





## Bullitt County Public Schools

1040 Highway 44 East  
Shepherdsville, Kentucky 40165

502-869-8000  
Fax 502-543-3608  
[www.bullittschools.org](http://www.bullittschools.org)

To: Jesse Bacon, Superintendent 

From: Adrienne Usher, Assistant Superintendent for Student Learning 

Date: October 17, 2018

Re: AdvancED for Professional Services MOA

Attached you will find the Memorandum of Agreement between Bullitt County Public Schools and AdvancED for Professional Services. AdvancED is a school improvement network that will provide our district valuable information focus on the following areas: evaluate learning environments by focusing on students, reveal strengths and weaknesses using measurable data, identify trends by comparing classroom observations across subjects, grade levels and other filters using our education technology, implement powerful tools for professional development, peer learning and ongoing improvement and ensure the quality of education remains at the forefront through a variety of diagnostic and improvement tools.

We are contracting with AdvancED to conduct an eleot© sweep of all elementary, middle and high schools in the district to provide us with baseline data at the district and individual school level to assist with comprehensive school improvement. This information will allow the district and schools to make better informed decisions related to academic programming. This contract also supports our current work utilizing the AdvancED Standards for School Systems and Schools as a framework to facilitate improvement of our instructional processes and systems for improved student success. The total cost of all professional learning services is \$47,000 plus lodging, travel and meals. The funding source is carryover Title 1 funds. This contract has been reviewed by Eric Farris, Buckman & Farris. Board approval is requested for the MOA between BCPS and AdvancED for Professional Services.



**Agreement Between  
Bullitt County Public Schools and AdvancED  
for Professional Services**

This Agreement ("Agreement") is entered into on **October 11, 2018** between **Advance Education, Inc. ("AdvancED")**, a 501(c)(3) non-profit organization incorporated under the laws of the state of Georgia, United States of America and **Bullitt County Public Schools**, an education provider ("Education Provider") (hereinafter referred to individually as "Party" and collectively as "Parties").

**NOW THEREFORE, FOR AND IN CONSIDERATION** of the mutual promises, covenants and agreements contained herein, the Parties agree as follows:

1. Scope of Work. AdvancED shall provide services ("Services") as described in the Statement of Services ("Statement of Services" or "SOS") which is attached hereto and incorporated by reference herein as **Exhibit "A."**
2. Changes to Statement of Services. If either Party wants to make changes to the Statement of Services, the Parties must agree on the terms for such changes through the completion and the signing of a Change Request Form ("Change Request Form") to be provided by AdvancED. Any change may impact terms for the Services, such as extend the time for the Services to be delivered and/or result in higher costs. If the changes are significant, as determined by AdvancED, AdvancED may require the Parties to enter into a written amendment to the affected SOS or a separate and new SOS in addition to the signed Change Request Form. No work on the changes to the Services shall commence until the signed Change Request Form and any amendment or new SOS required by AdvancED has been signed by both Parties.
3. Obligations of Education Provider. AdvancED's completion of some or all of the Services is subject to Education Provider providing certain content, data, specifications and/or other items as identified by AdvancED. The timeline and AdvancED's allocation of its resources assume that the Education Provider will provide, at or before the time that it is needed, anything required for AdvancED to perform the Services. The timing for the delivery of Services also assumes that none of the applicable specifications or requirements will change and that information provided by Education Provider is accurate. Education Provider acknowledges that any change in data or specifications may result in delays that may jeopardize the meeting of deadlines. AdvancED will not be in breach of the Agreement due to any deadlines missed due to changes in data or specifications requested by Education Provider.

4. License; Intellectual Property Rights

- a. AdvancED hereby grants a non-exclusive and non-transferable, limited license for the use of the AdvancED Performance Standards ("Standards") and any other improvement tools, materials, and products deemed necessary by AdvancED to accomplish the goals and meet the requirements of this Agreement which may include the Adaptive System of School Improvement Support Tools® ("ASSIST®") and eProve™ (collectively, "AdvancED Products") to Education Provider. The license for AdvancED Products shall be used solely for the purposes of this Agreement and solely in collaboration with AdvancED to provide the Services. Said license shall expire upon the termination or expiration of this Agreement whichever is earlier. Notwithstanding the foregoing, if Education Provider is accredited by AdvancED, its license to use AdvancED Products shall continue as long it remains accredited by AdvancED and any and all fees or charges owed to AdvancED are fully paid.
  - b. Except as set forth in Section 4(c), neither Party to the Agreement will have any claim to the ownership of any intellectual property rights that belong to the other Party at the date of the execution of the Agreement or that the other party creates or develops pursuant to the Agreement, and nothing in the Agreement will transfer or assign, or obligate a Party to transfer or assign, any intellectual property right now or in the future to any other party to the Agreement or third party.
  - c. All intangible property, inventions, improvements, discoveries, trade secrets, know how, copyrightable work, and any other intellectual property, including any patent, copyright registration, or application therefor, that may be created or developed pursuant to the Agreement, whether or not patentable or copyrightable, which relate to any AdvancED Products, services, systems, tools, or proprietary information or processes, shall be and remain the sole property of AdvancED and no rights in such intellectual property shall be conferred to or upon or be granted or otherwise vested in any other party, and Parties further agree to execute any and all documents or to take any additional actions that may be necessary in the future to fully effectuate this provision. AdvancED shall retain any and all property rights to any and all equipment, supplies, files, accreditation materials and intellectual property produced, supplied or paid for by AdvancED. Any modification or enhancements to AdvancED Products necessary to meet the requirements of this Agreement are and shall remain the property of AdvancED.
5. Term. This Agreement shall commence on the Effective Date and shall continue until **January 30, 2019** ("Term") unless renewed in writing by both Parties. The Agreement may be terminated: (a) without cause by either Party with a minimum of thirty (30) calendar days' written notice; (b) with cause upon ten (10) calendar days' written notice by either Party due to the breach of any of the terms and conditions of this Agreement by the other Party; or (c) by mutual agreement of the Parties. Notwithstanding the foregoing, each Party agrees to provide the other with ten (10) business days to cure any cause prior to termination of the Agreement for cause. In all circumstances, AdvancED shall be paid for all Services and work performed up to the date of termination including all expenses incurred.
6. Payment of Fee. Education Provider shall pay AdvancED a fee of **\$47,000.00 plus expenses** for Services. Invoices will be submitted monthly to Education Provider for all work completed during the Term. Payment is due thirty (30) days from the date of invoice. Education Provider shall pay

any and all costs of collection, including court costs and reasonable attorney's fees if AdvancED places Education Provider's payment obligations for collection.

Any amount not paid when due may be subject to interest at the rate of one and one half percent (1.5%) per month or the maximum rate permitted by law, whichever is less, determined and compounded on a daily basis from the date due until the date paid.

Payments for the Fee and expenses shall be due and payable within thirty (30) days from the date of invoice. Invoices shall be sent to:

Name: Adrienne Usher, Assistant Superintendent for Student Learning  
Address: 1040 Highway 44 East, Shepherdsville, KY 40165  
Email Address: Adrienne.usher@bullitt.kyschools.us  
Phone Number: 502-869-8000

7. Expenses. Education Provider shall reimburse AdvancED for all expenses related to the provision of Services hereunder. AdvancED agrees to provide Education Provider with receipts documenting expenses.
8. Confidentiality Requirements. Each Party shall treat all information obtained by it from the other Party through its performance under the Agreement as confidential information, and shall not use any information so obtained in any manner except as necessary for the proper discharge of its obligations hereunder. Parties agree to be bound by the Confidentiality and Nondisclosure Agreement ("Confidentiality Agreement") entered into between the Parties contemporaneously with the execution of this Agreement. A copy of the Confidentiality Agreement is attached hereto and made a part herein as **Exhibit "B."**
9. Entire Agreement. This Agreement entered into between the Parties constitutes the entire understanding between the Parties concerning the subject matter hereof and supersedes and merges all prior and contemporaneous agreements, oral or written, with respect thereto. This Agreement may not be changed, modified or altered, nor any of its provisions waived, except by an agreement in writing signed by both Parties hereto.
10. Subcontractors. AdvancED shall be permitted to engage and/or use third party service providers as independent contractors in connection with the Services ("Subcontractors"). Notwithstanding the foregoing, AdvancED shall remain fully responsible for such Subcontractors' compliance with the terms and conditions of this Agreement.
11. Relationship of Parties. Each Party acknowledges that it has no authority to bind or commit the other Party to any further contractual liability except as may be otherwise agreed in writing. The Parties further agree that there is no intention to form or for the Parties' relationship to be construed as a partnership or joint venture under the laws of any jurisdiction.
12. Applicable Law. This Agreement shall be governed by, interpreted, and construed in all respects in accordance with the law. Any dispute arising under this Agreement shall be submitted to binding arbitration in accordance with the rules and procedures of the American Arbitration Association.
13. Force Majeure. Neither Party to this Agreement shall be responsible for delays or failures in performance resulting from acts beyond the control of such Party. Such acts shall include but not

be limited to acts of God, strikes, riots, lock-outs, acts of war, epidemics, fire, earthquakes, or other disasters.

14. Signatures. The Parties intend to allow for the electronic execution, imaging and storage of this Agreement and the admissibility into evidence of such an image in lieu of the original paper version of this Agreement. The Parties stipulate that any computer printout of any such image of this Agreement shall be considered to be an "original" under the applicable court or arbitral rules of evidence when maintained in the normal course of business and shall be admissible as between the Parties to the same extent and under the same conditions as other business records maintained in paper or hard copy form. The Parties agree not to contest, in any proceeding involving the Parties in any judicial or other forum, the admissibility, validity, or enforceability of any image of this Agreement because of the fact that such image was stored or handled in electronic form.

**IN WITNESS WHEREOF**, the Parties hereto have agreed by their authorized officers as of the day and year indicated by signing below.

**Bullitt County Public Schools**

By: \_\_\_\_\_

Printed Name: Jesse Bacon

Title: Superintendent

Date: \_\_\_\_\_

**Advance Education, Inc.**

By: \_\_\_\_\_

Printed Name: Mark A. Elgart, Ed.D.

Title: President/CEO

Date: \_\_\_\_\_

**Exhibit "A"**

**Statement of Services**

**Bullitt County Public Schools and AdvancED  
for Professional Services**

**Bullitt County Public Schools** has agreed to contract with AdvancED for professional services as outlined below.

Bullitt County Public Schools Proposal																																																		
Activity	Description	Cost																																																
Eleot® Observations November/December, 2018	Eleot® observations by certified eleot® observers. Following the Sweep, each school and the district will receive a report of the findings.	\$39,000.00 plus lodging, mileage and meals (approximately \$8,000.00 if conducted in consecutive days)																																																
	<table><tr><th>School</th><th># of Classrooms</th></tr><tr><td>Bullitt Central High</td><td>19</td></tr><tr><td>Bullitt East High</td><td>19</td></tr><tr><td>North Bullitt High</td><td>19</td></tr><tr><td>Bernheim Middle</td><td>20</td></tr><tr><td>Bullitt Lick Middle</td><td>18</td></tr><tr><td>Eastside Middle</td><td>24</td></tr><tr><td>Hebron Middle</td><td>12</td></tr><tr><td>Mt. Washington Middle</td><td>14</td></tr><tr><td>Zoneton Middle</td><td>17</td></tr><tr><td>Brooks Elementary</td><td>22</td></tr><tr><td>Cedar Grove Elementary</td><td>22</td></tr><tr><td>Crossroads Elementary</td><td>20</td></tr><tr><td>Freedom Elementary</td><td>21</td></tr><tr><td>Lebanon Junction Elementary</td><td>18</td></tr><tr><td>Maryville Elementary</td><td>15</td></tr><tr><td>Mt. Washington Elementary</td><td>27</td></tr><tr><td>Nichols Elementary</td><td>9</td></tr><tr><td>Old Mill Elementary</td><td>20</td></tr><tr><td>Overdale Elementary</td><td>18</td></tr><tr><td>Pleasant Grove Elementary</td><td>24</td></tr><tr><td>Roby Elementary</td><td>21</td></tr><tr><td>Shepherdsville Elementary</td><td>24</td></tr><tr><td>Total Classrooms</td><td>423</td></tr></table>		School	# of Classrooms	Bullitt Central High	19	Bullitt East High	19	North Bullitt High	19	Bernheim Middle	20	Bullitt Lick Middle	18	Eastside Middle	24	Hebron Middle	12	Mt. Washington Middle	14	Zoneton Middle	17	Brooks Elementary	22	Cedar Grove Elementary	22	Crossroads Elementary	20	Freedom Elementary	21	Lebanon Junction Elementary	18	Maryville Elementary	15	Mt. Washington Elementary	27	Nichols Elementary	9	Old Mill Elementary	20	Overdale Elementary	18	Pleasant Grove Elementary	24	Roby Elementary	21	Shepherdsville Elementary	24	Total Classrooms	423
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Eleot® Data Analysis Review, eleot® Training with Calibration	Facilitators for Calibration with District Leadership (4 groups over two days with 4 facilitators each day)	\$8,000.00 plus lodging, mileage and meals (approximately \$1,000.00)																																																

December 2018		
<b>Total</b>	<b>Expenses will be billed at actual cost.</b>	<b>\$47,000.00</b> Plus lodging, mileage and meals

## **Exhibit "B"**

### **Confidentiality and Nondisclosure Agreement**

This Confidentiality and Non-Disclosure Agreement ("Agreement") is made as of **October 11, 2018** between **Advance Education, Inc.** and/or any of its affiliated companies ("AdvancED<sup>®</sup>") and **Bullitt County Public Schools** ("Education Provider") (hereinafter referred to collectively as "Parties"). In connection with the Education Provider (whether paid for or voluntary) using, employing, or receiving training in the use of the AdvancED ASSIST<sup>®</sup>, eProve<sup>™</sup> AdvancED Accreditation and/or School Improvement Services, Diagnostics, Standards, and /or any other AdvancED owned proprietary materials or processes ("Approved Purpose"), AdvancED may be disclosing to Education Provider Confidential Information. As a condition of the release by AdvancED of Confidential Information, both Parties agree as follows with respect to said Confidential Information:

1. **CONFIDENTIAL INFORMATION.** As used herein, the term "Confidential Information" shall include any proprietary information or materials created by or on behalf of AdvancED, whether or not marked or otherwise designated as confidential, relating to the business (present or contemplated) and/or customers of AdvancED that Education Provider obtains from AdvancED in connection with the Approved Purpose, including the terms of this Agreement, any and all information concerning techniques, processes, formulas, trade secrets, innovations, inventions, discoveries, research or development and test results, specifications, data, formats, marketing plans and programs, business plans, computer systems and programming, strategies, forecasts, financial information, budgets, projections, customer and supplier identities, addresses or characteristics, agreements between AdvancED and third parties, and the nature and status of discussions or negotiations between Education Provider and AdvancED. Confidential Information shall not include information, if any, which was or becomes generally available to the public other than as a result of a disclosure by Education Provider or by other persons, including Education Provider's agents, to whom Education Provider has disclosed such information.

2. **RESTRICTIONS ON DISCLOSURE.** All Confidential Information shall be held by Education Provider in trust and confidence on behalf of AdvancED. Education Provider shall not disclose or permit access to nor shall Education Provider authorize or permit any other person or entity (collectively, "Person") to disclose or permit access to all or any part of the Confidential Information without the prior written consent of AdvancED. In addition, Education Provider shall use the Confidential Information only for the Approved Purpose, and not in any other manner or for any other reason, including any manner or reason that may be detrimental to AdvancED or any of its affiliated entities. Further, Education Provider shall take such action, legal or otherwise, to the extent necessary to ensure that only those persons who, pursuant to this Agreement, would be permitted access to the Confidential Information are able to obtain such access.

3. **EXEMPTIONS FROM RESTRICTIONS ON DISCLOSURE.** Education Provider may disclose the Confidential Information to comply with applicable law, administrative or court order; provided, however, that in each such instance Education Provider shall notify AdvancED prior to such disclosure and Education Provider shall use reasonable efforts to seek confidential treatment of the Confidential Information. Education Provider may also disclose the Confidential Information to Education Provider's agents on a "need to know" basis. Prior to any disclosure, Education Provider must obtain written approval for the disclosure and the agent must execute a copy of this agreement and agree to be bound by this Agreement's terms. Education Provider and said agent shall be responsible for any breach of this Agreement by agent.

4. REMEDIES. Education Provider acknowledges and agrees that the Confidential Information derives independent economic value from not being generally known to the public or to other Persons who can obtain economic value from the disclosure or use of the Confidential Information. Education Provider further acknowledges and agrees that any breach of this Agreement shall constitute a material breach of this Agreement that will cause irreparable injury to AdvancED, not readily measurable in money, and for which AdvancED, without waiving any other rights or remedies at law or in equity, shall be entitled to injunctive relief, if allowed in the jurisdiction.

5. CHOICE OF LAW. The Parties agree that any dispute in any way arising out of or relating to this Agreement will be resolved by arbitration before the American Arbitration Association pursuant to the organization's rules. The Parties agree that any arbitration award will be enforceable in state or federal court. The prevailing Party in any arbitration proceeding will be entitled to an award of its reasonable costs and attorney fees.

6. MISCELLANEOUS. No assignment, amendment, alteration or modification of this Agreement shall be effective without the prior written consent of all Parties. Whenever examples are used in this Agreement they are intended to be illustrative only and shall not limit the generality of the examples. This Agreement shall continue in full force and effect for a period of five (5) years from the date hereof.

**IN WITNESS WHEREOF**, the Parties hereto have agreed by their authorized officers as of the day and year indicated.

**Bullitt County Public Schools**

**Advance Education, Inc.**

By: \_\_\_\_\_

By: \_\_\_\_\_

Printed Name: Jesse Bacon

Printed Name: Mark A. Elgart, Ed.D.

Title: Superintendent

Title: President/ CEO

Date: \_\_\_\_\_

Date: \_\_\_\_\_