

## CHAPTER 2

### EDUCATION IN MASSACHUSETTS

#### 2.1 Education in Massachusetts

Massachusetts has a long and admirable history of concern for the quality of education. The Massachusetts law of 1647 made each town responsible for educating all children to enable them to understand the religion and laws of the society and to provide them with the rudiments of a vocation. In *McDuffy v. Robertson*<sup>8</sup> the Massachusetts Supreme Court described this law as the beginning the history of public education in America.

When the Constitution of the Commonwealth, which included a separate chapter devoted to education, was adopted in 1780, a system of public schools had been in place for over 130 years and a college had been in existence for over 140 years.

In 1846, in *Cushing v. Newburyport*<sup>9</sup>, the question was whether the power of towns to tax themselves to support schools was limited to the power to raise money to support only the number and type of schools that they were required by State Statute to maintain. The court held that the Statute set a minimum and that towns could tax themselves to support more schools than they were required to maintain. This prevents the Commonwealth from capping the level of expenditure on education to achieve greater equity.

In 1978, a school finance suit was filed by 16 students attending schools in Brockton, Belchertown, Berkley, Carver, Hanson, Holyoke, Lawrence, Leicester, Lowell,

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<sup>8</sup> 415 Mass. 545; 615 N.E.2d 516; 1993 Mass.

<sup>9</sup> 10 Met 508 (1846)

Lynn, Rockland, Rowley, Salisbury, Springfield, Whitman and Winchendon; with the Massachusetts Supreme Judicial Court, under the caption *Webby v. Dukakis*<sup>10</sup>. Shortly thereafter, the Legislature enacted “School Funds and State Aid for Public Schools”, St. 1978, c. 367 Section 70 C; known to some as the Collins Boverini legislation and, following this legislation, the case was suspended for five years: see Gaudet (1994).

In 1980, voters passed Proposition 2½, which put town budgets, particularly in poorer towns under stress. The plaintiffs re-opened the case by initiating discovery in 1983. In July 1985, as the court prepared to hear the evidence, the Legislature passed “An Act improving the public schools of the Commonwealth”, St. 1985. c.188 Section 12 and proceedings in the case were suspended once more.

One part of the reforms was the creation of Equal Opportunity Grants under Massachusetts General Laws Chapter 70A Section 1, which deals with State financial aid for K-12 education. The second part of the reforms were two uniform statewide testing programs:

The Massachusetts Educational Assessment Program is designed to improve curriculum and instruction in the public schools. The Basic Skills Testing Program aims to identify and assist students who are deficient in mastery of basic skills in reading, writing and mathematics. – Massachusetts Department of Education (1987)

When the state budget went into crisis, in 1989, education was one of the first items on the budget to suffer. The Basic Skills Testing Program was eliminated in 1991 as part of that year’s budget cuts.

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<sup>10</sup> The name then given to the case that in time would be known as *McDuffy v. Robertson*.

One of the provisions of Proposition 2½ had been to transfer ultimate responsibility for the education budget from the School Committee to the Town government. The town of Lawrence appeared to have taken advantage of this fact and the absence of a clear classification of the amounts of State Aid given, into amounts for education and for other expenditures, to divert approximately \$33 million from education to the general town budget, between financial years 1985 and 1992. Not surprisingly, the plaintiffs re-opened the case once again, in 1990. The question in the early nineties was who would act first, the Massachusetts Supreme Court or the Legislature.

By May 2, 1993, there were two versions of an education reform bill in the State House. Both drew heavily on the Massachusetts Business Alliance's report entitled "Every Child a Winner" – Massachusetts Department of Education and Massachusetts Business for Education (1991).

On June 15, 1993, the Massachusetts Supreme Court published its decision in *McDuffy v. Robertson*<sup>11</sup>. It decided that the Massachusetts' Constitution made the education of all the school children in Massachusetts a duty of the Commonwealth, rather than, as the defendants had argued, an aspiration to which the State should work.

The plaintiffs, perhaps having learned the lessons of *Serrano v. Priest*<sup>12</sup>, had constructed their case cleverly so as not to insist on absolute equality of expenditures; instead they sought:

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<sup>11</sup> 415 Mass. 545; 615 N.E.2d 516; 1993 Mass.

<sup>12</sup> *Serrano v. Priest*, 5 Cal.3d 584 (1971) (*Serrano I*); *Serrano v. Priest*, 18 Cal.3d 728 (1976) (*Serrano II*); *Serrano v. Priest*, 20 Cal.3d 25 (1977) (*Serrano III*).

... a declaratory judgment that these constitutional provisions require the State to provide every young person in the Commonwealth with an ‘adequate’ education. The plaintiffs argue that Part II, c. 5, Section 2, and arts. 1 and 10, each require ‘equal access to an adequate education, not absolute equality.’

The standard that the Court adopted for a minimum education followed the guidelines set out in the first major case of the “third wave” of School Finance Equity Litigation, *Rose v. Council for Better Education Inc.*<sup>13</sup>

The guidelines set forth by the Supreme Court of Kentucky fairly reflect our view of the matter and are consistent with the judicial pronouncements found in other decisions. 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 that 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.’

The Court agreed that an adequate level of education was not being reached in towns in Massachusetts and passed the problem to the Legislature with the threat of further action if the Legislature failed to act in an appropriate way within a reasonable

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<sup>13</sup> *Rose v. Council for Better Educ., Inc.*, 790 S.W.2d 186, 212 (Ky. 1989).

time. By June 17 1993 the Massachusetts House and Senate bills were reconciled and passed. On June 18 1993 the Massachusetts Education Reform Act of 1993 (“MERA”) was signed into law by Governor Weld.

## **2.2 The Massachusetts Education Reform Act of 1993**

In assembling this précis of the elements of the Massachusetts Education Reform Act, I relied on the Act itself,<sup>14</sup> on Rossman and Anthony (1994), and on Parker (1997).

The Act encompassed a 7 to 10 year plan for standards reform and adequate minimum per student funding of education. The key elements were:

- 4 New Goals for Education in Massachusetts.
- Common Core, Curricula and Standards.
  - A high level common core was to be developed with extensive public participation and consultation. Academic standards, that would lend themselves to objective measurement, were to be developed in seven disciplines. Curriculum Frameworks were to be drawn up for the seven core disciplines.
  - Testing: a comprehensive diagnostic assessment of individual students was to be conducted at least in the fourth, eighth and tenth grades.
- The Act mandated that all students must pass the tenth grade test in order to graduate.
- Using a Foundation Budget and State Aid formulas, the Commonwealth would assure fair and adequate minimum per student funding for public schools.
  - The Foundation Budget for each school district was to be calculated by multiplying the enrollments in different student categories by their

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<sup>14</sup> Chapter 71 of the Acts of 1993.

“standard” expense, adjusted by the application of a Wage Adjustment Factor. By the Year 2000, all districts in the state would be at their foundation level. The average foundation budget, in 1993, was to be \$5,500 per pupil.

- The State Aid formulas were based on the proposal in “Every Child a Winner” that state aid should be set so that a town’s minimum contribution to meeting Foundation Budget levels of expenditure would be no more than \$10 per thousand dollars of residential property value.

- **Organizational / Procedural Elements.**

- Professional Development.

Beginning in 1998, all new teachers were required to pass two tests to become certified to teach in public schools in Massachusetts.

- School profiles allowing comparison of schools and school districts were to be published to “empower” parents.<sup>15</sup>
- Better-defined roles for school committees.
- Site Based Management – School Improvement Plans and School Councils.
- Line management was given greater control over hiring and firing.
- Principals were given broader powers to expel students.
- School receiverships.

### **2.3 Implementation – Curricula**

Between September 1993 and June 1994 a 40 member Commission on the Common Core of Learning, labored to produce the Common Core. It was adopted by the State Board of Education in July 1994 – Massachusetts Department of Education (1994).

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<sup>15</sup> “Profiles Of School Districts Show Disparities”, Laura Pappano, The Boston Globe, July 31, 1994, Third Edition, West Weekly Section, Page 1.

Curriculum Frameworks are the foundation upon which “Standards” are built. They are the standards. In all it took fully ten years to produce a full set of Curriculum Frameworks.

Debra v. Turlington – see Section 4 in Chapter 1 – meant that testing in a discipline had to be dependent on the existence of a Curriculum Framework, for the discipline. Assessment under MERA, the MCAS began late: in 1998. Only Mathematics and English Language Arts have been tested in all years and grades since then.

In the context of a 7 to 10 year plan, finishing the first step after 10 years is clearly failure. This failure was both political and predictable. Curricula are not easy to define. Should contraception be taught as part of human reproductive health?

The Development of Massachusetts Curriculum Frameworks can be split into two distinct, political, phases. The first, teacher centered phase, lasted from 1993 to January 1996 when the Board of Education Chairman, Martin Kaplan, resigned in the light of criticism of the “slow pace” of curriculum development and in the knowledge that Governor Weld intended to name John Silber, Dean of Boston University, as his replacement – see EyeOnEducation (2002).

Curriculum Frameworks were published in January 1996 for Arts; Health; Foreign Language; Mathematics; and Science and Technology / Engineering.

For the second phase, from 1996 onward, Silber appointed small teams of Board of Education members and “curriculum experts” to whom he gave the responsibility of revising and finalizing the frameworks. Revised and, as of January 2005, current Curriculum Frameworks, were released in the order given in Table 2.01:

Table 2.01 - Curriculum Frameworks Release Dates.	
Date	Curriculum Framework
August 1999	Foreign Languages
October 1999	Arts; Comprehensive Health
November 2000	Mathematics
May 2001	Science and Technology / Engineering
June 2001	English Language Arts
October 2003	History and Social Sciences
May 2004	Revised English Language Arts and Mathematics
Source: Massachusetts Department of Education.	

## 2.4 Implementation – Organization and Procedures

Investment in Professional Development appears to be the singular success of the Organizational / Procedural reforms.

In February 1997, Governor William Weld executed Executive Order 393 establishing the Educational Management Accountability Board (EMAB). EMAB's mission was to review, investigate and report on the expenditure of funds by school districts, consistent with the goals of improving student achievement. The Order also directed the Board to verify the accuracy of reports submitted by school districts to DOE, and review progress under Education Reform. – Massachusetts Department of Revenue (2002).

Between November 1997 and February 2000, EMAB undertook 19 audits<sup>16</sup> summarized in Massachusetts Department of Revenue (2002). On the face of it the schools themselves were not doing very much to implement the reforms. Although nearly

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<sup>16</sup> Agawam, Auburn, Braintree, Brockton, Cambridge, East Longmeadow, Everett, Gardner, Lexington, Lowell, Malden, Milton, New Bedford, North Attleborough, North Reading, Salem Triton, Worcester and Woburn.

all schools had created school improvement plans, many plans did not address student performance or test results, and while most school districts had met the minimum time & learning requirement, few districts had extended the school year. Investment in professional development is described as the one singular success of MERA, but EMAB had concerns over the effectiveness of the spending.

MERA removed principals from collective bargaining units, and they were supposed to be held accountable through performance-based contracts. EMAB found, however that most districts had not implemented the changes.

EMAB found that necessary data was not coherently collected and that limited student improvement data was available, because the MCAS started behind schedule. Districts are required to submit biannual reports to the state, but it was clear to the Board that district data in these reports was often incorrect, inconsistent and too late, and that the information was never reconciled by the Department of Education.

## **2.5 Implementation – Competency Determination**

MERA mandated that students should earn a competency determination on assessments as a condition of receiving a high school diploma. In January 2000, the Board of Education established regulations that require students to attain a performance level of “Needs Improvement” or higher on both the grade 10 English Language Arts and Mathematics tests of the MCAS to earn a competency determination. Students have multiple opportunities, prior to their scheduled graduation date, to retake the test(s) that they did not pass.

The graduating class of 2003 which first took the 10<sup>th</sup> Grade MCAS in 2001, was the first required to earn a competency determination and to have had the opportunity to

take up to three retests. By the end of the third retest a significant improvement in the overall percentage achieving-competency is evidenced – see Table 2.02.

Table 2.02 - Class of 2003 Competency Determination April 2003.				
	Cumulative Percent Passed			
	Grade 10 Test	Retest 1	Retest 2	Retest 3
White	77	82	87	94
Asian	68	75	83	91
Native American	48	73	83	92
African American/Black	37	48	56	76
Hispanic	29	41	50	71
Source: Massachusetts Department of Education				

Students re-testing take special re-tests, which have a maximum scaled score of 23, are clearly constructed differently to the regular tests which have a maximum scaled score of 280. This at least begs the question, is the MCAS being adjusted in the light of the political realities and has the question, once more, become:

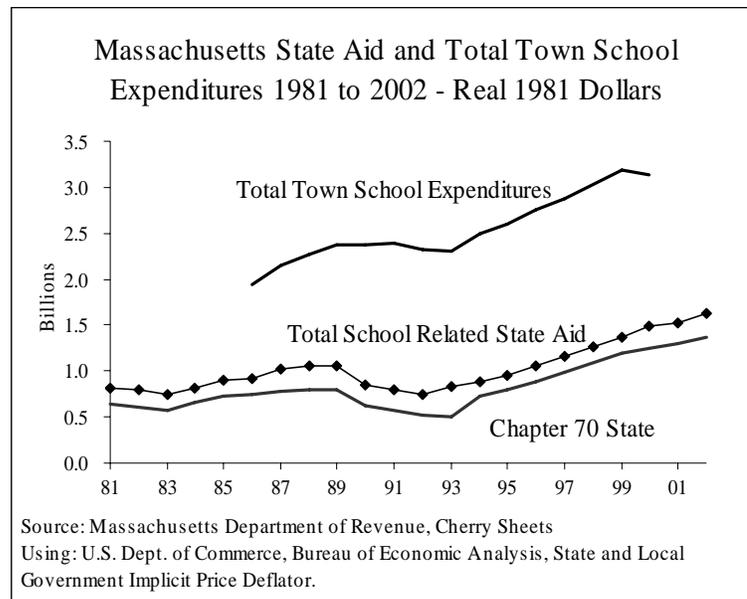
‘How many children can we afford to fail?’ in terms financial, remedial education etc and in terms of public relations.’ – Baron and Sergi (1979).

If MCAS has succumbed to politics it will provide a flimsy foundation for any research into the changing state of education in Massachusetts.

## 2.6 Implementation – State Aid

There is little doubt that State Aid under Chapter 70 and total State Aid to education increased in every year after MERA. Chapter 70 aid increased: by 46.9 percent between 1993 and 1994, by between 11.9 and 14.3 percent per annum to 1999 and then by 9.2 percent between 1999 and 2000, the beginning of the current budget crisis. Figure 2.01 shows the real increase in both Total Town School Expenditures and State aid.

Figure 2.01 – Inflation Adjusted Total Town School Expenditures and State Aid For Education in Massachusetts 1981-2001.



Statewide, enrollment grew by only between 1.84 and 2.85 percent per annum in the same period, according to Department of Education analysis of Foundation Enrollment, so the increase in expenditures resulted in a per pupil increase in expenditure.

MERA proposed that a town's minimum contribution to meeting Foundation Budget levels of expenditure would be no more than \$10 per thousand dollars of residential property value. By 2000, State Aid made up the difference between property taxes of, on average, \$8.95 per thousand of residential property value and a town's Foundation Budget. State Aid was redistributive towards income poorer towns. For the poorest quartile of towns by average incomes, meeting the Foundation Budget without State Aid would have required property taxes of, on average, \$22.30 per thousand dollars

of residential property value. With State Aid the “Minimum Contribution” was, on average, \$8.20 per thousand dollars of residential property value – see Table 2.03.

Table 2.03 - The Effect of State Aid and Minimum Contributions on Town Budgets - 2000. Levy in dollars per thousand dollars of property valuation.			
Quartile by Average Income	Average of Average Income	Levy to Meet Foundation Budget <b>With</b> State Aid	Levy to Meet Foundation Budget <b>Without</b> State Aid
Lowest	37,635	8.2	22.3
2 <sup>nd</sup>	44,906	9.4	19.0
3 <sup>rd</sup>	51,727	9.2	14.8
Highest	73,640	8.0	9.0
Source: Massachusetts Department of Revenue and Massachusetts Department of Education and Author's Calculations.			

The Foundation Budget for K-12 Education and State Aid Formulae placed towns, in Massachusetts, on a more or less equal footing. As we have seen, Foundation Budgets were used in State Aid calculations, but EMAB concluded that the Foundation Budget was not used to develop the school district budget.

## 2.7 Did Per Pupil Expenditure Become More Equal?

So the question then becomes, did this increase in expenditure overall result in the leveling up of the poorer towns as the Act intended?

The Integrated Total Cost of Schools<sup>17</sup> for each of town or city was divided by the Enrollment for each municipality, for the school years 1994 to 2000. No adjustment is made for inflation. Two small towns, Gosnold (1994 enrollment of 3 students) and Rowe (1994 enrollment of 31 students) were excluded. The statistics suggest that nothing

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<sup>17</sup> See Section 3 of Chapter 4 for a definition of “Integrated Total Cost”.

changed in the distribution of expenditures other than an increase in the average – refer to Table 2.04.

Table 2.04 – Massachusetts’ Statewide Per Pupil Expenditure, 1994 to 2000. Excluding Gosnold and Rowe.							
	1994	1995	1996	1997	1998	1999	2000
Minimum	3,934	4,246	4,442	4,673	4,900	3,818	5,873
Maximum	10,008	12,411	12,616	11,474	13,094	14,199	16,547
Median	5,274	5,657	5,934	6,238	6,574	7,098	7,550
Average	5,494	5,908	6,187	6,529	6,853	7,384	7,869
Standard Deviation	966	1,046	1,010	1,074	1,084	1,194	1,394
Std. Dev. /Average	18.0%	18.0%	16.0%	16.0%	16.0%	16.0%	18.0%
(Ave-Median) /Ave	4.0%	4.3%	4.1%	4.5%	4.1%	3.9%	4.1%
Source: Massachusetts Department of Education and Author’s calculations.							

However, looking at the towns and cities individually produces a slightly different picture, one in which there is movement in the rankings within an unchanged, on average, distribution. The towns were categorized according to whether they increased their expenditure between 1994 and 2000, when the increase was measured as a percentage of the average for all the towns and cities. Those towns that did were labelled “Advancers” and those that did not “Retreaters”. For example if Northampton spent 120 percent of Massachusetts’ towns average per pupil spending in 1994 and 80 percent of Massachusetts’ towns average per pupil spending in 2000 it would be a “Retreater”.

The towns were split into four sub-groups: those that were above the average in 1994 and continued above the average in 2000; those that were above the average in 1994 and fell to below the average in 2000; those that were below the average in 1994 and continued below the average in 2000; and those that were below the average in 1994 and

rose to be above the average in 2000. Given the nature of the first split Advancers / Retreaters this gave six categories.

## 2.8 Enrollment Growth

The advance of “Advancers” and the retreat of “Retreaters” are related to trends in enrollment. Average enrollment growth for all the advancers between 1994 and 2000 was 5.65 percent as against 14.96 percent for all of the retreaters. Those that did best, the advancers above average in 1994 and above in 2000, saw enrollments shrinking on average by 3.84 percent between 1994 and 2000 and those who did next best saw positive growth of only 3.70 percent, compared with 16.64 percent growth in enrollments for the worst performers – see Table 2.05.

Table 2.05 - Enrollment Growth by Change in Town Per Pupil Expenditure Ranking 1994-2000.	
Schools Status	Percent Average Enrollment Growth
All “Advancers”	5.65
Above in 1994 & above in 2000	-3.84
Below in 1994 & above in 2000	3.70
Below in 1994 & below in 2000	10.79
All “Retreaters”	14.96
Above in 1994 & above in 2000	16.80
Above in 1994 & below in 2000	8.78
Below in 1994 & below in 2000	16.64
Source: Massachusetts Department of Education and Author’s calculations.	

This analysis suggests that the pressure of rising enrollments is the main reason for a town’s per pupil expenditure to retreat with respect to the average of all towns and cities in the Commonwealth, rather than the impacts of Proposition 2½ or indeed of the Foundation Budget. It makes sense in terms of human nature that it would be harder to

get a budget increase when enrollment is increasing than it would be to keep a stable budget even though enrollments were decreasing.

The increase in the average expenditure from \$5,494 in 1994 to \$7,869 in 2000 owes more to the improving and then booming economy, than to any acts of the Legislature.

## **2.9 Conclusions**

MERA evolved from a political process that married Equity to Standards reform. Implementation of the Equity components, increased State Aid and a maximum Minimum Contribution, together with a buoyant economy led to a higher basic level of funding per pupil. The rankings by expenditure per pupil appear to be more sensitive to growth in enrollment than to the impacts of Foundation Budgets or State Aid formulae.

Implementation of Standards has yet to really begin. Ten years of Curriculum development has meant that only two of the seven disciplines has been tested each year and also resulted in testing starting late. Competency Determination, as a condition for graduation, also began late and there is evidence that the tests and re-tests were adjusted to make failure less easy. Apart from Professional Development the Procedural / Administrative elements of reform have been largely ignored by school districts.

The next chapter looks at the data available and at the selection of a sample of 180 School Districts used in the analysis.