

SUPREME COURT OF KENTUCKY

Commonwealth of Kentucky, ex rel. Attorney General Russell
Coleman v. Council for Better Education, Inc.

2024-SC-0022-TG · No. 2024-SC-0022-TG; 2024-SC-0024-TG · Decided February 19, 2026

SUMMARY

The Supreme Court of Kentucky considers consolidated appeals concerning the constitutionality of Kentucky House Bill 9, which established a public charter-school framework. The court holds that charter schools are not “common schools” or “public schools” under Sections 183, 184, and 186 of the Kentucky Constitution and affirms the Franklin Circuit Court’s judgment enjoining implementation and public funding of the statute.

CASE DETAILS

COURT	Supreme Court of Kentucky
WRITING FOR THE COURT	Justice Keller; Keller; Lambert; Thompson
JURISDICTION	Supreme Court of Kentucky
DECIDED	February 19, 2026
DOCKET	2024-SC-0022-TG; 2024-SC-0024-TG
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeals from a Franklin Circuit Court declaratory judgment and injunction, transferred to the Supreme Court of Kentucky on separate motions to transfer.
STANDARD OF REVIEW	Constitutional interpretation and statutory interpretation were reviewed de novo.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Commonwealth of Kentucky, ex rel. Attorney General Russell Coleman, Gus LaFontaine v. Council for Better Education, Inc., Dayton Independent Board of Education, Jefferson County Board of Education, Kentucky Board of Education, Robin Fields Kinney, in her official capacity as Interim Commissioner of the Kentucky Department of Education, Sharon Porter Robinson, in her official capacity as Chair of the Kentucky Board of Education

TOPICS

constitutional law

appellate procedure

statutory interpretation

plain meaning rule

PRACTICE AREAS

constitutional law

education law

state constitutional law

appellate procedure

QUESTIONS PRESENTED

1. Whether HB 9's charter schools qualify as common schools under Sections 183 and 184 of the Kentucky Constitution.
2. Whether HB 9's charter schools qualify as public schools under Section 186 of the Kentucky Constitution.
3. Whether public funding of charter schools under HB 9 violates the constitutional restrictions on the use of common-school funds and on funding education outside the common schools without voter approval.
4. Whether the charter-school system created by HB 9 violates the constitutional requirements that Kentucky maintain an efficient, unitary, uniform, and adequately monitored common-school system.

HOLDINGS

1. HB 9's charter schools are not common schools because they may cap enrollment, need not provide every eligible child in the district the privilege of attending, and operate outside the statutory and regulatory structure governing local common schools.
2. HB 9 violates Section 183 because it creates a nonuniform, parallel system outside Kentucky's common-school system rather than an efficient, unitary, and uniform system subject to continuing General Assembly oversight.
3. HB 9 violates Sections 184 and 186 because it directs public education funds to charter schools outside the common-school system without first obtaining voter approval for taxation to support education other than in common schools.

KEY QUOTATIONS

“Our precedent as stated in Rose, requires the system to be “unitary and uniform” and not duplicative. It does not allow for a parallel system which is not within the common school system.” (12-13)

“The constitutional sequence requires text first (Section 184’s lockbox); tradition next (the public, district-run meaning of “common schools”); mechanism last (how the money flows).” (17)

“Nevertheless, the Constitution as it stands is clear that it does not permit funneling public education funds outside the common public school system.” (18)

FACTUAL BACKGROUND

HB 9 established a public charter school system and authorized charter schools to receive public funds. The statute allowed charter schools to limit enrollment, operate outside the regulatory control of local school

districts, and receive exemptions from statutes and administrative regulations governing public schools. The court concluded that these features created a publicly funded parallel system that was not open to every eligible child, was not uniformly monitored by the General Assembly, and was outside Kentucky's constitutional common-school system.

PROCEDURAL HISTORY

The Council for Better Education sought a declaration that House Bill 9 violated Sections 183, 184, and 186 of the Kentucky Constitution. The Franklin Circuit Court held that HB 9 was unconstitutional and enjoined implementation of the statute and the distribution or expenditure of tax dollars to charter schools. The Commonwealth and Gus LaFontaine separately appealed and moved to transfer the appeals directly to the Supreme Court of Kentucky; the Supreme Court granted transfer and affirmed.

DISPOSITION

affirmed

CASES CITED

- Rose v. Council for Better Education, Inc., 790 S.W.2d 186 (Ky. 1989)
- Major v. Cayce, 33 S.W. 93 (Ky. 1895)
- Commonwealth ex rel. Cameron v. Johnson, 658 S.W.3d 25 (Ky. 2022)
- University of the Cumberlands v. Pennybacker, 308 S.W.3d 668 (Ky. 2010)
- Underwood v. Wood, 19 S.W. 405 (Ky. 1892)
- Sherrard v. Jefferson County Board of Education, 171 S.W.2d 963 (Ky. 1942)
- Hodgkin v. Board for Louisville & Jefferson County Children's Home, 242 S.W.2d 1008 (Ky. 1951)
- Fannin v. Williams, 655 S.W.2d 480 (Ky. 1983)