

**COMMONWEALTH OF KENTUCKY
JUSTICE and PUBLIC SAFETY CABINET
DEPARTMENT OF JUVENILE JUSTICE
INTERAGENCY AGREEMENT AND MEMORANDUM OF UNDERSTANDING**

This Interagency Agreement (IA) is entered into, by and between the Commonwealth of Kentucky, Department of Juvenile Justice ("the Commonwealth") and Breathitt County School District ("the Contractor") to establish an agreement for the provision a full continuum of educational service for students committed to or in the custody of the Department of Juvenile Justice. The initial IA is effective from the 1st day of July, 2019 through the 30th day of June, 2020.

Department of Juvenile Justice

hereinafter referred to as the Department or Commonwealth, and

Breathitt County School District

(Name of Contractor)

P.O. Box 750

Jackson, Kentucky 41339

(Address of Contractor)

hereinafter referred to as the Contractor,

WITNESSETH, THAT:

Whereas, the Department, in the exercise of its lawful duties, has determined upon the necessity of the performance of the following function briefly described as:

Provide a full continuum of educational services for youth that have been committed to or are in the custody of the Department; and

Whereas, the Contractor is available, responsible, and qualified to perform this function, and the Department desires that the Contractor perform this function;

Now, therefore, it is hereby and herewith mutually agreed by and between the parties hereto as follows:

This agreement is intended to form the basis for a cooperative relationship between the Department of Juvenile Justice and **Breathitt County School District at Breathitt Regional Juvenile Detention Center**. The mutual goal and intention of each of the agencies named above is to maintain the needs of each youth as our priority in fulfillment of this agreement. It is meant to foster excellence in education and treatment and is not meant to inhibit either agency in meeting their respective goals, but rather to foster collaborative services on the part of both agencies. The expectation is that this contractual agreement will provide the basis for the highest quality of educational services possible for our youth.

The commitment to the provisions of this contract signifies each agency's efforts toward professional collaboration for provision of quality education and treatment to each youth for whom we share responsibility.

Scope of Services:

Section 1.

The Contractor agrees to perform the services as hereinafter described with particularity as follows:

- A. Comply with all applicable federal and state laws and regulations for the services provided under this agreement.
- B. Provide certified and classified staff as applicable to meet the educational needs of the youth.
- C. Core classes (English, Math, Science, and Social Studies) shall be taught by a certified teacher.
- D. Assure that one full-time, on site principal/head teacher/school administrator/director is responsible for all aspects of the school program.
- E. Teachers shall sign in and out of the program each day. The documentation shall include a record of arrival and departure times.
- F. Assure that the school administrator submits an organizational chart detailing the lines of supervision, positions, names and titles for each individual employed at the program.
- G. Assure that annual professional development for certified educational staff addresses the identified needs of youth in the program and standards set forth by the Kentucky Department of Education.
- H. Assure the teacher pupil ratio shall average, based on average daily attendance, no more than ten (10) students to one (1) teacher without a classroom aide and fifteen (15) students to one (1) teacher with a classroom aide. A classroom that exclusively serves students with educational disabilities shall comply with teacher pupil ratios as specified in 707 KAR 1:350.
- I. Provide 210 instructional days.
- J. Provide students with a minimum of six (6) hours of daily instruction as indicated in KRS 158.060(3); and provide a minimum of four (4) hours of instructional time per day for each day beyond the local school district calendar.
- K. Develop a mutually agreed upon yearly school calendar that identifies local school district instructional days, instructional days beyond the local school district calendar, professional development days, holidays, vacation days and non-instructional days.
- L. Assure that the program operates within the traditional school day.
- M. Plan vacations, professional development days, and leave with respect to the education needs of the youth, the local district calendar, local district policies and procedures, and the Department.
- N. Assure the school administrator submits the yearly school calendar and the daily school schedule to the facility superintendent and the DJJ Education Branch Manager by July 1 of each respective year for the next school year.
- O. Make educational services available to each youth upon admission, except if there is substantial evidence to justify otherwise, and construct educational services on an open entry – open exit basis.

- P. Prepare an Educational Passport and submit to DJJ as required by KRS 158.137 and 605.110(3)(e). Please see KECSAC Policy 4.21 Educational Passport. Infinite Campus, the electronic student data collection used by the Kentucky Department of Education, may serve as the standard educational passport for state agency children.
- Q. Provide instruction based on, Kentucky Academic Standards, Career and Technical Education Manual, and Kentucky Occupational Skill Standards to meet the individual needs of each youth.
- R. Curriculum shall be aligned with the Kentucky Core Academic Standards established in 704 KAR 3:303, and the student goals in the Individual Learning Plan (ILP).
- S. Implement programs designed to help English Learner students achieve both English language proficiency and academic standards in reading/language arts, mathematics, and science.
- T. Assure that student coursework is appropriate to bring the student into alignment with their assigned grade level. Coursework should follow the credit requirements necessary for earning a high school diploma according to state standards.
- U. Only students who are identified as Gifted and Talented, as that term is defined in KRS 157.200(1)(n), should be allowed to accelerate through the high school curriculum for the purposes of qualifying for college coursework as defined in 704 KAR 3:285.
- V. Assure that the apportioned annual credit requirements are aligned with the credit requirements and demonstrated competencies as defined in 704 KAR 3:305 (2).
- W. Library services shall be provided and made available to students through local library programs, bookmobiles, and/or on-site libraries.
- X. Require education staff to provide instruction that addresses all Learning Styles.
- Y. Ensure that Career Inventory and Learning Styles are displayed within the classroom area.
- Z. Require education staff to deliver instruction by diverse methods at least two days per week even when other learning is primarily achieved through online credit recovery programs. Blended learning shall include but not be limited to: project-based learning, groups, teams, hands-on learning activities, or accelerated teaching.
- AA. Require education staff to develop and follow written lesson plans with consideration given to the educational and vocational learning needs of each youth. Lesson plans shall include goals, standards, activities, and modifications.
- BB. Require education staff to document evidence of a student's level of achievement using local school district's procedural documentation or the Kentucky Academic Standards.
- CC. Assure grades, credits, diploma, certificate of completion, or a high school equivalency diploma (General Education Development – GED) earned by the youth is in compliance with Federal and state laws and regulations.
- DD. For youth eligible for GED testing, assure youth earns grades and credits toward a diploma.
- EE. Conduct educational and vocational assessments within five (5) days of the student's admission if previous results are not available.
- FF. Students shall complete a career inventory to include aptitude, interest inventory, and learning and working styles. The results shall:
 - 1. Assist staff as they communicate with students;

2. Assist in the develop each student's Individual Learning Plan (ILP) and Aftercare Plan; and
 3. Provide each student with workplace readiness skills.
- GG. Review and revise, as needed, the Individual Learning Plan (ILP) for each youth and write an Individual Learning Plan Addendum (ILPA) or Individual Education Plan (IEP), as applicable, using results of educational and vocational assessments.
- HH. Update the Individual Learning Plan (ILP) when a youth earns a diploma, certificate of program completion, or a GED. The plan shall include evaluated work experience, vocational education and/or higher education through correspondence or on-campus courses.
- II. Assure education progress reports of student achievement are forwarded to the parent or guardian on the same schedule as for students in the local school district.
- JJ. Assure each youth is included in district wide, end-of-course, and statewide assessments.
- KK. Include the program in the school district textbook revision plan.
- LL. Provide necessary instructional materials and specialized equipment that meet minimum state education standards including computers and data lines.
- MM. Provide remedial instruction/intervention to improve basic skills for students who score two or more grade levels below standard in reading or math.
- NN. Collaboratively develop with DJJ staff a code of acceptable school behavior and disciplinary measures which are complimentary to and consistent with the facility behavior management system.
- OO. Provide Infinite Campus training and give total access for school administrators and academic teachers.
- PP. Student data including, but not limited to, behavior, grades, and program participation shall be recorded in Infinite Campus. Assure each youth's educational record contains specific name of courses youth is taking or has completed, amount of time in the course, and grades and credits earned while in the program. This information is to be included when transferring records to the next agency providing education services.
- QQ. Make all educational records available upon request to DJJ staff working with youth, monitoring and evaluating services for the Department as permitted by federal and state laws and regulations including the Family Educational Rights and Privacy Act (FERPA).
- RR. Assure that educational records are forwarded to the receiving school within five (5) school days following the release of a youth from the program.
- SS. Assure district staff is knowledgeable of the content of the daily log and record incidents as needed to enhance communication to better address the individual needs of the youth.
- TT. Adhere to the Department's Education Policies and Procedures. (Appendix A)
- UU. Adhere to the Department's Code of Conduct and Code of Ethics Policies and Procedures and cooperate with investigation of misconduct. (Appendix B) If a violation occurs, disciplinary issues relating to school district personnel shall be governed by the local school district's policy and procedures. If the Department of Juvenile Justice provides written notice that it believes that any teacher and/or other educational staff has violated any Department of Juvenile Justice Policy, then the individual that is believed to have violated Policy shall not be allowed to return to the Department of Juvenile Justice's property, and the Contractor will forthwith provide a different

teacher and/or other educational staff to replace the individual that would not be allowed to return.

- VV. Cooperate with the facility superintendent in obtaining the information and releases required for criminal and administrative background investigations to be conducted on any certified or classified staff who may have contact with youth and agrees to not assign any certified or classified staff to work at the program who is not approved.
- WW. Ensure that each certified and classified education staff member submits a signed Confidentiality Agreement to the facility superintendent.
- XX. Adhere to and cooperate with the pursuit of accreditation standards to which the Department is subject.
- YY. Comply with the Prison Rape Elimination Act (PREA) (42 U.S.C. §15601, et seq.) and with all applicable PREA National Standards (28 C.F.R. Part 115). The basic tenets of compliance with PREA assert that DJJ and all associated contractors have a zero tolerance policy toward sexual abuse, sexual assault, sexual harassment or any other type of sexual misconduct between youth and youth or staff and youth. The school district agrees to notify the Department and promptly investigate any allegations or instances of any sexual misconduct. (Appendix C)
- ZZ. The school district will ensure education staff participates in all mandatory training requirements as directed by federal requirements, DJJ Policy, and American Correctional Association accreditation standards, either through its own training, or through participation in DJJ training. Mandatory trainings include but may not be limited to program-specific Emergency Procedure training and Prison Rape Elimination Act (PREA) training.
- AAA. Participate fully in the monitoring of this agreement.
- BBB. Assure there will be no discrimination against any applicant, or recipient of services on account of race, color, age, sex, religious creed, ancestry, national origin or sexual preference in performance of this agreement.
- CCC. Assure the facility superintendent/designee is invited to participate on the interview panel for the hiring of any educational staff for the program.
- DDD. Seek input from the facility superintendent when evaluating individual education staff based on district evaluation criteria.
- EEE. Allow the opportunity to participate on the interview panel for the hiring of any rehabilitation instructor or vocational staff for the program.
- FFF. Assure the school administrator/designee attends the facility management team meetings.
- GGG. Assure appropriate DJJ staff is invited to participate in educational meetings relative to the development or review of educational services for individual youth (i.e., Admissions and Release Committee (ARC) meetings).
- HHH. Assure certified and classified staff complies with school district acceptable use policy for Internet usage.
- III. Assure no DJJ youth is permitted access to email.
- JJJ. Assure internet access is diligently supervised and is purposeful for the completion of academic/vocational learning objectives.
- KKK. Provide youth Internet access with a school district or DJJ content filtering device in place.

LLL. Data lines outside of DJJ must be approved by the Information Systems Branch.

MMM. Through use of a content filtering device, ensure that Sexually Explicit Materials are not available via any video or computer system, software or hardware product, or internet service in any area where youth are present within the offices and programs of the Department of Juvenile Justice.

Section 2.

In relation to the agreement, the Department or its facility designee agrees to perform the following functions:

- A. Comply with all applicable federal and state laws and regulations for the services provided under this agreement.
- B. Provide the school administrator or designee as much notice as possible prior to a youth being admitted to or discharged from the facility.
- C. Assure that the school administrator or head teacher is notified of a suspected educational disability using the Child Find form.
- D. Provide the educators access to all pertinent records as permitted by law in order to meet the individual needs of the youth.
- E. Provide the school administrator notice of relevant meetings at the same time other Department staff is provided notice.
- F. Assure facility staff will provide supervision and supportive assistance in the course of all academic activities. Youth workers shall be included in classroom activities to the maximum extent possible and shall work cooperatively with all education staff.
- G. Require Department staff to read and record in the program's daily log to assure knowledge of any incident that may affect a youth's behavior or performance is communicated.
- H. Make the daily log accessible to school district staff to enhance communication to better address the individual needs of the youth.
- I. Dispense all medication to the youth.
- J. Notify the School Administrator of any grievance involving the educational staff. Each agency will address the grievance according to their respective policy and procedures. If a mutually acceptable resolution is not reached within the timelines of the respective policies and procedures, the following action shall be initiated:

Step 1. The Department Regional Administrator and Contractor designee, who is not the School Administrator, will meet to discuss, clarify, and resolve the matter. This resolution will be formalized in writing and conveyed to the Facility Superintendent and School Administrator. If the matter cannot be resolved, the following action shall be initiated.

Step 2. The Department Regional Director and the Contractor Superintendent or designee, who is not the School Administrator, will meet within 10 working days. They will review the grievance, interview the individuals they deem appropriate and reach a resolution. This resolution will be formalized in writing and conveyed to the Facility Superintendent and School Administrator.

- K. Assure appropriate DJJ staff attends educational meetings relative to the development or review of educational services for individual youth (i.e., Admissions and Release Committee (ARC) meetings).
- L. Provide technical assistance through education staff in the Education Branch.
- M. Collaboratively develop with the local school district staff a code of acceptable school behavior and disciplinary measures that are consistent with the facility behavior management system.
- N. Participate on the interview panel for the hiring of any educational staff for the program.
- O. Obtain information and releases required for criminal and administrative background investigations to be conducted on any certified or classified staff who may have contact with youth. Assure that criminal and background checks are completed for school staff.
- P. Provide input to the school district staff person evaluating individual education staff based on district evaluation criteria.
- Q. Refuse an educational staff entry to a facility if they are found to be in violation of the Department's Code of Conduct or Code of Ethics policies and procedures.
- R. Schedule facility management team meetings, whenever possible, to allow the school administrator the opportunity to attend.
- S. Provide safety inspections at regular intervals.
- T. Consider the school calendar in the timing of discharge of youth from facility, whenever possible.
- U. In schools where DJJ provides internet services, a content filtering device will be used to ensure that Sexually Explicit materials are not available via any video or computer system, software or hardware product, or internet service in any classroom setting or any areas where youth are present with the office and programs of the Department of Juvenile Justice.

Section 3.

Term: This agreement shall remain valid and in force for twelve (12) months from its effective date, provided it is not terminated pursuant to paragraph 22 of the Justice and Public Safety Cabinet Terms and Conditions below.

JUSTICE AND PUBLIC SAFETY CABINET TERMS AND CONDITIONS

1. Contractor shall comply at all times with all applicable federal, state, and local laws, regulations, executive orders, and attorney general opinions.
2. Contractor shall comply with all applicable Commonwealth of Kentucky Executive Department policies and procedures, and Commonwealth Office of Technology policies and procedures.
3. The Contractor shall report any and all acts and omissions constituting a violation of applicable federal, state, or local laws, policies and procedures, or this Agreement, to the Commonwealth in writing within one business day of the discovery of the violation.
4. Both parties, including any subcontractors or agents of each, agree to comply with all applicable state and federal confidentiality laws, including the Family Educational Rights and Privacy Act and the Health Insurance Portability and Accountability Act, and to protect the security, confidentiality, and integrity of education and health information. The Contractor acknowledges and agrees that the Commonwealth shall be entitled, without waiving any other rights or remedies, to injunctive or equitable relief to enforce the requirements of this provision of this Agreement.
5. Vendors and other state agencies that receive Personal Information as defined by and in accordance with Kentucky's Personal Information Security and Breach Investigation Procedures and Practices Act, KRS

- 61.931, et seq. ("the Act"), shall secure and protect the Personal Information by, without limitation, complying with all requirements applicable to non-affiliated third parties set for in the Act.
- 5.1. "Personal Information" is defined in accordance with KRS 61.931(6) as "an individual's first name or first initial and last name; personal mark; or unique biometric or genetic print or image, in combination with one(1) or more of the following data elements:
- 5.1.1. An account, credit card number, or debit card number that, in combination with any required security code, access code, or password, would permit access to an account;
 - 5.1.2. A Social Security number;
 - 5.1.3. A taxpayer identification number that incorporates a Social Security number;
 - 5.1.4. A driver's license number, state identification card number, or other individual identification number issued by an agency;
 - 5.1.5. A passport number or other identification number issued by the United States government; or
 - 5.1.6. Individually Identifiable Information as defined in 45 C.F.R. sec. 160.013 (of the Health Insurance Portability and Accountability Act), except for education records covered by the Family Education Rights and Privacy Act, as amended 20 U.S.C. sec. 1232g.
- 5.2. As provided in KRS 61.931(5), a "non-affiliated third party" means "any person or entity that has a contract or agreement with the Commonwealth and receives (accesses, collects, or maintains) personal information from the Commonwealth pursuant to the contract or agreement."
- 5.3. The Contractor agrees to cooperate with the Commonwealth in complying with the response, mitigation, correction, investigation, and notification requirements of the Act.
- 5.4. The Contractor shall notify as soon as possible, but not to exceed seventy-two (72) hours, the Commonwealth, the Commissioner of the Kentucky State Police, the Auditor of Public Accounts, and the Commonwealth Office of Technology, of a determination of, or knowledge of, a breach, unless the exception set forth in KRS 61.932(2) applies and the Contractor abides by the requirements set for in that exception. Notification shall be in writing on a form developed by the Commonwealth Office of Technology
- 5.5. The Contractor agrees to undertake a prompt and reasonable investigation of any breach as required by KRS 61.933.
- 5.6. Upon conclusion of an investigation of a security breach of Personal Information as required by KRS 61.933, the Contractor agrees to an apportionment of the costs of the notification, investigation, and mitigation of the security breach.
- 5.7. In accordance with KRS 61.932(2)(a), the Contractor shall implement, maintain, and update security and breach investigation procedures that are appropriate to the nature of the information disclosed, that are at least as stringent as the security and breach investigation procedures and practices established by the Commonwealth Office of Technology.
6. The Contractor agrees that it will not distribute, divulge, publish, or release any data or information obtained from or owned by the Commonwealth without the prior written approval of the Commonwealth unless compelled to do so by law or by a judicially signed order from a court of competent jurisdiction. The Contractor acknowledges that it receives the Commonwealth's data or information solely for the purposes of this Agreement, and that its receipt of the Commonwealth's data or information in no way creates any ownership interest in the Commonwealth's data or information, unless explicitly provided otherwise within the terms and conditions of this Agreement.
7. The Contractor shall ensure that any and all access to Commonwealth data by Contractor personnel is limited to only those Contractor personnel with a necessary and essential purpose to fulfill the terms and conditions within this Agreement.
8. The Contractor shall not utilize Commonwealth data for the Contractor's benefit except as contemplated within and pursuant to the terms and conditions of this Agreement. The Contractor shall not sell or resell any and all Commonwealth data.
9. The Contractor shall ensure that any and all data transmitted and received on behalf of and as directed by the Commonwealth is transmitted and received only via secure methods and protocols.
10. Upon the expiration of the term of this Agreement, unless it is renewed prior to its expiration, the Contractor shall either: (1) return any and all data provided by the Commonwealth, destroy any and all copies of the data in whatever form they occur, complete the attached Data Destruction Certification, and submit the certificate to the Commonwealth no less than 7 calendar days after expiration of this Agreement; (2) destroy the data, including any and all copies of the data in whatever form they occur, without returning the data to the Commonwealth, complete the attached Data Destruction Certification, and submit the certificate to the

Commonwealth no less than 7 calendar days after expiration of this Agreement; or (3) retain the data subject to the terms of this Agreement regarding data ownership, privacy, and breach. The Commonwealth retains discretion to choose the option Contractor shall perform. In the event that the Commonwealth has not communicated to the Contractor which option should be followed, the Contractor shall perform the actions listed in option (1).

11. The parties agree that they receive all information communicated between them before the execution of this Agreement in strict confidence and that the receiving party, its agents, or employees shall not, without prior written consent of the other party, disclose any such information, subject to Commonwealth of Kentucky and federal disclosure laws.
12. The Contractor shall not represent that a working copy, draft, or the finalized version of this Agreement is identical to a previous iteration of this Agreement if the Contractor has made edits since the last iteration. The Contractor shall clearly present all edits, either through editing functions in word processing software, or as a list provided contemporaneously with the most recently edited iteration.
13. During the term of this Agreement, Contractor shall be authorized in its sole discretion to discipline, terminate, or take any other personnel action against Contractor personnel. Upon communication by Commonwealth of an issue with Contractor personnel, Contractor shall have the sole authority to take action to effect a solution.
14. In no event shall any person or entity be deemed to be a third-party beneficiary of this Agreement.
15. The Contractor acknowledges that the Commonwealth may execute agreements with other vendors for additional or related goods and services that address, interact with, or otherwise regard this Agreement. The Contractor shall fully cooperate with such other vendors and vendor personnel, agents, and designees. The Contractor shall not commit any act; allow any omission; or permit its personnel, agents, or designees to commit any act or allow any omission that will interfere with the performance of work by any other vendor or any other vendor's personnel, agents, or designees.
16. Each party shall provide a contact to resolve any and all issues related to this Agreement and promptly update the contact information as necessary.
17. All notices under this Agreement shall be given in writing. Electronic mail constitutes a writing.
18. No change, waiver, or discharge of any liability or obligation under this Agreement on any one or more occasions shall be deemed a waiver of performance of any continuing or other obligation, or shall prohibit enforcement of any obligation, on any other occasion.
19. No party shall assign its respective rights or obligations under this Agreement without prior written consent of the other party. Any purported assignment or delegation in violation of this Agreement is void.
20. The terms and conditions of this Agreement may only be amended by mutual written consent of both parties.
21. The Contractor agrees that any and all violations of this Agreement may result in the immediate termination of this Agreement. This Agreement shall be construed and enforced in accordance with the laws of the Commonwealth of Kentucky.
22. The Commonwealth shall have the right to terminate and cancel this Agreement at any time not to exceed thirty (30) days' written notice served on the Contractor by registered or certified mail.
23. The parties agree that any claim, action, or lawsuit arising under this Agreement must be brought in Franklin Circuit Court in the Commonwealth of Kentucky.
24. If any term or provision or any part of this Agreement is declared invalid or unenforceable, the remainder of this Agreement shall not be affected, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by the law.
25. This Agreement is the final and exclusive agreement between the parties. All prior negotiations and agreements are superseded by this Agreement.

COMMONWEALTH: Department of Juvenile Justice
Name of Agency

APPROVED:

BY: Raymond J. DeBona
DJJ Commissioner Signature

DATE: 6/28/19

CONTRACTOR: _____
Name of Agency

APPROVED:

BY: _____
Signature

TITLE: _____

DATE: _____