OK AS TO FORM
K.C.B 9.11.19

Memorandum of Agreement

Jefferson Community and Technical College ("JCTC"), an educational institution of the Kentucky Community and Technical College System ("KCTCS"), and Jefferson County Board of Education, a Kentucky public school district operating under the name of the Jefferson County Public Schools ("JCPS"), hereby enter into this Memorandum of Agreement ("Agreement") dated August 1, 2019.

Recitals

A. JCTC and JCPS have statutory missions which include the delivery of educational services to adults in Louisville, and have already established a working relationship which includes cooperative efforts at Ahrens Adult Education Center and JCTC locations.

B. JCTC and JCPS are committed to the enrollment and educational attainment goals adopted by the Workforce Investment Board (KentuckianaWorks), the Department for Adult Education and Literacy, KCTCS, and the Council on Postsecondary Education.

C. JCTC and JCPS have complementary strengths and resources in adult and developmental education and are committed to maximizing the use of these strengths and resources for the good of the community, including to meet the workforce needs of current and future business and industry in the Louisville area.

D. JCTC and JCPS seek to:

i. Continue with their established concurrent enrollment opportunities for adult education students in Jefferson County, Kentucky.

ii. Continue to transition General Educational Development ("GED") students into post-secondary education, as well as JCTC students whose entrance exam scores in Reading, Math, Writing, and English as a Second Language ("ESL") fall below the minimum score established.

iii. Continue the comprehensive interagency referral system, which includes but is not limited to an agreement on the referral and placement of incoming students who are assessed with Accuplacer in Reading and English placement, and with TABE A Crosswalk and KYOTE for Mathematics placement. ESL students will be referred using the Cambridge Michigan Test.

iv. Continue with GED graduate recruitment initiatives that will include contacts with GED graduates, identification of scholarship funds for selected GED graduates, and a presence at GED graduation ceremonies.

v. Review and evaluate the assessment, referral, and placement procedures utilized jointly by JCTC and JCPS.

vi. Promote the seamless transition into JCTC by holding Educational Enrichment Services ("EES") classes on the JCTC campus.

vii. Promote effective placement into EES classes. JCTC will assist EES staff, who are responsible for TABE-Testing and registering students into EES Reading, Writing, and Math classes. JCPS will provide a staff person to assist with ESL advising during the late registration week with hours not to exceed 19.75 per registration period.

viii. Identify key research markers that will provide sufficient data to fully evaluate student and program success. Internal and external data will be used.

ix. Utilize the results of the above-mentioned research to improve the policies, procedures, and instructional methodologies of this joint venture.

x. Evaluate and strengthen the services provided by the GED Testing Center located at JCTC.

xi. Continue with the joint steering committee and hold at least two meetings per academic semester to evaluate the status of the relationship and determine any necessary changes and improvements. The joint steering committee will be co-chaired by the Director of JCPS (or their designee) and the President of JCTC (or their designee). The Chancellor of the KCTCS or their designee will be an ex-officio member. In addition, the committee will also include but not be limited to the following people: JCTC Vice President of Academic Affairs, JCTC Dean for General Education and Transfer Studies, and JCTC faculty from appropriate academic disciplines.

xii. Continue to explore ways to generate monies for GED test fees and college tuition for GED graduates.

xiii. Develop joint marketing strategies that will advance and enhance this initiative. All marketing and promotion materials will be jointly approved.

Terms and Conditions

1. **Term**: From July 1, 2018 through August 1, 2019, JCTC and JCPS worked together under a mutual understanding, but without a written agreement. The term of this Agreement began on September 25, 2019 and shall conclude on June 30, 2020, unless terminated by either party as provided herein. This Agreement may be extended for three additional one-year periods. Any extension shall be by mutual written Amendment.

2. **Termination**: Either party may terminate this Agreement with or without cause at any time with at least thirty days' written notice to the other party, except that no termination shall affect any obligations or responsibilities already assumed and begun that, if cancelled and not completed, would adversely affect students and faculty. Upon termination, both parties will work together to limit any negative effects of termination.

3. **Amendment**: This Agreement may only be modified by mutual written agreement.

4. **JCTC's Responsibilities**: JCTC shall assume the following responsibilities:

   A. Provide JCPS with office space of approximately 1,000 square feet to support JCPS staff or faculty to administer and prepare primary education coursework and privately advise students. Office space shall include utilities, security and janitorial service, phone service, and internet connectivity. JCPS will provide their own copier and printer. JCTC shall also make available classroom space of approximately 624 square feet and approximately 1,045 square feet, and technology to JCPS during the days and times that JCPS provides instruction of primary education courses. This space and technology shall be provided at no cost to JCPS.

   B. Share professional expertise by allowing both JCTC and JCPS faculty and staff to attend both JCPS and JCTC professional development opportunities.

5. **JCPS' Responsibilities**: JCPS shall assume the following responsibilities:

   A. From time to time share reports on the effectiveness of the EES Partnership with JCTC.

B. Share professional expertise by allowing both JCPS and JCTC faculty and staff to attend both JCTC and JCPS professional development opportunities.

6. **Student Data**: JCTC and JCPS shall maintain academic, performance, and attendance records of students, and may share such records in accordance with the Family Educational Rights and Privacy Act of 1974 ("FERPA"). A student's nondirectory data may be shared with the written authorization of that student.

JCTC shall not share student data for the following:

- Students under the age of 18.
- Students enrolled at a correctional facility.
- Any student requesting privacy under FERPA.

Within the parameters and exceptions provided above, JCTC shall share the following student data with JCPS:

- First, Middle, Last Name of Student
- College Status (first-time freshman, transfer student from 2-year or 4-year institution, reverse transfer from U of L)
- Full-time/Part-time (number of credit hours/semester)
- Major
- GPA

JCPS shall not access or otherwise use JCTC student data except for the purposes directly connected with this Agreement and in accordance with JCTC statutes and regulation.

To the extent either party receives Personal Information as defined by and in accordance with Kentucky's Personal Information Security and Breach Investigation Procedures and Practices Act, KRS 61.931, 61.932 and 61.933 ("Act"), the parties shall secure and protect the Personal Information by, without limitation: (i) complying with all requirements applicable to non-affiliated third parties set forth in the Act; (ii) utilizing security and breach investigation procedures that are appropriate to the nature of the Personal Information disclosed, at least as stringent as JCTC's and reasonably designed to protect the Personal Information from unauthorized access, use, modification, disclosure, manipulation, or destruction; (iii) notifying the other party of a security breach relating to Personal Information in the possession of the other party or its agents or subcontractors within seventy-two hours of discovery of an actual or suspected breach unless the exception set forth in KRS 61.932(2)(b)2 applies and the party abides by the requirements set forth in that exception; and (iv) cooperating with the other party in complying with the response, mitigation, correction, investigation, and notification requirements of the Act, (v) paying all costs of notification, investigation and mitigation in the event of a security breach of Personal Information suffered by the other party; and (vi) at the relevant party's discretion and direction, handling all administrative functions associated with notification, investigation and mitigation.

7. **Legal Relationship**: Nothing in this Agreement or in the relationship shall imply or be interpreted as implying an employment, partnership, joint venture, agency, franchise or other form of agreement or relationship between JCTC and JCPS. No representatives for either party shall act as an agent for the other party or represent authority to act as such.

8. **Third Parties**: Nothing in this Agreement shall be construed as creating or giving rise to any right in any third parties or other persons other than the parties hereto.

9. **Assignment**: This Agreement shall not be assigned by either party.

10. **Liability and Indemnification**: To the extent permitted by Kentucky law, JCPS shall be responsible for any loss or damage due to its negligent and/or intentional acts and omissions. To the extent permitted by Kentucky law, JCTC shall be responsible for any loss or damage due to its negligent and/or intentional acts and omissions. Neither party shall indemnify the other.

11. **Insurance**: Without limiting any liabilities or any other obligations, both parties shall procure and maintain, until all of their obligations have been discharged, insurance against claims for injury to persons or damage to property which may arise from or in connection with this Agreement. Insurance shall be placed with companies that have an A. M. Best rating of not less than A- VII with the following minimum coverages:

> Commercial General Liability: Insurance shall provide coverage for the term of this Agreement and for a minimum of two years after the conclusion or termination of this Agreement, and shall include broad form contractual coverage with limits of $1,000,000 per occurrence and $3,000,000 annual aggregate.
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> Workers' Compensation: Insurance in accordance with the provisions of applicable laws and regulations, and to include Employer's liability insurance with a minimum limit of $1,000,000 for each accident.

JCTC shall be provided with JCPS's Certificate of Insurance ("JCPS COI") within ten (10) calendar days of execution of this Agreement. JCTC shall be listed as both an additional insured and as a holder of the JCPS COI as follows: Jefferson Community and Technical College, 109 E Broadway, Louisville, KY 40202.

Either party reserves the right to request and receive proof of insurance and/or certified copies of any or all of the above policies and/or endorsements from the other party at any time throughout the term of this Agreement.

12. **Nondiscrimination**: All parties acknowledge that they are equal opportunity employers and agree that they do not and will not discriminate against, harass, or retaliate against any student, employee, or job applicant on the basis of race, color, national origin, age, religion, marital or parental status, political affiliations or beliefs, sex, sexual orientation, gender identity, gender expression, veteran status, genetic information, disability, or limitations related to pregnancy, childbirth, or related medical conditions. Each party hereto represents that they are in full initial and ongoing compliance with all current applicable federal, state, and local laws, regulations, and ordinances.

13. **Waiver**: No waiver by either party of any failure of the other party to keep or perform any undertaking or condition of this Agreement shall be deemed to be a modification of this Agreement or be a waiver of any preceding or subsequent breach of the same or any other undertaking or condition.

14. **Severability**: If any provision of this Agreement shall be declared illegal, void or unenforceable, the remaining provisions shall continue in full force and effect.

15. **Notice**: Any notice, demand, or consent required or permitted to be given hereunder shall be effective upon delivery if hand-delivered, if sent by registered or certified mail with return receipt requested, or by overnight mail delivery for which evidence of delivery is obtained by the sender, at the address(es) set forth below or such other address(es) as either party may designate in writing:

To JCTC:
Jefferson Community and Technical College
Office of Grants and Contracts
109 E Broadway
Louisville, KY 40202

With copy to:
Jefferson Community and Technical College
Vice President for Academic Affairs
109 E Broadway
Louisville, KY 40202

To JCPS:
Jefferson County Public Schools
Office of the Superintendent
3332 Newburg Rd
Louisville, KY 40218

With copy to:
Name
address

Electronic mail shall not constitute written notice.

16. **Dispute Resolution**: The parties do not expect any unresolvable disputes to arise between them under this Agreement. However, to the extent such disputes may arise, the parties agree that any disputes between them arising from, related to, or in connection with this Agreement or the facts and circumstances leading thereto shall be exclusively subject to the laws of Kentucky, and the jurisdiction and venue of the courts in Franklin County, Kentucky, without regard to otherwise applicable choice of law provisions.

In the event of a dispute, the chief executive officers or the authorized designates of each party shall meet as soon as practicable to negotiate a resolution. If no resolution can be achieved, the parties agree to resolve any disputes between them in Franklin County, Kentucky by means of non-binding mediation using a mutually agreed mediator. In the event of a failure of mediation for any reason, the parties agree that the dispute may be filed in Franklin County Circuit Court.

Nothing about this provision shall bar either party from seeking appropriate injunctive relief in Franklin County, Kentucky courts to prevent an imminent, irreparable harm.

17. **Governing Law**: This Agreement shall be construed in accordance with the laws of the Commonwealth of Kentucky. The parties understand and acknowledge that JCTC is a Kentucky public agency and any and all allegations and claims for negligence against JCTC or KCTCS arising from actions taken under this Agreement shall be brought before the Kentucky Claims Commission pursuant to Chapter 49.

Approval

In testimony whereof, witness the duly authorized signatures of the parties hereto:

Jefferson County Board of Education

Martin Pollio
Superintendent

9/25/19
Date

Jefferson Community and Technical College

Gary Dryden
VP of Administration and Chief Financial Officer

10-3-19
Date