

**THE BOARD OF EDUCATION OF JEFFERSON COUNTY, KENTUCKY  
IRC SECTION 125 CAFETERIA PLAN**

As Amended and Restated Effective January 1, 2017

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**TABLE OF CONTENTS**

ARTICLE 1. DEFINITIONS.....	2
1.01 Accidental Death and Dismemberment Insurance Plan .....	2
1.02 Board.....	2
1.03 Cancer Insurance Plan.....	2
1.04 Code .....	2
1.05 Compensation. ....	2
1.06 Contributions .....	2
1.07 Dental Insurance Plan .....	2
1.08 Dependent .....	3
1.09 Effective Date.....	3
1.10 Eligible Employee.....	3
1.11 FMLA. ....	3
1.12 Fringe Benefit Contribution.....	3
1.13 Health Insurance Plan .....	3
1.14 HIPAA.....	3
1.15 Key Employee.....	3
1.16 Nontaxable Benefits .....	4
1.17 Open Enrollment Period.....	4
1.18 Participant .....	4
1.19 Plan .....	4
1.20 Plan Administrator .....	4
1.21 Plan Year.....	4
1.22 Salary Reduction Contribution.....	4
1.23 Spouse.....	4
1.24 Supplemental Health Insurance Plan .....	4
1.25 Vision Care Insurance Plan .....	5
 ARTICLE 2. PARTICIPATION .....	 5
2.01 Commencement of Participation.....	5
2.02 Termination Of Participation. ....	5
2.03 Leaves Of Absence.....	6
2.04 Reinstatement Of Former Participant.....	7
 ARTICLE 3. CONTRIBUTIONS.....	 8
3.01 Board Contributions.....	8

3.02	State Contributions.....	8
3.03	Salary Reduction Contributions.....	8
ARTICLE 4. BENEFITS .....		9
4.01	Benefit Options .....	9
4.02	Cash Benefit .....	9
4.03	Nontaxable Benefits. ....	9
4.04	Coverage Provided By Underlying Plans .....	9
4.05	Insufficient Contributions To Pay For Elected Benefits .....	8
4.06	Nondiscriminatory Benefits - Key Employees.....	9
4.07	Adjustment Of Elections To Comply With Other Nondiscrimination Requirements.....	10
ARTICLE 5. ELECTION PROCEDURES .....		10
5.01	Annual Open Enrollment Period.....	10
5.02	Default Elections.....	10
5.03	Deemed Elections Of Participant Who Fails To Elect.....	11
5.04	Election Changes At Times Other Than The Open Enrollment Period .....	11
ARTICLE 6. AMENDMENT AND TERMINATION .....		16
6.01	Amendment.....	16
6.02	Termination. ....	16
ARTICLE 7. PLAN ADMINISTRATION .....		16
7.01	Board Responsibility.....	16
7.02	Powers And Duties Of Plan Administrator.....	17
7.03	Claim And Review Procedures. ....	17
7.04	Nondiscriminatory Exercise Of Authority .....	18
7.05	Benefits Nonassignable.....	18
7.06	Limitation On Employee's Rights .....	18
7.07	Limitation Of Liability And Indemnity .....	18
7.08	Underlying Benefit Plans.....	18
7.09	Administrative Expenses .....	18
7.10	Effect On Other Plans .....	19
7.11	Applicable Law .....	19

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PREAMBLE

The Board of Education of Jefferson County, Kentucky adopted the "Board of Education of Jefferson County Kentucky Fringe Benefit Pool Plan" (the "Plan") effective September 16, 1985 to give employees a choice between the receipt of taxable cash compensation and the receipt of the nontaxable benefits provided by the Plan. The Plan is intended to, and will be administered and interpreted to conform to, the requirements of Code Section 125 for cafeteria plans and any other applicable laws and regulations.

The Plan was amended and restated effective November 1, 1989 (the "1989 Plan").

The 1989 Plan was amended and restated in its entirety, effective January 1, 2000, to add health care and dependent care spending accounts and to update the Plan for legislative and regulatory changes since the last restatement (the "2000 Plan").

The 2000 Plan was amended and restated effective January 1, 2002 to update the plan for regulatory changes affecting mid-year election changes and to make other operational changes to the Plan (the "2002 Plan"). The Board also adopted the Jefferson County Board of Education State-Funded Health Care Spending Account effective January 1, 1996 which will remain a separate plan as restated herein but will be administered together with the health care spending account provided by this Plan. While the two portions of the health care spending account are to be administered together pursuant to the terms of this Plan, the state-funded portion of the health care spending account will be treated as a separate plan that has no cash option and is not a Code Section 125 cafeteria plan.

The 2002 Plan was amended and restated effective January 1, 2005 to modify the manner of the cash benefit payment under the Plan, update the attached Schedules, and incorporate previously adopted amendments (the "2005 Plan").

The 2005 Plan was amended and restated effective January 1, 2006 to make certain changes to conform to recent changes in the law and to update the attached schedules listing the underlying plans (the "2006 Plan").

The 2006 Plan was amended and restated effective January 1, 2007 to delete the Dependent Care and Health Care Flexible Spending Accounts in conformity with decisions made by the Kentucky Department of Education (the "2007 Plan").

The 2007 Plan was amended and restated effective July 1, 2010 to provide that Fringe Benefit Contributions (as defined in the Plan) are credited to Participants on a payroll-by-payroll basis, to eliminate redundant provisions, to update schedules, and to provide for the coverage of children of participating employees until attainment of age 26, effective no

later than January 1, 2011 (the “2010 Plan”).

The 2010 Plan was amended and restated effective July 1, 2010 to provide for the discontinuance of Fringe Benefit Pool Contributions (as defined in the Plan prior to July 1, 2011), effective July 1, 2011 (the “2011 Plan”).

The 2011 Plan was amended and restated effective January 1, 2017 to update the Plan for administrative, legislative, and regulatory changes since the last restatement (the “2017 Plan”).

As so amended and restated, the Plan reads as set forth herein:

ARTICLE 1.  
DEFINITIONS

- 1.01 Accidental Death and Dismemberment Insurance Plan means such group accidental death and dismemberment insurance coverage as is offered by the Board to Eligible Employees from time to time. The Accidental Death and Dismemberment Insurance Plans currently available are set forth in Schedule 6. The Accidental Death and Dismemberment Insurance Plans are incorporated by reference into the Plan. Any accidental death and dismemberment insurance plan that may be added to or substituted for existing coverage will likewise be incorporated by reference into the Plan.
- 1.02 Board means the Jefferson County Board of Education.
- 1.03 Cancer Insurance Plan means such group cancer insurance coverage as is offered by the Board to Eligible Employees from time to time. The Cancer Insurance Plans currently available are set forth in Schedule 4. The Cancer Insurance Plans are incorporated by reference into the Plan. Any cancer insurance plan that may be added to or substituted for existing coverage will likewise be incorporated by reference into the Plan.
- 1.04 Code means the Internal Revenue Code of 1986, as amended from time to time.
- 1.05 Compensation means the Eligible Employee’s annual rate of base pay (excluding bonuses, overtime pay, and similar extra earnings).
- 1.06 Contributions means the total value for the Plan Year of any Salary Reduction Contributions, which can be used by the Participant to purchase Nontaxable Benefits, or which can be received by the Participant in cash.
- 1.07 Dental Insurance Plan means such group dental insurance coverage as is offered by the Board to Eligible Employees from time to time. The Dental Insurance Plans currently available are set forth in Schedule 3. The Dental Insurance Plans are incorporated by reference into the Plan. Any dental insurance plan that may be

added to, or substituted for, existing coverage will likewise be incorporated by reference into the Plan.

- 1.08 Dependent means a Participant's Spouse, children (including students), and other qualified dependents as defined in Code Section 152 and in those benefit plans available to Eligible Employees under the Plan. Effective January 1, 2011 (or such earlier date as the Board in its sole discretion will determine), children of a Participant will be eligible for coverage as a Dependent until attainment of age 26, without regard to any factor other than the child's relationship to the Participant (provided that a child who is eligible for coverage under another eligible employer-sponsored plan, other than a parent's plan, will not be eligible for coverage as a Dependent under this Plan).
- 1.09 Effective Date means January 1, 2017 with respect to the Plan as amended and restated (except as otherwise specifically provided).
- 1.10 Eligible Employee means an individual who is classified by the Board as a full-time employee and who is an employee for federal income tax withholding purposes, including a probationary employee but excluding: (i) individuals who are classified by the Board as temporary employees; (ii) part-time employees whose customary employment is less than twenty (20) hours weekly; (iii) seasonal employees whose customary employment is less than nine (9) months annually; (iv) individuals who have entered into an agreement with the Board providing such employee is not eligible to participate in the Plan; (v) individuals classified by the Board as independent contractors or other self-employed individuals; and (vi) leased employees.
- 1.11 FMLA means the Family and Medical Leave Act of 1993, as amended from time to time.
- 1.12 [Reserved]
- 1.13 Health Insurance Plan means such group health insurance coverage as is offered by the Board to Eligible Employees from time to time. The Health Insurance Plans currently available are set forth on Schedule 1. The Health Insurance Plans are incorporated by reference into the Plan. Any health insurance plan that may be added to, or substituted for, existing coverage will likewise be incorporated by reference into the Plan.
- 1.14 HIPAA means the Health Insurance Portability and Accountability Act of 1996, as amended from time to time.
- 1.15 Key Employee means any person who is a key employee as defined in Code Section 416(i)(1). Effective for Plan Years beginning on and after December 31, 2002, a key employee is any employee who at any time during the Plan Year or any of the four preceding Plan Years, is: (i) an officer whose annual compensation exceeds One

Hundred Thirty Thousand Dollars (\$130,000) (indexed annually for inflation as provided by Code Section 415(d)); (ii) a five percent (5%) owner of the employer as defined in Code Section 416(i)(1)(B); or (iii) a one percent (1%) owner as defined in Code Section 416(i)(1)(B) whose annual compensation exceeds One Hundred Fifty Thousand Dollars (\$150,000). For purposes of clause (i), no more than fifty (50) employees (or, if lesser, the greater of three (3) or ten percent (10%) of the employees) will be treated as officers. For purposes of determining the number of officers taken into account under clause (i), the following employees will be excluded: (1) employees who have not completed six (6) months of service, (2) employees who normally work less than seventeen and one-half (17½) hours per week, (3) employees who normally work during not more than six (6) months during any year, (4) employees who have not attained age twenty-one (21), and (5) except to the extent provided in regulations, employees who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and the employer.

- 1.16 Nontaxable Benefits means those nontaxable benefits that are qualified benefits as defined by Code Section 125(e) and are offered to Participants from time to time. As of the Effective Date, such benefits include specifically, (i) Health Insurance Plan; (ii) Supplemental Health Insurance Plan; (iii) Dental Insurance Plan; (iv) Cancer Insurance Plan; (v) Vision Care Insurance Plan; and (vi) Accidental Death and Dismemberment Insurance Plan.
- 1.17 Open Enrollment Period means the annual period established by the Plan Administrator during which benefit elections for a Plan Year are made.
- 1.18 Participant means an Eligible Employee who satisfies the participation requirements below.
- 1.19 Plan means the Board of Education of Jefferson County, Kentucky IRC Section 125 Cafeteria Plan as set forth in this document and as amended from time to time.
- 1.20 Plan Administrator means the Plan Administrator, as described below.
- 1.21 Plan Year means the calendar year.
- 1.22 Salary Reduction Contribution means the amount of the reduction in a Participant's Compensation that the Participant elects to have the Board apply to purchase one or more Nontaxable Benefits.
- 1.23 Spouse means the person to whom a Participant is legally married.
- 1.24 Supplemental Health Insurance Plan means such supplemental group health insurance coverage as is offered by the Board to Eligible Employees from time to time. The Supplemental Health Insurance Plans currently available are set forth in

Schedule 2. The Supplemental Health Insurance Plans are incorporated by reference into the Plan. Any health insurance plan that may be added to, or substituted for, existing coverage will likewise be incorporated by reference into the Plan.

- 1.25 Vision Care Insurance Plan means such group vision care insurance coverage as is offered by the Board to Eligible Employees from time to time. The Vision Care Insurance Plans currently available are set forth in Schedule 5. The Vision Care Insurance Plans are incorporated by reference into the Plan. Any vision care insurance plan that may be added to, or substituted for existing coverage, will likewise be incorporated by reference into the Plan.

## ARTICLE 2. PARTICIPATION

### 2.01 Commencement of Participation.

- (a) General Rule. Except as otherwise provided, an individual will become a Participant in the Plan when the individual: (i) is an Eligible Employee; (ii) his or her benefit election becomes effective; and (iii) his or her participation in the selected benefits commences.

Participation in selected Nontaxable Benefits commences on the first day of the second month after the date of hire or any later date provided in the policy or contract governing such Nontaxable Benefit.

- (b) Union Employee. An Eligible Employee in a unit subject to collective bargaining will become a Participant on the date specified in the applicable collective bargaining agreement, or if not so specified, as provided above.
- (c) Reclassified Employee. An individual who is determined by a court of competent jurisdiction, the Internal Revenue Service, or other administrative agency or governmental entity to be an employee of the Board even though not previously so classified by the Board, will be eligible from the date of such final and nonappealable determination (even though the reclassification otherwise has an earlier effective date) provided such individual otherwise satisfies the definition of "Eligible Employee."

### 2.02 Termination Of Participation. Plan participation will end on the earlier of:

(i) the date the Plan terminates;

(ii) the date the Participant ceases to be an Eligible Employee, except to the extent limited participation was permitted under the 2006 Plan with respect to a Health Care Spending Account or a Dependent Care Spending Account (with respect to claims incurred prior to the end of the 2006 Plan Year only);



(iii) at the end of the Plan Year if the Participant fails to timely reenroll during the Open Enrollment Period, except as otherwise provided by the default election provisions or the deemed election provisions below;

(iv) upon revocation by the Participant of his or her election to participate in accordance with the provisions below; or

(v) the date the Participant fails to timely make required Salary Reduction Contributions, subject to any notice and grace period requirements under FMLA.

## 2.03 Leaves Of Absence.

(a) Rules For Continued Participation During Leave. Subject to the Participant's right to change his or her election as discussed below:

(i) participation will continue, and Contributions will continue to accrue, during a paid leave of absence;

(ii) participation will continue, and Contributions will continue to accrue, during an unpaid leave of absence only to the extent required by FMLA or an applicable collective bargaining agreement;

(iii) participation will continue during an unpaid FMLA leave in all Nontaxable Benefits.

Subject to the Participant's right to change his or her election as discussed below, Participants on unpaid leaves must make arrangement with the Plan Administrator before commencement of the leave to either prepay, or to pay upon return from leave, Salary Reduction Contributions due during the leave. If the leave begins in one Plan Year but ends in the next Plan Year, the Participant must prepay Salary Reduction Contributions due for the current Plan Year and must pay Salary Reduction Contributions for the next Plan Year upon returning from the leave.

A Participant on an unpaid FMLA leave may elect to make required Salary Reduction Contributions at the time a payroll deduction would have been made had the Participant not been on an unpaid leave. Compensation for services provided during one Plan Year cannot be used to purchase Plan benefits in any other Plan Year.

(b) Rules Governing Elections Where Participation Not Continued During Leave. A former Participant whose participation ends during a leave of absence and who returns to employment as an Eligible Employee at the end of the leave will immediately become a Participant upon return from leave. Subject to any right to make a benefit election change, as discussed below, benefit elections made before the leave will be reinstated either:

- (1) with no break in coverage if the leave of absence is a period of 31 days or less or if the Participant is an Eligible Employee on any day during two consecutive months notwithstanding any intervening leave of absence;
- (2) effective the first day of the second month after return from leave for the remainder of the Plan Year in which the Participant returns from the leave if the leave begins and ends in the same Plan Year and the leave is not subject to COBRA or FMLA; or
- (3) effective the first day of the month in which the Participant returns from leave for the remainder of the Plan Year in which the Participant returns from the leave if the leave begins and ends in the same Plan Year and the leave is subject to COBRA or FMLA.

If the leave ends during a subsequent Plan Year, the Participant's benefit election as to insurance coverage is automatically reinstated at the current rate for the new Plan Year unless the Participant makes a new benefit election.

- (c) Additional Rules For FMLA Leave And Group Health Plan Coverage. A Participant whose participation ends during an FMLA leave of absence and who returns to employment as an Eligible Employee at the end of the FMLA leave will immediately become a Participant upon return from leave and his or her participation with respect to group health plan coverage under the Plan will recommence for the remainder of the Plan Year at the same rate per payroll period that was being deducted for such group health plan coverage before the Participant went on FMLA leave. If the FMLA leave ends during a subsequent Plan Year, the Participant must make new benefit elections, effective as provided in Article 5, among the benefit options available at the time of reenrollment.
- (d) Qualified Military Service. Notwithstanding any provision of this Plan to the contrary, contributions, benefits, and service credits with respect to qualified military service will be provided in accordance with Section 414(u) of the Code.

#### 2.04 Reinstatement Of Former Participant.

- (a) Except as provided in subsection (b) of this Section, if participation ends because the Participant's employment terminates and that Participant is rehired within thirty (30) days and during the same Plan Year, that Participant's participation and the benefit elections that were in effect upon termination of employment will be reinstated for the remainder of the Plan Year.

A former Participant who is rehired more than thirty (30) days after his/her employment ends, or during a different Plan Year, will be treated as a newly hired employee and must make new benefit elections by completing and returning a new enrollment form to the Plan Administrator within thirty (30) days from the date rehired.

- (b) The Commonwealth of Kentucky controls the terms and conditions of reinstatement under state-sponsored Health Insurance Plans.

ARTICLE 3.  
CONTRIBUTIONS

- 3.01 Board Contributions. Effective July 1, 2011, the Board will discontinue Fringe Benefit Contributions (as defined by the Plan prior to July 1, 2011).
- 3.02 State Contributions. The Commonwealth of Kentucky may make a contribution to a health reimbursement account ("HRA") for the benefit of a Participant who is eligible to participate in a state-sponsored Health Insurance Plan. The State Contribution is not controlled by the Board and may be modified or revoked as directed by the Commonwealth of Kentucky. Any contribution to an HRA as described in this Section is not made under the Plan, nor are such HRAs a part of this Plan.
- 3.03 Salary Reduction Contributions.
  - (a) Amount Of Salary Reduction Contributions. Salary Reduction Contributions will be equal to the amount of the total cost of the Nontaxable Benefits elected by the Participant for the Plan Year. Salary Reduction Contributions will accrue in equal amounts each pay period during the Plan Year and will accrue only for periods during which the Eligible Employee is a Participant. Salary Reduction Contributions will be adjusted automatically to the extent necessary to cover any change in the cost of any Nontaxable Benefits elected by the Participant for the Plan Year. Salary Reduction Contributions will be on a pretax basis to the extent allowed by law.
  - (b) Salary Reduction Authorization. The Participant's Compensation will be reduced by the Salary Reduction Contributions, and an amount equal to such reduction will be contributed by the Board to provide Nontaxable Benefits to the Participant under the Plan. By electing to participate in the Plan, the Participant is deemed to have agreed to a reduction in cash Compensation otherwise payable in the amount of the Participant's Salary Reduction Contributions for each pay period, determined in the manner described above.
  - (c) Maximum Salary Reduction Contributions. The maximum Salary Reduction Contributions for any Participant for any Plan Year will be the amount of the cost of the most expensive Nontaxable Benefits available to the Participant for the Plan Year.
  - (d) Forwarding Salary Reduction Contributions To Insurers. To the extent the Nontaxable Benefits elected by a Participant are provided through insurance contracts or policies issued by an insurance company or similar organization or through an health maintenance organization, Salary Reduction Contributions for the purchase of said benefits will be paid by the Board to the insurance company or

health maintenance organization as soon as practicable after each pay period.

ARTICLE 4.  
BENEFITS

- 4.01 Benefit Options. Except as otherwise provided below, Salary Reduction Contributions may be used for the purchase of eligible Nontaxable Benefits.
- 4.02 Cash Benefit. A Participant may elect to receive a cash benefit in lieu of purchasing a Nontaxable Benefit with a pretax contribution. The cash benefits will be paid to the Participant each pay period throughout the Plan Year and are included in the Participant's taxable W-2 compensation for the Plan Year during which the cash benefits are received.
- 4.03 Nontaxable Benefits. A Participant who satisfies the eligibility requirements for coverage under a Benefit Option may elect to apply his or her Salary Reduction Contributions to purchase Nontaxable Benefits as offered by the Plan from time to time.
- 4.04 Coverage Provided By Underlying Plans. While the election to receive coverage under a Nontaxable Benefit is made under the Plan, benefits are not provided directly under the Plan; benefits are provided under the plans, policies, or other arrangements pursuant to which they are made available and are subject to all of the terms and conditions set forth therein, including the types and amounts of benefits available and the requirements for participating in such options.
- 4.05 Insufficient Contributions to Pay For Elected Benefits. If the cost of the Nontaxable Benefits elected by the Participant exceeds the Participant's available Salary Reduction Contributions, Nontaxable Benefits elected by the Participant will be used to purchase benefits in the following order until all available income is exhausted: (1) Health Insurance Plan, (2) Supplemental Health Insurance Plan, (3) Vision Care Insurance Plan, (4) Dental Insurance Plan, (5) Cancer Insurance Plan, and (6) Accidental Death and Dismemberment Insurance Plan.
- 4.06 Nondiscriminatory Benefits - Key Employees.
- (a) Reduction Of Benefits To Key Employees To Satisfy Nondiscrimination Requirements. If the Plan Administrator determines the benefits provided to Key Employees under the Plan for the Plan Year will exceed the limitation imposed on the provision of benefits to Key Employees by Code Section 125(b)(2), the Plan Administrator will reduce the benefits provided to Key Employees in a total amount necessary to bring the Plan into compliance with Code Section 125(b)(2) for the Plan Year.
- (b) Manner Of Adjustment. If an adjustment under subsection (a) is required, the benefits provided to each Key Employee will be reduced by an amount that bears

the same ratio to the amount of the aggregate reduction in all benefits to all Key Employees as the amount of benefits provided to such Key Employee (before reduction) bears to the amount of aggregate benefits provided to all Key Employees (before reduction). Each benefit will be reduced proportionately according to its proportionate value.

- 4.07 Adjustment Of Elections To Comply With Other Nondiscrimination Requirements. If the Plan Administrator determines the Plan may fail to satisfy any applicable law or nondiscrimination requirement, the Plan Administrator will take such action as the Plan Administrator deems appropriate, under rules uniformly applicable to similarly situated Participants, to assure compliance with such requirement or limitation. Such action may include a modification of elections by a “highly compensated employee” (as defined by Code Section 125(e)), with or without the consent of such person.

## ARTICLE 5. ELECTION PROCEDURES

### 5.01 Annual Open Enrollment Period.

- (a) Open Enrollment. Before the end of the Open Enrollment Period, each Eligible Employee must complete a written or electronic enrollment form made available by the Plan Administrator, as well as any other documents as may be required by the Plan Administrator. Except as provided below, all elections are irrevocable during the Plan Year. Separate elections must be made (or deemed made) for each Plan Year.
- (b) New Employees. For employees who become Eligible Employees after the beginning of the Plan Year, the enrollment form must be completed and returned to the Plan Administrator within thirty (30) days from the first day of employment, but in no event later than the day preceding the first day of the first pay period of the Plan Year during which benefits will be purchased or provided to the Participant.
- (c) Rules Established By Plan Administrator. The Plan Administrator may make such rules and regulations regarding elections, the allocation of Contributions, and the availability of various benefit coverage levels as it deems necessary, desirable, or consistent with the terms, provisions, and purposes of the Plan.
- (d) Elections Required At Times Other Than Open Enrollment Period. If new benefit elections are required pursuant to Article 2 upon return from a leave of absence, reinstatement of participation, or similar event, such election will be effective at the next available payroll period after receipt of the new benefit election form.

### 5.02 Default Elections.

- (a) Eligible Employee’s Failure To Elect At Time Of Eligibility. Employees who become

eligible to participate after the beginning of the Plan Year must elect within thirty (30) days of becoming an Eligible Employee the allocation of Contributions among the benefits described above. Eligible Employees not electing within this time period are deemed to have made the following default elections among the available Nontaxable Benefits, subject to the Eligible Employee's right to change the default elections as described below:

- (1) Health Insurance Plan. The default election is the default coverage established by the Commonwealth of Kentucky for the Plan Year.
  - (2) All Other Nontaxable Benefits. The default election is waiver of coverage under the Supplemental Health Insurance Plan, Dental Insurance Plan, Cancer Insurance Plan, Vision Care Insurance Plan, and Accidental Death and Dismemberment Insurance Plan.
- (b) Confirmation And Changes To Default Elections. The Plan Administrator will send a confirmation statement of the default benefit elections to the Participant. Default elections will remain in place for the remainder of the Plan Year, subject to any right the Participant may have to change his or her election as described below.
- 5.03 Deemed Elections Of Participant Who Fails To Elect. An employee who was a Participant on the last day of the preceding Plan Year and who fails to timely file an election form during the Open Enrollment Period will be deemed to have elected for such Plan Year the same type and level of Nontaxable Benefits as the Participant had elected (or was deemed to have been elected) for the immediately preceding Plan Year. Notwithstanding the foregoing, the Participant will be deemed to have made the default election mandated by the state-sponsored Health Insurance Plan with respect to such plan.
- 5.04 Election Changes At Times Other Than The Open Enrollment Period. Elections made under the Plan, including default elections and deemed elections, are generally irrevocable by the Participant during the Plan Year. A Participant may change his or her election during the Plan Year only: (1) on a prospective basis as to amounts that have not accrued except as otherwise provided with respect to HIPAA special enrollments described below; (2) if the change is permitted pursuant to this Section; (3) if a new benefit election form is timely filed with the Plan Administrator in accordance with the "Procedure for Change of Election" describe below; and (4) if the coverage change is consistent with the event that permits the election change. A Participant may revoke a benefit election for the balance of a Plan Year and file a new election for the following reasons:
- (a) Status Changes. A Participant may revoke an election with respect to a Nontaxable Benefit and make a new election if, under the facts and circumstances, a Status Change occurs and the election change satisfies the consistency requirement below. "Status Change" means one of the following events:

- (1) Legal Marital Status. Events that change the Participant's legal marital status, including marriage, death of spouse, divorce, legal separation, or annulment.
- (2) Number Of Dependents. Events that change the Participant's number of dependents (as defined in Code Section 152), including birth, adoption, placement for adoption (pursuant to KRS 17A-220), death of a dependent, or dependent status begins or ends due to age, student status, or similar circumstance.
- (3) Employment Status. Events that change the employment status of the Participant or the Participant's Spouse or Dependent, including: (i) termination or commencement of employment; (ii) strike or lockout; (iii) commencement of or return from an unpaid leave of absence; (iv) change in worksite; or (iv) where the eligibility conditions of a cafeteria plan or other employee benefit plan of the employer of the Participant, Spouse or Dependent depend on the employment status of that individual and there is a change in that individual's employment status with the consequence that the individual becomes or ceases to be eligible under the plan, including a switch from salaried to hourly or from hourly to salaried paid status, a reduction or increase in hours of employment, or a switch between part-time and full-time that affects that individual's eligibility under a benefit plan.
- (4) Dependent Satisfies Or Ceases To Satisfy the Requirements For Unmarried Dependents. An event that causes a Participant's Dependent to satisfy or cease to satisfy the requirements for coverage due to attainment of age, student status, or any similar circumstances.
- (5) Residence Change. A change in the place of residence of the Participant, Spouse, or Dependent.

(b) Consistency Requirement.

- (1) Application To Accident Or Health Coverage And Group-Term Life Insurance. An election change satisfies the consistency requirement with respect to accident or health coverage or group-term life insurance only if the election change is on account of and corresponds with a change in status that affects eligibility for coverage under an employer's plan. A change in status that affects eligibility under an employer's plan includes a change in status that results in an increase or decrease in the number of an Eligible Employee's family members or Dependents who may benefit from coverage under the Plan.
- (2) Application To Other Qualified Benefits. An election change satisfies the consistency requirement with respect to other qualified benefits if the

election change is on account of and corresponds with a change in status that affects eligibility under an employer's plan, including any specific requirements that apply to any plan.

(3) Application Of Consistency Requirement To Certain Status Changes.

- (A) If the change in status is the Employee's divorce, annulment, or legal separation from a Spouse, the death of a Spouse or Dependent, or a Dependent's ceasing to satisfy the eligibility requirements for coverage, an Eligible Employee's election under the Plan to cancel accident or health insurance coverage for any individual other than the Spouse involved in the divorce, annulment or legal separation, the deceased's Spouse or Dependent, or the Dependent that ceased to satisfy the eligibility requirement for coverage, respectively, fails to correspond with that change in status.
- (B) If an Eligible Employee, Spouse, or Dependent gains eligibility for coverage under a cafeteria plan or qualified benefit plan sponsored by the employer of the Eligible Employee's Spouse or the Eligible Employee's Dependent (a "Family Member Plan") as a result of a change in marital status or a change in employment status, an Eligible Employee's election under the Plan to cease or decrease coverage for that individual under the Plan corresponds with that change in status only if the coverage for the individual becomes applicable or is increased under the Family Member Plan.
- (C) With respect to group-term life insurance and disability coverage, an election under the Plan to increase or decrease coverage in response to a Status Change is deemed to correspond with that Status Change as required by this Section.

(4) Exception For COBRA. If the Employee, Spouse or Dependent becomes eligible for continuation coverage under the group health plan of the Board as provided under COBRA or any similar state law, the Plan may permit the Eligible Employee to elect to increase payments under the Plan in order to pay for the continuation coverage.

- (c) Special Enrollment Rights. A Participant may revoke a benefit election for the balance of a Plan Year and make a new election for the remainder of the Plan Year that corresponds with the special enrollment rights pursuant to HIPAA (to the extent applicable) and any relevant state law, with said election being effective at the time provided by HIPAA and the relevant state law, provided that in the case of marriage, said election change will be on a prospective basis only after receipt of the Participant's election change form. Said election must be made within any special enrollment period set forth in HIPAA and the relevant state law to be effective.



- (d) Significant Cost Changes. If the cost of a Nontaxable Benefit significantly increases or decreases during the Plan Year, or the Participant's share of the cost of such coverage significantly increases or decreases during the Plan Year (e.g., where the Participant switches to an employment classification that must pay a greater share of the premium cost of a benefit option or the Company reduces the amount it contributes toward to cost of coverage), the Participant may make a corresponding change to his or her election on a prospective basis to reflect the increased or decreased cost, including commencing participation in the Plan for the option with a decrease in cost, revoking an election for coverage that has increased in cost and electing on a prospective basis coverage under another benefit option providing similar coverage, or dropping coverage if no other benefit option providing similar coverage is available.
- (e) Coverage Changes. A Participant may change his or her election on a prospective basis for the following coverage changes:
- (1) Significant Curtailment of Coverage. If coverage is significantly curtailed or eliminated during the Plan Year, the Participant may revoke his or her election and elect another Nontaxable Benefit available under the Plan that provides similar coverage and may drop coverage if there is no similar coverage. Coverage may be dropped for a significant curtailment of coverage only where the curtailment amounts to a loss of coverage (e.g., an HMO ceases to be available in the Participant's area, the Participant's loses coverage by reason of a lifetime or annual limitation, a major hospital ceases to be a member of a PPO network, or there is a substantial decrease in the physicians participating in the PPO network (the loss of one particular physician in a network does not constitute a significant curtailment) or a reduction in benefits for a medical condition or treatment the Participant is currently being treated for or any similar fundamental loss of coverage).
  - (2) Addition Or Improvement Of Benefit Option. If the Plan adds a new benefit option, or if coverage under an existing benefit option is significantly improved during the Plan Year (e.g., insurance co-payments are reduced by an amount which constitutes a significant benefit improvement), the Participant may (whether or not the Participant has previously made an election to participate in the Plan or has previously elected the benefit option) revoke his or her election and, in lieu therefore, elect on a prospective basis coverage under the new or improved benefit option.
  - (3) Addition Or Elimination Of Benefit Option. The Participant may elect a new benefit option (such as a new HMO option) that is added to the Plan during the Plan Year, or to the Participant's Spouse's or Dependent's employer's plan, or the Participant may elect another available Nontaxable Benefit option if a benefit option is eliminated and make corresponding changes to

other Nontaxable Benefit options.

- (4) Changes Corresponding To Open Enrollment Changes Made By Spouse Or Dependent. The Participant may change his or her election to correspond with open enrollment period changes made by the Participant's Spouse (or former Spouse) or Dependent if the Participant's Spouse's or Dependent's employer's cafeteria plan has a different period of coverage.
- (5) Changes Corresponding To Election Changes Made By Spouse Or Dependent. The Participant may change his or her election to correspond to election changes made by the Participant's Spouse or Dependent under their employer's plan (e.g., if the Participant's Spouse or former Spouse's employer's plan adds a new HMO option and the Spouse or former Spouse elects that new option, then the Participant can change his or her election to drop healthcare coverage for the individuals that are actually added to the Participant's Spouse's employer's plan (as certified by the Participant in a form satisfactory to the Plan Administrator)), and further provided that the change is on account of and corresponds with the change made under the other employer's plan. Notwithstanding the foregoing, the change in the other employer's plan must be a change that is permitted under the Treasury regulations and rulings governing mid-year election changes.
- (6) Changes In Coverage Under Governmental Health Plan. The Participant may elect to participate in the Plan if the Participant, the Participant's Spouse or Dependent loses coverage under a group health plan sponsored by a governmental or educational institution, such as a state program under the state's children's health insurance program; provided that the Participant may not drop coverage when the Participant, the Participant's Spouse or Dependent becomes eligible for a state's children health insurance program coverage during the Plan Year but is entitled to drop coverage at the next open enrollment period.
- (f) Changes Required By Court Order. The Participant may change his or her election to provide coverage for the Participant's child pursuant to a: [i] qualified medical child support order; or [ii] National Medical Support Notice as defined in the Child Support Performance and Incentive Act of 1998 that requires accident or health coverage for the Participant's child and to cancel coverage for the Participant's child pursuant to such an order requiring the Participant's former Spouse to provide coverage but only if such coverage is actually provided as ordered.
- (g) Entitlement To Medicare Or Medicaid. If a Participant, Spouse or Dependent who is enrolled in an accident or health plan becomes enrolled under Part A or Part B of Title XVIII of the Social Security Act ("Medicare") or Title XIX of the Social Security Act ("Medicaid"), other than coverage consisting solely of benefits under Section 1928 of the Social Security Act (the program of distribution of pediatric vaccines),

the Participant may make an election change to cancel coverage of the Participant, Spouse or dependent under such plans.

- (h) Procedure For Change Of Election. A change in coverage pursuant to any of the above must be requested in writing and results in the revocation of the prior election. A new election must be made with respect to the remainder of the Plan Year and for changes permitted by special enrollment rights will be effective at the time provided in this document; otherwise, the new election will be effective as of the first day of the payroll period after approval and completion of processing occurs, provided that a new benefit election form is submitted to the Plan Administrator within thirty (30) days of the event that allows the change in election.
- (i) Construction. This Section is intended to comply with the Internal Revenue Service requirements for election changes at times other than open enrollment and will be construed in a manner that complies with said requirements.
- (j) Restrictions On Election Changes With Respect To State-Sponsored Plans. Notwithstanding anything stated above to the contrary, election changes during the Plan Year are permitted with respect to Health Insurance Plans sponsored by the Commonwealth of Kentucky and with respect to State Contributions only if, and to the extent, the change is permitted by the state-sponsored plan; provided that any change permitted by the state-sponsored plan must comply with Treasury rules and regulations governing permissible mid-year election changes under Code Section 125 cafeteria plans. Election changes under the Plan will be effective at the time the change in coverage is effective under the state-sponsored plan. The rules above apply to the extent not inconsistent with the rules applicable to the state-sponsored plan.

## ARTICLE 6.

### AMENDMENT AND TERMINATION

- 6.01 Amendment. Subject to the limitations of an applicable collective bargaining agreement requiring benefit coverage under the Plan, the Board has the right to amend the Plan from time to time.
- 6.02 Termination. Subject to the limitations of an applicable collective bargaining agreement requiring benefit coverage under the Plan, the Board assumes no obligation to continue the Plan in effect and reserves the right at any time to terminate the Plan in whole or in part.

## ARTICLE 7.

### PLAN ADMINISTRATION

- 7.01 Board Responsibility. The Board is the Plan Administrator and is responsible for and will control and manage the operation and administration of the Plan. The Board is subject to service of process on behalf of the Plan. It will be a principal duty

of the Board to see that the Plan is carried out, in accordance with its terms, for the exclusive benefit of persons entitled to participate in the Plan without discrimination among them. The Board may, in its discretion, appoint one or more persons to act as its agent in performing these duties. Such persons will serve at the pleasure of the Board and may be removed at any time, with or without cause. Such persons may be employees of the Board or any other individuals as the Plan Administrator may elect. Any person may resign by delivering a written resignation to the Board. As of the Effective Date, the Board has designated the Manager, Risk Management and Benefits to act as its agent in administering the Plan.

- 7.02 Powers And Duties Of Plan Administrator. The Plan Administrator will administer the Plan in accordance with its terms and will have all powers necessary to carry out the provisions of the Plan. The Plan Administrator will interpret the Plan and will determine all questions arising in the administration, interpretation, and application of the Plan, including but not limited to questions of eligibility and the status and rights of Participants and other persons. The Plan Administrator will have any and all power and authority (including discretion with respect to the exercise of that power and authority) which will be necessary, properly advisable, desirable, or convenient to enable it to carry out its duties under the Plan. By way of illustration and not limitation, the Plan Administrator is empowered and authorized to make rules and regulations with respect to the Plan not inconsistent with the Plan, the Code or other applicable law; to determine, consistently therewith, all questions that may arise as to the eligibility, benefits, status and right of any person claiming benefits under the Plan; and subject to and consistent with any other applicable law, to make factual determinations, to construe and interpret the Plan and correct any defect, supply any omissions or reconcile any inconsistencies in the Plan. Any such determination by the Plan Administrator will presumptively be conclusive and binding on all persons. The regularly kept records of the Board will be conclusive and binding upon all persons with respect to the Participant's hours of service, date and length of employment, time, amount and manner of payment of compensation, type and length of any absence from work and all other matters relating to employees. All rules and determinations of the Plan Administrator will be uniformly and consistently applied to all persons in similar circumstances.

Notwithstanding the foregoing, any claim which arises under the underlying plans will not be subject to review under this Plan, and the Plan Administrator's authority under this Section will not extend to any matter as to which an administrator of an underlying plan is empowered to make determinations under such plan.

- 7.03 Claim And Review Procedures. If a Participant believes he or she is being denied any rights or benefits under the Plan, the Participant may file a claim or request for review in writing with the Plan Administrator, outlining the issues and comments to be considered. Claims and requests for review that are received by the Plan Administrator more than thirty (30) days after the Participant receives written notice of the denied claim or benefit will not be considered. The Plan Administrator

will notify the Participant of its decision with respect to timely received claims and review requests in writing as soon as administratively practicable. The Plan Administrator's decision will be final and conclusive and binding on all persons.

- 7.04 Nondiscriminatory Exercise Of Authority. Whenever in the administration of the Plan any discretionary action by the Plan Administrator is required, the Plan Administrator will exercise its authority in a nondiscriminatory manner so that all persons similarly situated will receive substantially the same treatment.
- 7.05 Benefits Nonassignable. Plan assets (if any) will not be used for purposes other than for the exclusive benefit of Eligible Employees, and no amendment will divest any person of his or her accrued interest therein, except as may be required by the Internal Revenue Service or other governmental authority. No benefit payable under the provisions of the Plan will be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge, and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, or charge will be void.
- 7.06 Limitation On Employee's Rights. The establishment and maintenance of the Plan will not be construed to: (1) give any employee the right to be retained in the employ of the Board or to interfere with the right of the Board to discharge the employee at any time; or (2) to give any person any legal or equitable right against the Board of the Plan Administrator, except as expressly provided by the Plan or by law.
- 7.07 Limitation Of Liability And Indemnity. The Board will indemnify and save the Plan Administrator and each person who is appointed by the Board as its agent in administering the Plan and each employee or member of the Board who is a "fiduciary" under the Plan harmless against any and all loss, liability, claim, damage, cost and expense which may arise by reason of, or be based upon, any matter connected with or related to the Plan or the administration of the Plan (including, but not limited to, any and all expenses whatsoever reasonably incurred in investigating, preparing or defending against any litigation, commenced or threatened, or in settlement of any such claim whatsoever) to the fullest extent permitted under applicable law except when same is judicially determined to be due to the gross negligence or willful misconduct of such member, employee or Board member.
- 7.08 Underlying Benefit Plans. The plans, policies or other arrangements pursuant to which Nontaxable Benefits are made available will be administered by the administrator of such plans and all claims for benefits under such plans will be governed by the terms of such plans.
- 7.09 Administrative Expenses. Expenses incurred to administer the Plan will be paid by the Board.

- 7.10 Effect On Other Plans. It is intended that any other salary-related employee benefit plans that are maintained or sponsored by the Board, or to which the Board contributes, will not be affected by this Plan.
- 7.11 Applicable Law. The Plan will be governed by and construed according to the laws of the Commonwealth of Kentucky except to the extent Kentucky law is preempted by federal law.

Signed this \_\_\_\_ day of \_\_\_\_\_, but effective January 1, 2017.

THE BOARD OF EDUCATION OF JEFFERSON  
COUNTY, KENTUCKY

By: \_\_\_\_\_  
Director, Human Resources

61415106.1

## **SCHEDULE 1**

### **HEALTH INSURANCE PLANS**

As of the Effective Date, the Board maintains the following Health Insurance Plan(s) for the benefit of its employees (coverage provided through Commonwealth of Kentucky Personnel Cabinet, Department of Employee Insurance):

**Insurer:**

- Kentucky Employees Health Plan (KEHP)

**Coverages:**

- LivingWell CDHP
- LivingWell PPO
- Standard CDHP
- Standard PPO

Additional benefits not offered under the Board of Education of Jefferson County, Kentucky IRC Section 125 Cafeteria Plan are available. These benefits are administered by KEHP:

- Health Reimbursement Arrangement (HRA)
- Flexible Spending Account (FSA) [Participants may elect pre-tax payroll deductions under this Plan for deferral to their FSA account(s), which are administered by KEHP]
- Dependent Care Assistance Program (DCAP)
- Humana Vitality Wellness Program
- Diabetes Prevention Program

## **SCHEDULE 2**

### **SUPPLEMENTAL HEALTH INSURANCE PLANS**

As of the Effective Date, the Board maintains the following Supplemental Health Insurance Plan(s) for the benefit of its employees:

#### **Insurers:**

- Colonial Life & Accident Insurance Company
- American Fidelity Assurance Company

#### **Coverages:**

- Short Term Disability
- Hospital Confinement Indemnity
- Accident Insurance



### **SCHEDULE 3**

#### **DENTAL INSURANCE PLANS**

As of the Effective Date, the Board maintains the following Dental Insurance Plan(s) for the benefit of its employees:

**Insurers:**

- Delta Dental
- Assurant

## **SCHEDULE 4**

### **CANCER INSURANCE PLANS**

As of the Effective Date, the Board maintains the following Cancer Insurance Plan(s) for the benefit of its employees:

**Insurers:**

- American Fidelity Assurance Company
- Colonial Supplemental Insurance/Cancer Insurance
- Monumental Cancer Insurance (available only to grandfathered employees; no new enrollments permitted)

## **SCHEDULE 5**

### **VISION CARE INSURANCE PLANS**

As of the Effective Date, the Board maintains the following Vision Care Insurance Plan(s) for the benefit of its employees:

**Insurer:**

- The Standard

**Coverages:**

- High Plan: Balanced Care Vision II Plan H
- Low Plan: Balanced Care Vision II Plan H

## **SCHEDULE 6**

### **ACCIDENTAL DEATH AND DISMEMBERMENT INSURANCE PLANS**

As of the Effective Date, the Board maintains the following Accidental Death and Dismemberment Insurance Plan(s) for the benefit of its employees:

**Insurer:**

- The Standard