

**NONRESIDENT STUDENT AGREEMENT BETWEEN
THE BARDSTOWN INDEPENDENT BOARD OF EDUCATION
AND
THE NELSON COUNTY BOARD OF EDUCATION**

This Agreement is made and entered into this ____ day of _____, by and between the Board of Education of the Bardstown Independent School District (“BCS”) and the Board of Education of the Nelson County, Kentucky School District (“NCS”),

WHEREAS, each Board of Education recognizes and respects the proud and excellent tradition of each District in educating the children of Kentucky; and

NOW, THEREFORE, the Boards of Education of the respective Districts hereby agree as follows:

1. This Agreement shall become effective upon approval by both Boards of Education and shall remain in full force and effect thereafter until June 30, 2028, at which time it shall terminate (said time period hereinafter referred to as “term of the Agreement”).

2. Pursuant to KRS 157.350(4)(a)(1), the parties agree as follows regarding NCS resident students attending BCS:

A. Beginning with the 2015-16 school year and continuing through the 2027-28 school year, NCS shall permit a certain number of its resident students to attend BCS and be counted in BCS’s average daily attendance (“ADA”) in accordance with the following schedule:

<u>School Year</u>	<u>Number of NCS resident students released not to exceed</u>
2015-16	580
2016-17	565
2017-18	550
2018-19	535
2019-20	520
2020-21	505
2021-22	490
2022-23	475

2023-24	460
2024-25	445
2025-26	430
2026-27	415
2027-28	400

B. During the term of this Agreement, those students who began the then current school year as NCS resident students attending BCS whose status has not changed as of April 15 of the then current school year, shall remain in BCS during the subsequent school years.

C. During the term of this Agreement, those students attending BCS who become NCS resident students due to a change in status shall complete the school year in BCS, and be permitted to attend BCS in subsequent years. These students will be counted in the “not to exceed number” established for each year. A “change in status” is defined as moving residence from BCS to NCS, moving residence from another school district to NCS, or the employment separation of a parent who was previously an employee as defined below at some point during the then current school year by BCS. An “employee” is defined as a person holding a classified or certified position with BCS who receives compensation so as to qualify for benefits for the job class in which they are employed.

D. During the term of this Agreement, siblings of then currently enrolled NCS resident students attending BCS who apply for admission preceding the school year in which they desire to enroll shall have first priority in determining which NCS resident students are admitted to BCS using the procedure described in Section 2.G. The term “sibling” includes brothers/sisters, half-brothers/sisters, step-brothers/sisters, adopted brothers/sisters, foster children, and children residing as part of a non-traditional family unit (with aunt/uncle/grandparent) in the same household as the NCS resident student then currently enrolled in BCS. Other non-traditional family units may be approved with the agreement of both districts’ directors of pupil personnel.

E. During the term of this Agreement, the remaining open positions shall be filled with Bardstown Early Childhood (NCS residents) incoming kindergarten applicants who apply for admission preceding the school year in which they desire to enroll. These students shall have second priority and are selected from the time-stamped, first come, first served list and will be moved to the shared approved out-of-district (OOD) enrollment data base. *See* Section 2.J., below.

F. Bardstown Early Childhood Center (ECC) may accept Nelson County resident children on the day of the mutually agreed upon spring Registration Day for ECC and Nelson County Early Learning Center (ELC). After Registration Day, parents of preschool children wishing to enroll in ECC must supply a signed, dated letter from the NCS ELC staff confirming that the parents have visited the NCS ELC. Said letter must be supplied to ECC before an ECC registration packet may be provided to the NCS parents.

G. Admission of the remaining NCS resident students desiring to attend BCS shall be based on the following annual process:

(1) Beginning at 9:00 am on the first business day after January 1, 2016, and each subsequent year, the out of district application will be made available through online links to be placed prominently on the home web pages of both BCS and NCS districts. The online application will automatically populate a database shared in real time between the superintendents (with editing rights), directors of pupil personnel (with editing rights), and their designees, time and date-stamped upon receipt. The online application will include the following information: first, last, and middle names; sibling , employee, and/or enrollment status; students' current grade levels; guardian-student relationship; residential address for custodial parent-guardian(s) and students; parent/guardian full names; resident and requested districts. For purposes of this

Agreement “parent” is defined as biological parent, adoptive parent, step-parent, foster parent, court-ordered legal guardian, adoptive parents, court-ordered custodian, or other non-traditional family unit residing in the same household. “Parent” includes those individuals meeting the definition of “parent” under the Family Educational Rights and Privacy Act (FERPA) at 34 C.F.R. § 99.3; and under the Individuals with Disabilities Education Act (IDEA) at 34 C.F.R. § 300.30; and individuals acting as caregiver under KRS 158.144, or acting with a limited power of attorney for school-related decisions pursuant to KRS 27A.095(2).

Computer access and technical assistance shall be available at the BCS and NCS central (Board of Education) offices to families without internet access at home, to families with language barriers, and to those who require accommodations for a disability which interferes with access to or use of the online application. Strict compliance with the application process is required, and any application not submitted in conformity with this Agreement shall be rejected.

(2) Open positions shall be filled by students in grades K through 12 on a first come, first served basis from all applicants who have applied preceding the school year in which they desire to enroll.

The online application will include space for a family to include siblings on a single application. In this way, all NCS resident siblings applying to attend BCS will automatically be added to the list with the same priority. Each student to attend from one household shall be counted against the maximum students permitted to attend BCS as set forth in Section 2.A. for the upcoming school year. If the final student enrolled via the online process is from a family with more than one student, and permitting all siblings residing in the same household to attend BCS would result in exceeding the maximum number of allowable students for a given year as set out in Section 2.A. above, it is nonetheless agreed that the selected students

and all siblings shall be permitted to enroll in BCS for the upcoming school year. An adjustment shall be made the following year to compensate for the additional students above the agreed upon limit allowed to attend BCS, as described in Section 7.

H. Should additional nonresident positions become open after April 30 each school year due to student movement, the rejection of an offer of an available position, or other circumstances, BCS shall fill the additional open positions in the first come, first served sequence identified by the online application process. If BCS has enrolled more NCS resident students than the maximum number permitted under this Agreement due to the addition of the sibling(s) of the final student selected through the first come, first served sequence, each sibling shall fill an open position. BCS shall not enroll any additional NCS resident students until it has fewer NCS resident students enrolled than is permitted pursuant to Section 2.A., above. This process may continue until the NCS opening day for students for the school year for which the students are being selected. During each school year, if at any time after NCS's opening day for students, BCS has not enrolled the maximum number of NCS residents students identified in Section 2.A., either because of a lack of applications or because any NCS resident student enrolled in BCS has left BCS for any reason during the school year, BCS shall not be permitted to fill said vacant position(s) during the then-current school year.

I. BCS and NCS agree that in accordance with KRS 157.350(4)(b), no written agreement between the respective Boards of Education is necessary as to those students residing in NCS who have a parent employed by the BCS and that those students may attend BCS as long as the student's parent(s) is employed as defined in Section 2.C., above, by the BCS at any point during the then-current school year. For purposes of this Agreement "parent" is defined as biological parent, adoptive parent, step-parent, foster parent, court-ordered legal guardian,

adoptive parents, court-ordered custodian, or other non-traditional family unit residing in the same household. Other non-traditional family units may be approved with the agreement of both districts' directors of pupil personnel. Students residing in NCS who have a parent employed by the BCS shall not count toward the not-to-exceed number of NCS students permitted in the BCS schools as listed in Section 2.A., above.

J. As NCS resident students are approved, their names shall be removed from the shared application database and transferred to a similarly constructed ~~and shared~~ Approved for Out of District Enrollment database, shared with staff and permissions as in 2.G.(1) above. This information shall be kept confidential as required by the Family Educational Rights & Privacy Act (FERPA), and shall be used by the respective districts only for the purposes of complying with the provisions of this Agreement and with compulsory attendance laws.

K. Students enrolled in BCS on a SEEK-equivalent tuition basis are required to pay in full before the first student attendance day of each school year. Any NCS resident student who enrolls in BCS under this Agreement on a tuition basis who has not timely paid tuition will be denied admission to BCS.

L. BCS shall receive transportation credit for NCS resident students attending BCS calculated in accordance with KRS 157.370.

M. If the number of SEEK-equivalent tuition paying NCS resident students in BCS grows more than indicated in the "SEEK" row of the table below for the year of the agreement indicated in each column, this clause of the agreement will be reviewed and possibly renegotiated. This would allow the number of SEEK-equivalent tuition paying NCS resident students in BCS to change according to this sequence:

Years	2015 - 2016	2016 - 2017	2017 - 2018	2018 - 2019	2019 - 2020	2020 - 2021	2021- 2022	2022 - 2023	2023 - 2024	2024 - 2025	2025 - 2026	2026- 2027	2027- 2028
SEEK	0	3	4	5	6	4	4	4	4	4	4	4	4
Cumulative	0	3	7	12	18	22	26	30	34	38	42	44	48
Actual													
Balance													

The difference between the SEEK and Actual values within a column yields a Balance that shall cause adjustment to the number allowable in the SEEK row for the subsequent year. For example, if only two (2) SEEK-equivalent tuition paying NCS students are enrolled in BCS in the 2016-17 school year, the difference between the SEEK and Actual values (+1), would be added to the SEEK row for the 2017-18 school year (5). For an additional example, if seven (7) SEEK-equivalent tuition paying NCS students are enrolled in BCS in the 2018-19 school year, the difference between the SEEK and Actual values (-2), would be added to the SEEK row for the 2019-20 school year (4). This method of accounting for tuition paying NCS students does not impact the method of redress described in Section 7, below. Documentation of SEEK-equivalent tuition paying NCS students enrolled in BCS will be maintained in the shared online document referenced in Section 2.J., above.

- N. Both districts will send a full listing of all enrolled preschool through high school students in the respective district five (5) times during each school year.
 1. Within five business days of the conclusion of the tenth (10th) school day for BCS
 2. Within the first five business days of October

3. Within the first five business days of January
4. Within the first five business days of April
5. Within the first five business days of May

The report will be formatted as a spreadsheet exported from the student information database. The reports will include:

1. Student first and last names
2. Grade level
3. School of current enrollment
4. Primary mailing address
5. Resident district

The BCS report will include the following status indicators:

1. Employee child
2. SEEK-equivalent tuition paying students

Additional data may be shared by mutual agreement of the district superintendents.

3. Both districts have the right to request and schedule a meeting at any time to discuss any concerns with implementation of this Agreement. Each district may appoint a representative(s) to attend such meeting on its behalf. This Agreement may be modified or terminated at any time by mutual consent of the Boards of Education provided such action is voted on and approved by formal action of each Board of Education. During the 2026-27 school year, the Districts agree to begin good faith discussions regarding the terms of a new Nonresident Agreement.

4. In the event that the laws of the Commonwealth of Kentucky change to render the provisions of Section 2 of this Agreement inapplicable or obsolete, such as in the event state educational funding becomes premised on the District educating a student regardless of the student's residency, then and in such event, BCS and NCS agree that this Agreement shall terminate on the same date the change in the law becomes effective.

5. The parties agree that BCS shall comply with KRS 158.144 and other relevant laws of Kentucky related to student guardianship and custody. For purposes of this Agreement, a student must reside with the caregiver or guardian or be the child of a BCS employee as defined in Section 2.C., above, to be eligible to enroll in BCS as a resident student. If the student does not reside with the caregiver or guardian, and the student resides in the NCS, the student is only eligible for admittance to BCS through the processes established herein in Section 2.G.

6. A "residential student" is one who resides in the District where he or she attends school. The parties agree that any parent/guardian or other person with custody or charge of a student who enrolls a student in BCS by misrepresenting the student's residential address is violating the law and circumventing the purpose of this Agreement. If, at any time, BCS receives an allegation that any individual has enrolled a student under such false pretenses, it shall contact NCS within two (2) school days of receiving the allegation and notify it of the allegation. The Director of Pupil Personnel for each district shall without unreasonable delay conduct an investigation of allegations including, but not limited to, home visits to determine if the student actually resides at that address. Upon completion of the investigation, a report shall be provided to the superintendent of each District. If it has been determined that the student does not reside at the address provided on enrollment documents, the student shall be concluded to be a nonresident student who is ineligible to enroll at and attend the BCS. The Districts agree to consider the

student's well-being in relation to the timing and circumstances of the transfer of the student to NCS, and to direct any punitive measures at the adult who has misrepresented the student's residential address. The student so affected will not be eligible for non-resident contract status for the remainder of his/her educational years, but may return to attendance in BCS upon a bona fide change in residence or the subsequent employment of a parent with BCS as set out elsewhere in this Agreement, and will thereafter be addressed consistent with this Agreement.

In the event the Districts cannot agree regarding the legitimacy of the student's residency, then within 30 days thereafter, the issue shall be submitted to arbitration. The selection of an arbitrator and the arbitration process shall be the same as described herein below in Section 8. The decision of the arbitrator shall be final and binding.

7. The parties intend to be and agree that they are legally bound to the full performance of the terms and provisions contained in this Agreement. The parties recognize that this Agreement would be breached if either District engaged in an intentional practice of omission or co-mission intended to circumvent the letter and spirit of the Agreement. Examples of such acts would include but not be limited to the following: falsifying employment status; knowingly exceeding the maximum number of NCS resident students permitted to attend BCS pursuant to Section 2.A. and the selection process in Section 2.G. beyond that otherwise allowed under this Agreement; and promoting, enabling, or facilitating the abuse of guardianships. The parties further agree that deliberate indifference or reckless disregard for the law could also circumvent the letter and spirit of the Agreement, and thus constitute a breach.

In the event of a breach of this Agreement, the number of NCS resident students permitted to enroll in BCS as identified in Section 2.A. shall be reduced by the number of excess NCS students enrolled at BCS for each remaining school year during the Term of this Agreement. For

example, if in the 2021-2022 school year, BCS enrolls 495 NCS resident students, or five (5) additional students than allowed under this Agreement, its maximum student allocation would be reduced as follows:

2022-23	470 (475-5)
2023-24	455 (460-5)
2024-25	440 (445-5)

In light of the difficulty of clearly defining a breach of this Agreement, the parties agree that if such a breach is suspected, they will promptly contact the other District with the objective being to resolve the suspected breach by mutual effort.

If the parties are unable to come to a mutually acceptable resolution of any suspected breach, the parties agree to resolve the dispute through binding arbitration. The parties agree to select a third-party arbitrator to conduct the arbitration. If the parties are unable to agree upon a mutually acceptable third-party arbitrator, then each District will nominate an arbitrator, and the two arbitrators will select a third arbitrator to resolve the dispute. In selecting an arbitrator, the parties or their nominated arbitrators shall endeavor to identify an arbitrator who is knowledgeable about Kentucky Revised Statutes Chapters 156-162. The parties agree that the arbitration proceeding shall be governed by Kentucky Revised Statutes Chapter 417 or its successor. The selected arbitrator is hereby authorized to conduct a hearing in accordance with Kentucky Revised Statutes Chapter 417 or its successor. The selected arbitrator is further authorized to impose the appropriate remedy and/or award of monetary damages for the violation of the Agreement if the arbitrator finds that the Agreement has been violated. The objective of this provision is to provide for an expedited resolution of the perceived breach of the Agreement at minimal costs to both

parties and to allow for correction of any violation. For purposes of arbitration, any monetary damage award shall be limited to the amount of SEEK funding and/or SEEK equivalent tuition a district has received for each child about whom there is a finding of a violation beyond that otherwise allowed under this Agreement, shall be geared toward the maintenance of the relationship between the parties as outlined in this Agreement, and shall be remedial rather than punitive.

8. During the term of this Agreement, BCS shall permit any and all of its resident students who desire to do so to attend NCS and be counted in NCS's average daily attendance. NCS shall receive transportation credit for BCS resident students attending NCS calculated in accordance with KRS 157.370.

9. The parties, and each of them, represent and warrant that they are duly authorized to execute and enter into this Agreement and that each of them, for and on behalf of their respective Boards of Education shall be legally bound by the terms and provisions of this Agreement for the term of the Agreement.

10. This Agreement does not give legal rights to third party beneficiaries and is subject to enforcement only between the two school Districts.

IN TESTIMONY WHEREOF, witness the signatures of the parties on the day and
date written below.

**BOARD OF EDUCATION OF THE
NELSON COUNTY, KENTUCKY
SCHOOL DISTRICT**

Date: _____

Chairman

Date of Board Approval

ATTEST:

Its Secretary

**BOARD OF EDUCATION OF THE
BARDSTOWN, KENTUCKY
INDEPENDENT SCHOOL
DISTRICT**

Date: _____

Chairman

Date of Board Approval

ATTEST:

Its Secretary

Initials – NCS Chair

Initials – BCS Chair

6/16/15	Original contract approved in board meetings of both BCS and NCS.
8/15/16	BCS requests meeting to review contract effectiveness in light of implementation experience.
8/24/16	Meeting at BCS Board office to discuss application deadline, access for viewing shared document revisions, and specific data to be shared between districts.
9/20/16	Revised contract approved in board meetings of both BCS and NCS.