of an injunction or whether such relief would adversely affect the public."

[T]he competency determination for high school students represents a significant component of the comprehensive education reform plan that the Act was intended to accomplish. If the requested preliminary injunction were granted, it would frustrate (at least temporarily) this important piece of systemic reform.¹⁰²

On the balancing issue, it bears note that if the current graduation requirement were enjoined, the thousands of public school students who have passed the MCAS exam could also be adversely affected. These students' hard work and successful improvement in performance and attainment of knowledge, for which the graduation requirement was at least in part the catalyst, will be devalued.¹⁰³

However, in the final analysis, these questions of balancing harms "recede in importance"

because the “plaintiffs’ failure to establish the likelihood of success at trial,” by itself, “requires denial of requested injunctive relief.”¹⁰⁴

In the final challenge to MCAS heard prior to graduation day, 2003, plaintiffs’ attorneys returned in May to federal court to ask for an injunction in the re-named *Student 8* case. Fifteen new defendants, Students 9 through 23, had been added to the case. Judge Ponsor began by pointing out that the request for an injunction referred only to the sixteen specific plaintiffs, not to any class of individuals, and inquired:

Are we arguing about whether the 16 students numbered 8 through 23 are to receive a remedy ... or are we arguing about something broader than that? ... There was a motion for class certification filed a week ago which I’m surprised to see, but it was filed a week ago and there was no request for an expedited hearing or expedited ruling on the motion for class certification, so the whole issue of class-wide relief is to me somewhat in a fog at this moment.¹⁰⁵

One attorney for the plaintiffs stated, “We believe this hearing is about the [16] named plaintiffs.” Another attorney for the plaintiffs stated later that “today’s argument is about relief to the entire class, a class of approximately six thousand or so students” [who have not passed MCAS].¹⁰⁶ Judge Ponsor did little to conceal his frustration as he described the steps and timetable required for certification that a group of individuals are representative of a larger class of individuals “similarly situated.”

What I am concerned about and to some extent gets back to my question earlier on having to do with the scope of the class. ... I don’t know how you take the position that the students, the six thousand students, one hundred percent of the six thousand students, did not have an opportunity to absorb the material needed for the exam. ...

Now, if we are only talking about the 16 students, I’m still not clear whether we are or aren’t, then the problem I have is this. I read their affidavits. ... There is nobody, you’d have to have a heart of stone not to be sympathetic to the positions of those individual students. ... If that’s all it’s about, let’s look at these 16 students and see what the opportunities were for them in their particular schools and decide whether they are entitled to a remedy, and maybe you’re right.

The defendants I think are going to argue: At least let us depose them before you give

them their degrees, don't just force us to give them their diplomas based on their affidavits, maybe there's a lot more to the story than that page-and-a-half that you've been given in the affidavits. But I don't see how you get a remedy, a class-wide remedy.¹⁰⁷

Although neither the judge nor the attorneys referred directly to the status of Students 1 through 7, at least six of whom had passed the MCAS or received approval of a performance appeal. It is not unrealistic to assume that the plaintiffs' attorneys may have experienced serious problems and delays in proposing to certify a class of plaintiffs when *almost all* of the individuals whose cases represented the unfairness and near-impossibility of attaining the competency determination – began to attain it!

At the conclusion of the hearing, Judge Ponsor explained his decision orally, from the bench.

[A]s the hearing unfolded, it became very clear to me. There never was a possibility of relief for the six thousand members of the class. No judge would ever have afforded relief for the six thousand members of the class. In order to afford relief for a class, there has to be a motion to certify the class [addressing issues of “commonality” and “typicality”], which the other side has an opportunity to oppose and I have an opportunity to rule on. ...

With regard to the named plaintiffs ... I have to say I have enormous respect for them and I continue to urge them to not allow a decision by me which may be wrong, may be flawed, may have a problem, to defeat them in their quest for a good life. But ... in the context of a motion for preliminary injunction, the plaintiffs have the burden of proving to me that it is likely that they would be able to demonstrate that this educational initiative violates the [U.S.] Constitution. I do not believe that it is likely that they will be able to do that. ...

Despite my enormous sympathy and respect for the individual students who are plaintiffs here and the students throughout Massachusetts who are waiting to hear whether they will get their diplomas, I must deny the motion for a temporary restraining order.¹⁰⁸

In June 2003, as this essay goes to press, the lawsuit challenging MCAS appears to be in a temporary hiatus, but key issues concerning the future of education reform in Massachusetts, financial support for poor districts, the state's obligation to educate all its children, and the nature of educational accountability remain very much in play.

On December 22, 1999, the Council for Fair School Finance, Inc. filed a “motion for further relief” to re-open the *McDuffy* case, arguing that “public school students in relatively property-poor districts” are *still* not receiving the constitutionally-required education ordered a decade ago. The Council’s “motion for further relief” acknowledges the importance of the Massachusetts Education Reform Act, but argues that:

- the Supreme Judicial Court has never reviewed the Education Reform Act in light of the Constitutional requirements articulated in the *McDuffy* decision;
- the amount of money provided in the “foundation budgets” is insufficient to provide the children in poor districts with a “constitutionally sufficient education”;
- the plaintiff children continue to attend schools in systems that are not able to provide them with the educational opportunities to which they are entitled. These districts continue to be characterized by
large classes; inadequate staffing; inadequate resources for the teaching of basic subjects including reading, writing, science, social studies, mathematics and computer literacy; insufficient ability to attract, train, and retain quality teachers; lack of professional development opportunities; lack of curriculum development; and lack of predictable funding, among many other deficiencies.
- the plaintiff children are not presently receiving an education that provides them with the seven fundamentals outlined in *McDuffy* – the *Rose* factors;
- the state’s “curriculum frameworks” outline the education mandated in *McDuffy*, but the state has not yet developed a specific curriculum to implement the frameworks – nor provided schools with sufficient resources and training to teach such a curriculum,
- the state has failed to promulgate monitoring and evaluation standards – that is, criteria and procedures against which the Commonwealth’s compliance with the Court’s decision can be tested.¹⁰⁹

The motion asks the court to determine whether the Commonwealth has failed to comply with its constitutional obligation, to establish requisite monitoring standards and procedures, and to establish a deadline by which the Commonwealth must take “appropriate legislative action” to meet the requirements of the *McDuffy* decision.¹¹⁰

In its *McDuffy* ruling, the Supreme Judicial Court had directed that a single justice could

retain jurisdiction to determine “whether, within a reasonable time, appropriate legislative action has been taken”¹¹¹ to provide all Massachusetts children with an adequate education. On June 11, Judge Margot Botsford began fifty-five days of scheduled hearings in the case, now known as *Hancock v. Driscoll*.¹¹² The *Hancock* hearings are expected to continue throughout summer and early fall. Following Judge Botsford’s *factual* findings, it is expected that the Supreme Judicial Court will address any *constitutional* issues arising from those findings. Next steps in Massachusetts’ education reform may well hinge on those rulings.

VII. What do we owe to students who are denied diplomas because of the MCAS requirement?

What is owed to those students who have *not* succeeded in meeting the new requirement for demonstrated achievement? We have now changed the definition of a high school education in Massachusetts. When a diploma is intended to be an indicator of “skills, competencies, and knowledge” achieved – rather than time served and credits collected – we must face the reality of the students who came to school, who did what was asked of them each day and received passing grades, but who still have not passed the MCAS test and did not receive a diploma on their scheduled graduation day. What is owed to them?

Paul Reville, one of the principal architects of education reform in Massachusetts, presented his answer in an interview and recent testimony before the U.S. Commission on Civil Rights.

I hear critics saying: Now you’re punishing that child out in _____ [underperforming district] by withholding their diploma.

And I’m saying: Which is the greater punishment? To say to that child, “You don’t have what you need to be successful later in life. So it’s now our obligation to get that for you, and to stick with you until you get the competency you need. And then we’ll give you a [diploma] to say that you’ve got it.” ?

Or is the punishment to say to them: “We’ll give you the diploma anyway, whether you’ve got the skill or not. We’ll all just pretend, because denial is easier. And we’ll send you along, so you feel good about your high school education – because we want you to feel good, whether you know anything or not.” ?

My contention is [that] we are ... *doing more good for the class of students that we have historically least well served in public education* by enforcing this standard – which has created unprecedented urgency around the achievement of low income and minority youth.¹¹³

Reville argued that Massachusetts has a continuing moral responsibility to the students who do not receive diplomas with their classmates.

We are right to be deeply concerned about those who might fail to graduate from high school due to the enforcement of stakes for performance on statewide assessments. We have an ongoing obligation to these students, a promise to stick with them and give them whatever they need to obtain proficiency.

He proposed the following as the *minimum* to which these students are entitled:

1. Use performance data to hold their teachers and schools accountable for providing a high quality opportunity to learn for all students.
2. Provide students with fair opportunities to appeal high stakes decisions and to present alternative evidence of mastery.
3. Most importantly, *we must guarantee them continuing education of indefinite duration so that they may attain proficiency.*¹¹⁴

He envisions a new educational entitlement:

Students are not necessarily entitled to graduate in four years, but they are entitled to the support they need in order to attain proficiency.

This entitlement requires more instructional time before, during, and after normal school hours. It requires a wider range of instructional strategies. It may require additional outside support services. It means using summers and additional semesters – whatever it takes to achieve proficiency. ...

The new educational promise is about mastery, not seat time. ... In the end, helping students to mastery is infinitely preferable to passing them on unqualified to certain failure because, in our misguided sympathy, we see it as generous to exempt them from the kind of stakes in education that life routinely imposes on them.

“They don’t need waivers or exemptions or protection,” he concluded “They need an opportunity to learn.”¹¹⁵

One of the toughest tests of the new policy concerns the rights and the needs of disabled students, some of whom – due to their disability – may *never* be able to pass the MCAS tests.

What is owed to them?

Rich Robison has wrestled with this question in his multiple roles. He is the Executive Director of the Federation of Children with Special Needs, Chairperson of the Sudbury, MA School Committee, and the parent of two children with Down Syndrome. He explained how he and his wife think about goals for their own children.

It probably starts with some assumptions ... related to how our kids with disabilities should become part – or not – of their communities. Our bias was that they should be. ... We began to question, “What comes next for our children with disabilities?” What would another child of that age do? Would they participate in Brownie Scouts? Probably. So our child, if [she] were interested, should participate in Brownie Scouts.

When it came to school, it really started with the whole focus on inclusion. ... The way it was interpreted in the schools had to do more with recess or lunch or social time, as opposed to academic participation. And, frankly, that was not satisfactory.

I remember reading about how they were doing inclusion in Italy. And, in fact, kids with Down Syndrome were participating in general education classes. I was fascinated by that, pursued it a little further, and began talking about that in the context of my own kids’ education. Why can’t they learn to read? Why can’t they participate and do x, y, z?

Robison previously was a clergyman.

As a church pastor, I was frequently approached to be on the community boards. ... I was appointed to the Welfare Board. I was appointed to the Mental Health Board. I began to look at a variety of different populations and issues from those eyes. What is it we really want [for] our communities? How do we integrate people into those communities and find appropriate opportunities for all, regardless of whether it’s poverty or new immigrant status or language issues or disability issues.¹¹⁶

How does this translate to MCAS policy for disabled students? When the Massachusetts House of Representatives proposed to exempt special needs students from the MCAS requirement, Rich Robison and Paul Reville published a column in the Boston *Herald* which began:

We are parents of children with special needs who likely will never pass the two sections

of the MCAS required for graduation.

Pointing out that more than 70% of the special needs students in the Class of 2003 had met the MCAS standard, they explained how their commitment to their own children led them to *oppose* the exemption for children with disabilities.

Like all parents, we are protective of our children and want the best for them, including access to the same high-quality education as their peers. ... We want their heroic efforts and progress recognized on graduation day. Nevertheless, we support Massachusetts' high graduation standards and we want our children's progress to be measured against them.

If our children should achieve these standards, they should receive a full diploma like all those who have mastered the learning. If not, they should receive ample recognition, respect for their work, and as much extra help as they need for as long as they need it to come as close as possible to achieving the standard. However, we don't need them to receive a diploma that pretends to represent skill and knowledge to which they have not been exposed or not yet mastered.

*If we exempt them from the diploma requirements that apply to other children, we make it a matter of official state policy that we are going to expect less of some categories of students. A policy of differing expectations is the injustice that standards-based reform is trying to correct.*¹¹⁷

Robison, in his interview, framed a new vision of inclusion.

As my kids continued to grow, I realized that education in most of our public schools is not individualized. My older child, the first of the three, tends to be, as they would say, "precocious." She has always been kind of an explorer. ... What she was experiencing in schools was teachers actually reprimanding her for reading ahead, and very punitively approaching her and trying to forbid her from doing it.

What I realized was that she had "special needs." My daughter with Down Syndrome had special needs. Then my son ... also has Down Syndrome, and – we learned later – autism, has needs. So we have three very distinct sets of needs, and none of them met the normal bell curve.

From my perspective as a parent, my advocacy efforts were focused on "What does it take to individualize their educational experience within the context of public school – which I am firmly committed to – to allow them *each* to be able to reach their potential, whatever that is going to be. *And not to artificially limit those expectations, which the system wanted to do in each of their cases.* That's been the drive. That's been the game.

What Reville calls "the new educational promise" may well be the fulfillment of what the Supreme Judicial Court meant, a decade ago, by "the state's constitutional duty to educate *all* its

children” – rich and poor, with disabilities and without, now and in the future. Our responsibility to students who have not yet acquired the “skills, competencies, and knowledge” they will need – in this society, in this economy, in the real world of the twenty-first century – is to continue to educate them, to provide ongoing educational opportunities of, as Reville says, “indefinite duration.”

For the first group of students who have not passed the MCAS requirement, the state has begun developing what it calls “pathways to success.” These include:

- connecting these students with the One-Stop Career Centers created several years ago to support education, training, and employment of the state’s adult workers;
- new grants to the state’s community colleges to develop summertime “transition” courses to help students prepare for the next MCAS retest and become familiar with the possibilities for a college education;
- “work and study” programs such as Boston’s Classroom in the Workplace in which corporate employers provide summer jobs that include 90 minutes of daily MCAS tutoring during the paid workday.¹¹⁸

The availability of programs like these may be, at present, less comprehensive than we would like, and the implementation less effective than is needed. Nonetheless, I would argue that the current outreach, remedial instruction, and creation of new opportunities for students at the *bottom* of their graduating class is unlike anything American public education has *ever* offered to comparable high school students. We know who these students are, individually and in categories. Every high school and every district *must* attempt to bring them to the MCAS standard. The programs currently available to them are far from sufficient, but the nature and visibility of their predicament is at the center of public policy debate, and the continuing struggle over how best to meet their needs represents a new and unprecedented focus on helping our *least successful* students.

VIII. Where are we now?

No Child Left Behind, school accountability, fiscal crisis, and beyond

Massachusetts set in motion, in 1993, an education reform process in which the commitment to adequate funding for all schools was joined to new standards and expectations for student achievement. After ten years of education reform, six years of MCAS, and the implementation of a new definition of a high school education, two realities define the current situation: First, the MCAS data indicate that Massachusetts' students – including all racial/ethnic subgroups, special education students, and students with limited English proficiency – have made real progress in the improvement of academic performance; and second, we still have a long way to go.

It is clear that implementation of *school* accountability promised in the Massachusetts Education Reform Act of 1993 has lagged far behind the *student* accountability measures embodied in the MCAS requirement. Paul Reville:

There are several reasons we don't have a strong accountability system [for schools] today. One is that adults are much better organized to keep accountability off them than are students. Education is an industry that's largely been unaccountable for performance. And we are introducing ... accountability to a heretofore unaccountable industry. That will be resisted. It will be resisted most strongly by the adults in the system.¹¹⁹

The federal government has become a powerful new player in the push for school accountability. With the signing of the No Child Left Behind Act of 2001 (NCLB) on January 8, 2002, Massachusetts' reform efforts were joined to a new nationwide initiative to improve the academic performance of all groups of students, at all schools, in all fifty states. NCLB sets the stunningly ambitious – some would say wildly unrealistic – goal of bringing *all* children to academic “proficiency” by the year 2014. It demands state accountability systems that monitor and report the progress of all student groups toward that goal. Its focus is on identifying failing

schools, directing strong penalties at *schools* which fail to make sufficient progress to improve achievement, and providing new options for the families whose children attend such schools.

The unusual alliance of President George W. Bush and Massachusetts Senator Edward M. Kennedy – which led to passage of the sweeping reform measure – was made possible, in part, by the fact that Massachusetts had already put in place reform measures well-matched to the new federal initiative. Massachusetts’ curriculum frameworks, the MCAS tests, the state’s analysis and publication of statewide, district, and school performance data, including data disaggregated by racial/ethnic group, special education status, and limited English proficiency have positioned the state well for implementation of the new NCLB requirements. It was not a surprise that Massachusetts was one of the first five states to submit, and receive approval for, its NCLB implementation plan.

It is now the requirements of the No Child Left Behind Act which are driving school-accountability measures in Massachusetts, as in many states. Although the federal law gives states flexibility concerning their definition of proficiency and the type of tests used to assess student performance, the U.S. Department of Education defined Ten Principles that are non-negotiable. These “critical elements” must be approved by each state’s board of education and / or legislature, in order to receive federal approval, and the federal funding, for the state’s NCLB plan. Each state’s plan must include:

- Principle 1: all schools
- Principle 2: all students
- Principle 3: a method for determining adequate yearly progress (AYP) to reach 100% proficiency by 2013-14 for all student subgroups in all schools and all school districts
- Principle 4: annual decisions about the progress of all subgroups, schools, and districts
- Principle 5: subgroup accountability, including all required student subgroups, including students with disabilities and limited English proficient students
- Principle 6: based on academic assessments

- Principle 7: additional valid and reliable indicators, including graduation rate for high schools and an additional academic indicator for elementary and middle schools,
- Principle 8: separate decisions for Reading / Language Arts and Mathematics
- Principle 9: system validity and reliability, including a plan for addressing changes in assessment and student population
- Principle 10: participation rate of 95% of all students, including all student subgroups and small schools.¹²⁰

Massachusetts' plan for NCLB continues, in relatively unchanged form, the MCAS test as the essential measure for tracking student achievement at the individual, school, student subgroup, and district levels – adding additional English and math tests to include in future years every grade from 3-8, as required in the federal law. Unlike other states such as Maryland, where wholesale changes of tests and policies were needed, or Texas, where the TAAS “basic skills” test is being replaced by new, more challenging assessments, the NCLB implementation in Massachusetts is built on the existing MCAS system put in place during the last six years.

The Massachusetts Business Alliance for Education, whose research and advocacy a decade ago played a critical role in passing the state's Education Reform Act, weighed in recently with its view of current priorities:

The MBAE was founded on the principle that *every* child in the Commonwealth is entitled to a quality public education. We know, however, that many districts have not met this challenge for their students. ... We believe that the focus of education reform in Massachusetts must now turn to those districts that are failing to provide students with an opportunity to learn at the levels required by the Commonwealth. ...

Accountability must be applied not only to students, but also to teachers and administrators. If we are to hold students in our public schools accountable ... then we must also hold the schools and districts – and the adults who work in them – accountable for providing an environment that fosters learning and provides students with the opportunity to succeed.¹²¹

Massachusetts, like many other states, is facing a serious fiscal crisis in state government. Its new governor, Mitt Romney, was elected in 2002 on a firm “no new taxes” platform. While the state's FY 2004 budget technically maintains the “foundation formula” adopted in 1993 – in

reality, the large cuts in other education grant programs and non-specific local aid constitute major *reductions* of state education funding for the first time in a decade, hitting poorer districts the hardest.¹²²

Where does Massachusetts stand, now, on the road to 100% proficiency, for all its students? Education Commissioner David Driscoll, in a 2002 interview, pointed to continuing group disparities in educational performance as the state’s greatest challenge.

People talk about the achievement gaps as if it’s a surprise – which always fascinates me. We started out knowing what the situation was, and is, and MCAS is strictly a mirror of those pre-existing conditions. Our testing program did not cause these gaps. In my judgment, it is not only is not exacerbating the situation, it is helping to address these gaps.¹²³

Students at Proficiency (or higher)	Grade 10 – Spring 2002	
	English	Mathematics
African-American	30.8%	15.7%
Asian	61.4%	59.8%
Hispanic	26.2%	13.5%
Multiracial	61.2%	41.5%
Native American	48.3%	23.9%
Other	37.9%	24.2%
White	66.7%	50.6%
Special education	20.1%	12.2%
Limited English Proficient	13.0%	14.5%
Regular education	66.0%	49.5%
All students	60.0%	44.4%

The path to 100% proficiency will be a steep one indeed, particularly for African-American, Hispanic, Native American students, special needs students, and students with limited English proficiency – but this is no surprise. As Commissioner Driscoll noted, “We started out knowing what the situation was, and is.”

We can learn from districts like Hull, Massachusetts – a financially struggling seaside

town surrounded by wealthier communities – where a concerted, inclusive push brought *every student* in the Class of 2003 to passing the MCAS exams. One student noted, “Other towns around us put us down because we’re not as high-class as they are. But Hull High has stepped up to the plate, and we have proven that this is a good and challenging school.”¹²⁴ Dr. Russell Goyette, the school’s principal, explained:

I had interviewed for the job in December and they asked, “These are our numbers. We have a lot of kids that haven’t passed the MCAS even after taking it a second time. What are your plans for making sure that every single one of the students gets over the bar before graduation?”

We broke the thing into three components. One was an academic component. One was a motivational component. And one was a self-esteem building component. ... It’s all the intangibles. It’s all the little things that make a kid successful on the playing field, in class, in the neighborhood. If they’re getting all the little intangibles, then I don’t care where they come from. I don’t care what background, what race – if they have those supports, they will be successful. I really believe that.

I think that no matter what business or career you look at – where it’s education or auto sales – there are people that are working hard, killing themselves every day, and others that don’t work as hard or don’t follow the company policy. Be one of those adults in a kid’s life that knows what all the intangibles are and puts as many intangibles as they can in front of these kids. That’s the “company policy” here: we’re going to get all these kids to pass.¹²⁵

A decade ago, the *McDuffy* litigation and the MBAE’s plan for education reform created unrelenting pressure on the state’s political structure to redefine the meaning of a high school diploma and to provide new funding for the state’s poorest schools and districts. Today, both the Commonwealth’s progress and the nature of deep, continuing problems are evident.

The recent high court ruling in New York affirming that state’s constitutional mandate to educate all its children,¹²⁶ the *Hancock* case in Massachusetts seeking to define in explicit terms the requirements of the decade-old *McDuffy* ruling, new legal and administrative structures to add tough *school* accountability to the *student* accountability now in place are all part of the ongoing struggle to *deliver* academic achievement for all our children, rich and poor, now and in

the future.

If – and it is a huge “*if*” – the Commonwealth of Massachusetts and the nation can maintain – in real programs, real dollars, and real effort – the articulated commitment to bringing *all* children and all groups to the “skills, competencies, and knowledge” needed for engaged citizenship, lifelong learning, gainful employment and the pursuit of happiness, then standards-based reforms may be, as veteran civil rights activist William L. Taylor has proposed, “the most important vehicle for the educational progress of minority and poor students since *Brown v. Board of Education*.”¹²⁷

Notes

- ¹ including students in district, regional, charter, and vocational public high schools and special education students attending specialized private schools at public expense. Other private school students are *not* required to take or pass MCAS tests.
- ² Naomi Chudowsky, Nancy Kober, Keith S. Gaylor, and Madlene Hamilton, *State High School Exit Exams: A baseline report*. Washington, D.C.: Center for Education Policy, August 2002, p. 32. The states with required exit exams are Alaska, Florida, Georgia, Indiana, Louisiana, Maryland, Minnesota, Mississippi, Nevada, New Jersey, New Mexico, New York, North Carolina, Ohio, South Carolina, Tennessee, Texas, and Virginia. States planning to add exit exams by 2008 include Arkansas, Arizona, California, Utah, and Washington, although high failure rates may lead to a postponement of the requirement in California, and have already led to postponements in Alaska and Arizona.
- ³ TIAA – CREF is the Teachers' Insurance and Annuity Association – College Retirement Equities Fund.
- ⁴ *First Annual Report*, The Carnegie Foundation for the Advancement of Teaching, New York, NY, 1906. p. 16. Emphasis added.
- ⁵ *ibid.*, 26.
- ⁶ J.H. Kirkland, "The Association of Colleges and Secondary Schools of the Southern States," *School Review*, February 1913, quoted in Edward A. Krug, *The Shaping of the American High School*, New York: Harper and Row, 1964. p. 129-30.
- ⁷ Ellsworth Tompkins and Walter H. Gaumnitz, *The Carnegie Unit: Its origins, status, and trends: Bulletin 1954, No. 7*. Washington, DC: U.S. Government Printing Office, 1954, p. 6.
- ⁸ *ibid.*, 9. The country's first junior high schools, with a 6-3-3 grouping of grades, were developed in Berkeley, CA and Columbus, OH in 1909.
- ⁹ *First Annual Report*, The Carnegie Foundation, p. 38. Emphasis added.
- ¹⁰ *ibid.* Emphasis added.
- ¹¹ *ibid.*, 39.
- ¹² Tompkins and Gaumnitz, p. 2.
- ¹³ *ibid.*, 20. Emphasis in original.
- ¹⁴ *ibid.*, 7-8. Emphasis in original.
- ¹⁵ David Tyack and William Tobin, "The 'grammar' of schooling: Why has it been so hard to change?" *American Educational Research Journal* 31, no. 3, Fall 1993. p. 454.
- ¹⁶ Tomplins and Gaumnitz, pp. 53-54. Emphasis in original.
- ¹⁷ *Demetrio P. Rodriguez et. al. v. San Antonio Independent School District et al.*, 411 U.S. 1; 93 S. Ct. 1278, 36 L. Ed. 2d 16 (1973), Summary and note 100.
- ¹⁸ The *amici curiae* included the Gloucester Public Schools and Wellesley Public Schools; Jonathan Kozol; Center for Law and Education and Massachusetts Advocacy Center; Padres Unidos en Educacion y el Desarrollo de Otros (Parents United in Education and the Development of Others), Boston Latino Parents Association, Bilingual Master Parents Advisory Council of the Boston Public Schools, Chelsea Commission on Hispanic Affairs, Lynn Hispanic Parents Advisory Council, Massachusetts Association for Bilingual Education, Chinese Progressive Association, and Lawrence Hispanic Parents Advisory Council; Trustees of Boston University, on behalf of the Chelsea Public Schools; Massachusetts Federation of Teachers, AFT, AFL-CIO; town of Brookline; Civil Liberties Union of Massachusetts, American Civil Liberties Union, and Massachusetts Teachers Association; Massachusetts Business Alliance for Education, Massachusetts AFL-CIO, League of Women Voters

of Massachusetts, Council for Fair School Finance, American Association of University Women of Massachusetts, Massachusetts Federation of Business and Professional Women, Inc., American Jewish Congress - New England Region, Citywide Educational Coalition, Citywide Parents Council, Greater Boston Civil Rights Coalition, Arlington Street Church Education Task Force, Citizens for Public Schools, Hispanic Office of Planning and Education, Latino Parents Association, Chelsea Parents Council for Special Needs Students, Choice Through Education, Inc., and Freedom House; Lynn Citizens Coalition for Public Education; Charlotte Ryan; Massachusetts Association of School Committees, Inc. and Massachusetts Association of School Superintendents, Inc. *McDuffy vs. Robertson*, 415 Mass. 545 (1993), note 6.

19 *McDuffy*, at 550.

20 *Id.*, note 8.

21 *McDuffy*, at 557.

22 Part II, c.5, § 2 of the Massachusetts Constitution, quoted in *McDuffy*, at 559. Emphasis added.

23 *McDuffy*, at 560.

24 *Id.* at 570.

25 *Id.* at 576.

26 *Id.* at 577.

27 *Id.* at 606. Emphasis added.

28 *Id.* at 614. Emphasis added.

29 *Id.* at 615.

30 *Id.* at 617.

31 *Id.* at 617. Emphasis added.

32 *Id.* at 618. *Rose v. Council for Better Educ., Inc.*, 790 S.W.2d 186, 212 (Ky. 1989).

33 *McDuffy*, quoting *Rose*, at 618.

34 *Id.* at 620.

35 S. Paul Reville, personal interview, 7 February 2003.

36 Jack Rennie, quoted in Jerry Taylor, "Crusade for schools puts CEO in limelight he shuns," *Boston Globe*, 2 May 1993, Northwest Weekly, p. 1.

37 Jack Rennie, personal communication, 30 August 2000.

38 Jack Rennie, in Taylor, *Boston Globe*, p. 1.

39 Massachusetts Business Alliance for Education (MBAE), *Every Child a Winner! A Proposal for a Legislative Action Plan for Systemic Reform of Massachusetts' Public Primary and Secondary Education System*, July 1991, p. 14.

40 *ibid.*, 14-17.

41 *ibid.*, 18.

42 *ibid.*, Executive Summary, p. ES-3.

43 *ibid.*, ES-3-4.

44 *ibid.*, ES-6-7.

45 Robert A. Jordan, "School reform is a test of will," *Boston Globe*, 23 January 1993, Metro/Region p. 19.

46 quoted in Jordan, *ibid.*

47 Peter J. Howe, "Mass. House approves education reform bill," *Boston Globe*, 3 June 1993, Metro/Region p. 1.

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- ⁴⁸ Peter J. Howe, "Mass. Senate OK's school bill amid criticisms," *Boston Globe*, 4 June 1993, Metro/Region p. 1.
- ⁴⁹ Peter J. Howe, "Questions on extent of school reform," *Boston Globe*, 7 June 1993, Metro/Region p. 1.
- ⁵⁰ *Massachusetts Education Reform Act of 1993*, Section 1D. The reform law states that the competency determination is to be "based on the academic standards and curriculum frameworks ... in the areas of mathematics, science and technology, history and social science, and English." The *Student 1* lawsuit, described in Section VI of this essay, challenged the Board of Education's authority to limit the competency determination to the areas of mathematics and English.
- ⁵¹ *ibid.*, 1D(i).
- ⁵² *ibid.*, 1I. The law, at § 1I, calls for the use of "a variety of assessment instruments" and states that, "as much as is practicable, especially in the case of students whose performance is difficult to assess using conventional methods, such instruments shall include consideration of work samples, projects and portfolios, and shall facilitate authentic and direct gauges of student performance." The ongoing dispute as to whether the assessment system based on MCAS does, or does not, meet these requirements is a key element of the *Student 1* case. See Section VI, below.
- ⁵³ See Section VI, below.
- ⁵⁴ This category is officially called "Warning" for grades before Grade 10 so that, in theory, a third or fourth grader is not being labeled a "failure." In Grade 10, the category is called "Failing."
- ⁵⁵ All MCAS test items since 1998, except unscored experimental questions and special items used to establish the validity and comparability of the tests from year to year, are available on the Massachusetts Department of Education's website at:
<http://www.doe.mass.edu/mcas/testitems.html>.
- ⁵⁶ See <http://www.doe.mass.edu/mcas/student/>.
- ⁵⁷ *Massachusetts Curriculum Framework – Mathematics*, November 2000. Condensed here. See <http://www.doe.mass.edu/mcas/frameworks/current.html>.
- ⁵⁸ Ed Hayward, "Beyond MCAS: Employers have their own testing," *Boston Globe*, 6 December 1999, p. 20.
- ⁵⁹ *ibid.*
- ⁶⁰ *Massachusetts Education Reform Act of 1993*, Section ID.
- ⁶¹ The number of test-takers was not identical for the English and math tests. Students who had been in the United States less than three years and had limited English proficiency could be exempted from the English test. Some of the students exempted from English did, however, take the math test.
- ⁶² Robin Estrid, "With MCAS release, education reform can really begin," Associated Press State & Local Wire, 24 November 1998.
- ⁶³ Martin Luttrell, "Valley schools make grade; MCAS results reviewed," *Worcester Telegram and Gazette*, 10 December 1998, Blackstone Valley Editions, Local News, p. B1.
- ⁶⁴ Dina Gerdman, "MCAS test fallout; S. Shore scores low in math," *Quincy Patriot Ledger*, 10 December 1998, p.1.
- ⁶⁵ *ibid.*

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- ⁶⁶ Kathy McCabe, “Class of 2003 anxious about making the grade when it counts,” *Boston Globe*, 20 December 1998. North Weekly, p. 1.
- ⁶⁷ Staff members of The National Classroom, Inc. whose work was essential to the mathematical analysis and historical research for this essay included David Albert, Michelle Baiz-Ebel, Melissa Meo, David Lynn, Dyan Watson, and Mary Lou Mehrling. We would also like to extend special thanks to Deborah Garson of Harvard’s Gutman Library for her invaluable help obtaining access to historical documents and to the Massachusetts Department of Education for access to MCAS performance data.
- ⁶⁸ Racial/ethnic identification in MCAS data for the years 1998-2002 has been based on students’ self-report when taking the English exam. The formulation of racial/ethnic categories has differed from year to year. For example, in 1999 the “multiracial” category was not used. In the state’s March 2003 report concerning the numbers of students who will and will not receive diplomas in June 2003, *all* students in the Class of 2003 were identified in one of only five categories: Asian, African-American, Hispanic, Native American, or white. This identification is based on information supplied by the school districts and stored in the state’s new Student Information Management System (SIMS). SIMS does not currently use “multiracial” or “other” as racial/ethnic identifiers.
- ⁶⁹ The seemingly large decline in the population of Native American students appears to reflect changes in the state’s use of racial/ethnic identifiers, rather than an actual decline. For every student who, in 1998, self-identified as *only* Native, there were three or four additional students who selected Native American *and* another racial/ethnic category. In our analysis of the 1998 data, students who selected Native American and another category were considered Native American (in accordance with the views of many Native American tribes); in 2002 such students were identified in the Department of Education dataset only as “multiracial,” and it was impossible to distinguish Native American students from other “multiracial” students.
- ⁷⁰ Please note: A student who is able to score *Advanced* on the MCAS English test is no longer a student appropriately characterized as having “limited” English proficiency.
- ⁷¹ The population of African-American test-takers grew 25.6%.
- ⁷² At two additional high schools (one a regional suburban high school, one an urban charter school) which are commonly known to have more than 10 black students in the Class of 2003, almost all of the students checked *all* the racial categories, or *none*. This made it impossible to analyze the performance of their students by racial/ethnic category – as was, perhaps, the intention.
- ⁷³ Gaudet’s Community Effects Factor is based on five socioeconomic indicators from 2000 census data: median household income, percentage of college-educated adults, households in poverty, single-parent families, and adults with limited English proficiency, in Robert D. Gaudet, *Effective School Districts in Massachusetts; A Study of Student Performance Relative to District Demography on the 2001 MCAS Assessments – The Fourth Annual Report*. University of Massachusetts, Donahue Institute, March 2002.
- ⁷⁴ Excluding the exam schools
- ⁷⁵ The failure rate for blacks at one school was 95%, but this is a special setting for students removed, for disciplinary reasons, from other schools in the district.
- ⁷⁶ B. Brawer, M.L. Mehrling, J. Cunningham, M. Meo, M. Baiz-Ebel, *Work in Progress II: 42 Promising Practices for Improving the School Success of Students at Risk of Academic*

Underachievement, Massachusetts Education Reform Review Commission and The National Classroom, Inc., November 2002. The report is available at <http://www.nationalclassroom.com>.

⁷⁷ *Student 1 v. Driscoll*, U. S. District Court, District of MA, Western Section, Civil Action No. 02-30152-MAP, First Amended Class Action Complaint, at 1.

⁷⁸ The plaintiffs – using calculations based on the number students originally enrolled in the Class of 2003 at the start of 9th grade, some of whom had been retained in 9th grade, some of whom had moved out of state or were “missing” in the state’s data, and some of whom remained in Massachusetts but had dropped out of school – set the figure at 16,000. Differences in calculating the number of students were not resolved in the subsequent court rulings, which were decided on the basis of other legal issues. In the final hearing in federal court prior to June graduation, Judge Michael Ponsor chastised the plaintiffs’ attorneys for having failed to file in a timely manner for “class certification,” the legal proceeding in class action suits which clarifies the relationship between individual plaintiffs and larger class they are alleged to represent.

⁷⁹ *Student 1 v. Driscoll*, First Amended Class Action Complaint, U.S. District Court, District of MA, Western Section, Civil Action No. 02-30152-MAP, 10 October 2002, at 4.

⁸⁰ *Id.* at 6.

⁸¹ *Id.* at 7, 9. Emphasis in the First Amended Complaint.

⁸² *Id.* at 7-13.

⁸³ *Id.* V. Legal Claims, Counts 1-10, at 245-319.

⁸⁴ *Id.* Count 8, at 309.

⁸⁵ *Id.* VI. Relief Requested, at 3.

⁸⁶ Judge Michael A. Ponsor, *Student 8 v. Driscoll*, U.S. District Court, District of MA, Western Section, Docket No. CA 02-30152-MAP, Transcript of Hearing, 15 May 2003, pp. 16-17. Judge Ponsor’s explanation occurred during the May 15 hearing, after the case had been heard in Massachusetts Superior Court, and the plaintiffs returned for a second hearing before Judge Ponsor.

⁸⁷ Judge Michael A. Ponsor, *Student 1 v. Driscoll*, U.S. District Court, District of MA, Western Section, Docket No. CA 02-30152-MAP, Transcript of Hearing, 2 December 2002, p. 8.

⁸⁸ *Id.* pp. 12-13.

⁸⁹ *Id.* pp. 16, 19.

⁹⁰ Judge Michael A. Ponsor, *Student 1*, Memorandum and Order Regarding Defendants’ Motion to Dismiss and for Partial Summary Judgment, 3 December 2002, p. 4.

⁹¹ *Student 1 v. MA Board of Education*, Massachusetts Superior Court, Civil Action No. 03-0071, Complaint, 7 January 2003, at 222.

⁹² *Student 1*, Memorandum of the Plaintiffs in Support of their Motion for a Preliminary Injunction, 20 February 2003, p. 4.

⁹³ *Id.* pp. 4-7.

⁹⁴ *Id.* pp. 7-9.

⁹⁵ *Id.* pp. 9-10.

⁹⁶ *Id.* p. 10.

⁹⁷ *Student 1 et. al. v. MA Board of Education and others*, Massachusetts Superior Court, Civil Action No. 03-0071, Memorandum of Decision and Order on Plaintiffs’ Emergency Motion for a Preliminary Injunction, pp. 16-17, citing *Federation of Teachers*, 436 Mass. at 772.

⁹⁸ *Id.* pp. 19-21.

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- ⁹⁹ *Id.* pp. 22-24.
- ¹⁰⁰ *Id.* p. 26.
- ¹⁰¹ *Id.* p. 27.
- ¹⁰² *Id.* pp. 29-30.
- ¹⁰³ *Id.* p. 30, note 26.
- ¹⁰⁴ *Id.* p. 30.
- ¹⁰⁵ *Student 8 v. Driscoll*, U.S. District Court, District of MA, Western Section, Docket # CA02-30152-MAP, Transcript of Hearing, 15 May 2003, pp. 8-9.
- ¹⁰⁶ *Id.* pp. 21, 74.
- ¹⁰⁷ *Id.* pp. 33-35.
- ¹⁰⁸ *Id.* pp. 129-32.
- ¹⁰⁹ Plaintiffs' Motion for Further Relief, *Jami McDuffy et al. v. Secretary of the Executive Office of Education, et. al.*, filed 22 December 1999, at 3-9.
- ¹¹⁰ *Id.* at 10.
- ¹¹¹ *McDuffy* (1993) at 621.
- ¹¹² It was not a coincidence that the *Student 1* case was heard by the same jurist as the *Hancock* case. When the *Student 1* case was being transferred to state court, the *Hancock* hearings had already been scheduled before Judge Botsford; both the plaintiffs and defendants in *Student 1* requested the assignment of the MCAS case to Judge Botsford, due to the potentially overlapping issues with *Hancock*.
- ¹¹³ S. Paul Reville, interview, 7 February 2003. Emphasis added.
- ¹¹⁴ S. Paul Reville, testimony before the U.S. Commission on Civil Rights, Charlotte, NC, 6 February 2003. Emphasis added.
- ¹¹⁵ *ibid.* Emphasis added.
- ¹¹⁶ Richard Robison, personal interview, 23 May 2003.
- ¹¹⁷ Richard Robison and Paul Reville, "Diploma must signify high standard for all," *Boston Herald*, 18 May 2003, p. 28.
- ¹¹⁸ Megan Tench, "Seniors get MCAS help on the job," *Boston Globe*, 29 June 2003, p. B9.
- ¹¹⁹ Reville, interview.
- ¹²⁰ *Consolidated State Application Accountability Workbook*, 31 January 2003. U.S. Department of Education, Office of Elementary and Secondary Education, Part I, pp. 3-5.
- ¹²¹ Massachusetts Business Alliance for Education, "Intervening in Low Performing Districts: An Effective Strategy, December, 2002, page *i*.
- ¹²² Scott S. Greenberger, "Poorer towns balk at overrides; Yet state aid cuts hurt them more," *Boston Globe*, 18 May 2003, p.1
- ¹²³ Brawer et. al., *Work in Progress II*, page 116.
- ¹²⁴ Dina Gerdman, "Making the grade, testing themselves, perfection; Hull High proves students don't have to be from rich towns to succeed," *Quincy Patriot Ledger*, 6 March 2003, p. 1
- ¹²⁵ Dr. Russell Goyette, personal interview, 8 May 2003.
- ¹²⁶ Sam Roberts, "Judges Keep the State After School," *New York Times*, 29 June 2003, p. WK7.
- ¹²⁷ William L. Taylor, "Standards, Tests, and Civil Rights," *Education Week*, 15 November 2000.