

BeWell in School Service Agreement

BeWell in School, a Tennessee nonprofit corporation ("BWS"), and the Fayette County Public Schools Board of Education of Fayette County, Kentucky, (the "Board") enter into this service agreement (this "Agreement"), effective as of the date it is signed by both parties (the "Effective Date"), to define the relationship and responsibilities of the parties with respect to the program (the "BWS Program") provided by BWS to students, teachers, and families of the schools designated in Appendix A (the "Schools"). Each of BWS and the Board shall be referred to herein as a "Party", and together as the "Parties."

WITNESSETH:

WHEREAS, the Board governs, guides and directs the work of the Fayette County Public Schools located in Lexington, Kentucky (the "District"), including but not limited to the Schools;

WHEREAS, BWS teaches mindfulness and movement-based stress reduction and provides tools for emotional self-regulation to students and teachers as a proactive behavior management system;

WHEREAS, the Parties recognize the value of collaborative efforts to deliver breathing and movement-based stress reduction tools to students, teachers, and families in order to transform non-learning behaviors into emotional self-regulation;

WHEREAS, the Board has identified the need to provide self-regulation interventions at the elementary level at the Schools and has determined that this need cannot be met by existing District staff; and

WHEREAS, the Parties desire to enter into this Agreement to provide for the delivery of integrated mindfulness and movement by BWS to support students, teachers, and families of the Schools.

NOW, THEREFORE, in consideration of the mutual promises herein contained, the Parties hereby agree as follows:

AGREEMENT:

I. Responsibilities of the Parties

The Parties agree that, except as otherwise described herein, the oversight of the BWS Program rests with BWS and its board of directors, and adherence to the model is critical to the success of students, teachers, and families. The BWS Program is structured on "Tiers of Support" described in Appendix B hereto.

For School-wide support, BWS will provide each School with daily meditations to be read aloud by the principal of the School or another staff member who is pre-approved by BWS, during morning and afternoon announcements, as well as breathing exercises, movement strategies, and classroom exercises for the BWS trained staff members to incorporate throughout the day.

For more individualized support, BWS will train an instructor employed by the District at each School (the "BeWell Teacher") and staff members at each School (the "BeWell Ambassadors"),

vetted by the District and BWS, to work on-site with students, staff, and families. The BeWell Teacher will be at the designated School full-time (i.e., not less than 35 hours per week, when the School is in session), with the exception for extenuating circumstances. BWS will observe and provide feedback on a per semester basis for the BeWell Teacher, BeWell Ambassadors, and the School-wide implementation of the BWS Program. Frequency of observations may increase if BWS deems necessary.

Each School will provide a classroom to be used exclusively by BWS (the "BeWell Room") to facilitate the activities of BWS and the BeWell Teacher. Each School will make available materials (e.g., writing materials/pencils, art supplies, technology, notebooks, furniture, etc.) for use by BWS that fit within the School's budget and are reasonably necessary to carry out the BWS Program. To the extent materials provided by the School are not consumed by BWS (e.g., writing materials/pencils, art supplies, technology, notebooks, furniture, etc.), they shall remain the property of the School.

The successful implementation of the BWS Program depends upon a clear understanding regarding the use of the BeWell Teacher, the BeWell Ambassadors, the BWS Program, and the BeWell Room. The BeWell Teacher and BeWell Ambassadors will perform, and the BeWell Room will be used for, activities directly aligned with the goals of the BWS Program, and any deviation from such goals must be discussed with and agreed upon in advance by BWS.

Specific responsibilities of the Parties are listed below.

BWS will:

The District will:

<p>1. Train a BeWell Teacher and team of BeWell Ambassadors for each School. These individuals will be dedicated to the implementation of the BWS Program by:</p> <ul style="list-style-type: none"> • Serving as resources for students, teachers, and families to learn about and practice breathing, movement, wellness, self-care • Building community partnerships to offer wellness classes and needed materials / props 	<p>1. Acknowledge that full discretion and ultimate authority over the curriculum and its implementation lies with BWS. The District commits to supporting the implementation of the BWS Program by ensuring that each School actively engages with the BeWell Teacher on efforts that fall within the scope of the BWS Program, as well as ensuring that the BeWell Ambassadors and BeWell Teacher are integrated into the School community and BWS is seen as a valued partner. The School principal will serve as the primary point of contact for the BeWell Teacher and BWS. Each School will cause the BeWell Teacher and BeWell Ambassadors to demonstrate the highest standards of practice consistent with BWS's philosophy that is trauma-informed and culturally responsive.</p>
<p>2. All tangible and intangible materials and resources provided by BWS to a School or used as a part of the curriculum provided by BWS belong to BWS ("BeWell Materials") and are only allowed for use by the Schools so long as this Agreement is in effect.</p>	<p>2. Pay all applicable fees within thirty (30) calendar days after receipt of an invoice from BWS. Ensure that each School purchases materials for the BeWell Room as budget allows. Reimburse BWS for all pre-approved and documented out-of-pocket expenses.</p>

<p>3. Support successful implementation of the BWS Program by sharing program information with School staff during professional development and/or faculty/staff meetings at a minimum of 2 times per school year. The BeWell Teacher will participate in faculty/staff meetings.</p>	<p>3. Support successful implementation of the BWS Program by ensuring that each School provides a classroom space and makes time to share program information with School staff during professional development and/or faculty/staff meetings at a minimum of 2 times per school year. School staff will offer feedback through quarterly surveys.</p>
<p>4. Ensure that all BWS employees, contractors and volunteers having direct contact with students on a regularly scheduled and continuing basis have undergone the appropriate criminal background checks and provided a clear to hire letter from the Cabinet of Health and Family Services prior to commencement of work, in accordance with District policies.</p>	<p>4. Assist BWS, if needed, in securing the necessary resources for background checks and clear to hire letters in accordance with District policies.</p>
<p>5. Observe and formally evaluate the BeWell Teacher's capacity, competencies, and contributions during a 90-day introductory period, at the end of the first semester, and again at the end of the school year.</p>	<p>5. Maintain open communication with BWS staff and provide quarterly feedback regarding progress and challenges when delivering supports. If any critical issues arise, immediately report to BWS Point of Contact (Identified below).</p>
<p>6. Work collaboratively with School leaders and identified leadership members to collect data from students, teachers, and families while maintaining student confidentiality and adhering to that Data Sharing Agreement between the District and BWS attached hereto as <u>Appendix C</u> (the "Data Sharing Agreement").</p>	<p>6. Work collaboratively with the Schools, community, partners, and BWS to collect data from students, teachers and families as outlined in the Data Sharing Agreement.</p>
<p>7. Establish and/or identify members of a "School Support Team" that may include School staff, leadership, and others to inform and monitor BWS Program and how BWS can assist in meeting each School's behavioral and academic goals and to offer guidance and assistance in delivering the three tiers of support. (See Appendix B).</p>	<p>7. Ensure that each School integrates the BeWell Teacher and BeWell Ambassadors with the School Support Team to ensure the delivery of the BWS Program aligns with each School's goals.</p>

<p>8. Use the annual "School Support Plan" (includes goal(s) to address identified needs and metrics) to implement the BWS Program and evaluate the effectiveness of the Services delivered in accordance with the Data Sharing Agreement.</p>	<p>8. Ensure that each School shares its School Support Plan with BWS, assists in the development of annual goals, implements the BWS Program, and facilitates the collection of data in accordance with the Data Sharing Agreement.</p>
<p>9. Comply with the District's security protocols with respect to student information and maintain the confidentiality of such data.</p>	<p>9. Provide and ensure access to both aggregate and student level data with identifying information redacted for the following: attendance, grades, standardized and growth-based test scores, behavior referrals, promotion/graduation status, School demographic data, free and reduced lunch qualification data, and any additional data points as deemed necessary and approved by the District.</p>
<p>10. Develop and manage a consistent, School-specific referral process for School staff and students to use when referring students to the BeWell Room.</p>	<p>10. Ensure that each School works with the BeWell Teacher, BeWell Ambassadors, and other School staff to establish and maintain a consistent, School-specific referral process for the BeWell Room. If the School has access to Early Warning Indicator data (attendance, behavior, academics), then the School will work with the BeWell Teacher to review student data on a regular basis to identify students who might benefit most from BWS programming.</p>
<p>11. Provide semester reports on both the progress toward School-specific goals and individual student progress, as well as a summary of all outcomes in a year-end report.</p>	<p>11. Ensure that each School participates in semester partnership meetings with the BeWell Teacher, BeWell Ambassadors, and BWS staff to review data and discuss progress toward agreed upon School-wide goals.</p>

<p>12. If BWS determines that a BeWell Teacher, BeWell Ambassador, or volunteer is not a "good fit" for the BWS Program, BWS shall have the right to have such person replaced (subject to BWS's approval and training), and the District shall bear 30% of any additional training fees for such replacement personnel. Notwithstanding the preceding sentence, if BWS determines that a BeWell Teacher is not a "good fit" for the BWS Program and seeks to have such BeWell Teacher replaced, but the School does not want to replace the BeWell Teacher, the Board may request that the School be removed from this Agreement.</p>	<p>12. Promptly notify BWS following identification of any issues with the BWS Program or personnel, and work with BWS in good faith to resolve such problems. Cooperate with BWS in replacing a BeWell Teacher, BeWell Ambassador, or volunteer when requested by BWS.</p>
<p>13. Provide teachers and families with programming and materials.</p>	<p>13. Ensure that each School provides the BeWell Teacher with office space/classroom (designated as the BeWell Room), Internet access, and printing access and capability.</p>
<p>14. Market and promote the District in its marketing materials.</p>	<p>14. Market and promote BWS in its marketing materials.</p>

II. Contacts

The point of contact for BWS and the Board or District is listed below.

	BWS	Board or District
Name	Riki Rattner	Raine Minichan
Title	Executive Director	Associate Director of Student Support Services
Telephone	650-248-8757	859-381-4353
Email	riki@bewellinschool.org	raine.minichan@fayette.kyschools.us

III. Term

This Agreement is effective as of the Effective Date. Except as otherwise provided herein, the Parties' rights and obligations hereunder shall commence on July 1, 2023 and shall continue for a period of twelve months (the "Term").

IV. Representations and Warranties

By BWS. BWS represents and warrants that, during the Term:

- 1) BWS is not debarred or suspended or otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension."

- 2) BWS will comply with applicable law in the performance of its obligations hereunder.
- 3) BWS shall not discriminate in the performance of its obligations hereunder or in any program or activity that it operates on the basis of race, color, national origin, religion, age, creed, political affiliation, marital status, sex or disabling condition.
- 4) BWS has read and will comply with the Family Education Rights and Privacy Act ("FERPA"), 20 U.S.C. §1232g; 34 CFR Part 99).

By the Board. The Board represents and warrants that, during the Term:

- 1) The Board has the authority to bind the District and the Schools to the obligations identified herein.
- 2) The Board, the District and the Schools will comply with applicable law in the performance of their obligations hereunder.

V. Intellectual Property Rights

BWS Ownership. The Board acknowledges and agrees that BWS reserves and shall retain its entire right, title, and interest in and to the BWS Program, the BeWell Materials and the services made available to the District and Schools by BWS for use with students, staff and families of the Schools, whether administered by an employee of BWS or by an employee of the District (the "Services"), and all Intellectual Property Rights arising out of or relating to the foregoing. As used herein, "Intellectual Property Rights" means any and all registered and unregistered rights granted, applied for, or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection, or other intellectual property rights laws, and all similar or equivalent rights or forms of protection, in any part of the world. The BWS Program, the BeWell Materials, the Services, and the Intellectual Property Rights arising therefrom shall collectively be referred to herein as the "BWS Intellectual Property." The Board agrees that none of the Board, the District or any School will challenge, or assist any third party in challenging, BWS's ownership of the BWS Intellectual Property, in whole or in part.

License. BWS hereby grants the District a limited, revocable, non-transferable and non-exclusive right and license to use the BeWell Materials at the Schools during the Term.

Infringement. The Board shall ensure that the District and each School shall safeguard the BWS Intellectual Property from infringement, misappropriation, theft, misuse, or unauthorized access by any person under the District's control, including all BeWell Teachers, BeWell Ambassadors and other employees and agents. The Board, District or any School shall promptly notify BWS if such party becomes aware of any infringement of the BWS Intellectual Property and shall fully cooperate with BWS in any legal action taken by BWS to enforce its Intellectual Property Rights.

Feedback. In the course of using the Services and the BeWell Materials, School personnel may provide BWS with feedback, including but not limited to suggestions, observations and problems regarding the Services or the BeWell Materials (collectively, "Feedback"). The Board, on behalf of each School, hereby grants BWS a worldwide, irrevocable, perpetual, royalty-free, transferable, sub-licensable, non-exclusive right to use, copy, modify, distribute, display, perform, create derivative works from, and otherwise exploit all such Feedback.

Trademark Use. The District and each School may use BWS's trademarks, trade names, and parts thereof for the sole purpose of identifying and advertising the Services and their relationship with BWS. BWS may use the District's and each School's trademarks, trade names, and parts thereof for the purpose of identifying and advertising them as users of BWS's Services.

VI. Confidential Information and Use

Confidential Information. From time to time during the Term, either Party, the District or a School (as the "Disclosing Party") may disclose or make available to the other Party, the District or a School (as the "Receiving Party") information about the Services, the BeWell Materials, or its confidential information and materials comprising or relating to Intellectual Property Rights, trade secrets, third-party confidential information, and other sensitive or proprietary information. Such information, whether orally or in written, electronic, or other form or media, and whether or not identified as "confidential," is collectively referred to as "Confidential Information" hereunder.

Notwithstanding the foregoing, Confidential Information does not include information that at the time of disclosure: (a) is known by the public other than as a result of, directly or indirectly, any breach of this Section VI by the Receiving Party or any of its representatives; (b) is available to the Receiving Party on a non-confidential basis from a third-party source, provided that such third party is not and was not prohibited from disclosing such Confidential Information; (c) was or is independently developed by the Receiving Party without reference to or use of, in whole or in part, any of the Disclosing Party's Confidential Information; or (d) is required to be disclosed pursuant to applicable law.

Protection of Confidential Information The Receiving Party shall: (a) protect and safeguard the confidentiality of the Disclosing Party's Confidential Information with at least the same degree of care as the Receiving Party would protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care; (b) not use the Disclosing Party's Confidential Information, or permit it to be accessed or used, for any purpose other than to exercise its rights or perform its obligations under this Agreement; and (c) not disclose any such Confidential Information to any person, except those persons who need to know the Confidential Information to assist the Receiving Party, or act on its behalf, to exercise its rights or perform its obligations under this Agreement. Without limiting the generality of the preceding sentence, each School shall cause each BeWell Teacher, BeWell Ambassador and any other employee or agent of the School who obtains or is given access to BWS Confidential Information to comply with the School's confidentiality obligations with respect thereto.

VII. Fees

The fees for the provision of the Services during the Term are \$125,000 (the "Fee"). The Board shall pay the Fee promptly following the Effective Date, and in no event later than thirty (30) calendar days following receipt of an invoice from BWS.

VIII. Cooperation and Non-Disparagement

The Parties agree to cooperate and work together in good faith to implement the provisions of this Agreement. In furtherance thereof, each Party covenants and agrees that it will not at any time, and the Board will ensure that the District and the Schools do not, directly or indirectly or through its affiliates or representatives, make, publish or communicate to any person or entity or in any public forum any defamatory or disparaging remarks, comments, or statements

concerning the other Party or its business, employees, officers, shareholders, members or advisors, or any member of its board.

IX. Non-Compete

The District agrees that, during the Term and for one (1) year thereafter, the District shall not, without BWS's prior written consent, develop its own programs for teaching mindfulness, movement or self-regulation that are similar to the BWS Program or the Services, or develop materials that are similar to the BeWell Materials, for use at any of the schools in the District. For the avoidance of doubt, this Section IX is intended to survive any expiration or termination of this Agreement.

X. Limitation of Liability

NO LIABILITY FOR CONSEQUENTIAL OR INDIRECT DAMAGES. EXCEPT FOR OBLIGATIONS TO MAKE PAYMENT UNDER THIS AGREEMENT, LIABILITY FOR BREACH OF CONFIDENTIALITY, OR LIABILITY FOR MISAPPROPRIATION OF INTELLECTUAL PROPERTY RIGHTS, IN NO EVENT SHALL EITHER PARTY OR THEIR REPRESENTATIVES BE LIABLE FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE OR ENHANCED DAMAGES, LOST PROFITS OR REVENUES, OR DIMINUTION IN VALUE, ARISING OUT OF OR RELATING TO ANY BREACH OF THIS AGREEMENT, REGARDLESS OF (A) WHETHER SUCH DAMAGES WERE FORESEEABLE, (B) WHETHER OR NOT THE OTHER PARTY WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND (C) THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT, OR OTHERWISE) UPON WHICH THE CLAIM IS BASED, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

MAXIMUM LIABILITY FOR DAMAGES. EXCEPT FOR OBLIGATIONS TO MAKE PAYMENT UNDER THIS AGREEMENT, LIABILITY FOR BREACH OF CONFIDENTIALITY, OR LIABILITY FOR MISAPPROPRIATION OF INTELLECTUAL PROPERTY RIGHTS, IN NO EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID, AND AMOUNTS ACCRUED BUT NOT YET PAID, PURSUANT TO THIS AGREEMENT IN THE ONE YEAR PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

ASSUMPTION OF RISK. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ABSENT GROSS NEGLIGENCE FROM BWS, THE DISTRICT ASSUMES ALL RISK AND LIABILITY FOR THE RESULTS AND/OR CONSEQUENCES OBTAINED OR INCURRED BY USE OF THE SERVICES AND/OR BEWELL MATERIALS, INCLUDING BUT NOT LIMITED TO, OPERATING COSTS, GENERAL EFFECTIVENESS, AND SUCCESS OR FAILURE, AND REGARDLESS OF ANY ORAL OR WRITTEN STATEMENTS MADE BY BWS RELATED TO USE OF THE SERVICES AND BEWELL MATERIALS.

XI. Termination

The Parties acknowledge and agree that BWS is making significant investments to provide the BWS Program at the Schools, without which this Agreement and the instruction to be provided thereto would not be possible. The Parties further acknowledge and agree that the success of this Agreement and the Parties' partnership depends on the effective implementation of the BWS Program, the adoption and implementation of which is a material condition of this Agreement. Accordingly, except as otherwise provided herein, the Parties agree that their respective rights to terminate this Agreement are as follows:

The Board's Right to Terminate. The Parties agree that the Board shall not have the right to terminate this Agreement prior to the expiration of the Term set forth in Section III above, unless for good cause shown or as otherwise provided herein. "Good cause" under this Agreement is defined as: (i) documented conduct on the part of BWS amounting to gross negligence or willful misconduct; or (ii) a breach of this Agreement that is not cured within 30 days following written notice of such breach (the "Notice of Breach"). In the event BWS fails to cure the alleged breach within 30 days of receipt of the Notice of Breach, the Board shall have the right to immediately terminate the Agreement.

BWS's Right to Terminate. The Parties agree that BWS shall have the right to terminate this Agreement if BWS determines that the Board, District or any School is in material breach of this Agreement. A material breach shall include, but is not limited to, the failure of the Board, District or any School to perform any of its obligations under Section I of this Agreement above, including but not limited to the failure to hire or replace the BeWell Teacher with an Instructor who is approved and trained by BWS. In the event the Board, District or any School is in material breach of the Agreement, BWS may deliver a Notice of Breach, identifying the breach. If the breach is not cured within 30 days of receipt of the Notice of Breach, BWS has the option to immediately terminate this Agreement and the provision of the Services and BeWell Materials.

Effect of Termination. In the event this Agreement expires or is terminated, immediately upon the expiration or termination, BWS shall cease providing Services to the Schools, the District's license to use the BeWell Materials shall terminate, and the Schools shall cease using the BeWell Materials. Within five (5) business days of any expiration or termination of this Agreement: (i) each School shall return to BWS all BeWell Materials, (ii) each School shall remove from all School computers all electronic and digital versions of all BeWell Materials, (iii) the Board or District shall provide written certification to BWS of the completion of (i) and (ii) by all Schools, and (iv) the Board shall pay any outstanding fees due to BWS. Subject to the foregoing, Sections V, VI, VII, VIII, IX, X, XI and XII of this Agreement shall survive any expiration or termination hereof.

XII. Indemnification; Amendments; Miscellaneous

BWS is an independent contractor and is not an agent, partner, joint venturer, or employee of the Board, the District or any School. This Agreement shall be governed by and shall be construed in accordance with the laws of the State of Tennessee. Except in the event of BWS's gross negligence or willful misconduct, the Board will indemnify, protect, defend, and hold harmless BWS and its employees, staff, officers and directors from any claims arising under this Agreement or the BWS Intellectual Property. This Agreement constitutes the entire agreement between the Parties pertaining to its subject matter and supersedes all prior contemporaneous agreements, representations and understanding of the Parties. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability does not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

to the extent allowed by law


This Agreement may not be amended or any term or condition waived unless the amendment or waiver is stated in a writing signed by the Parties. If there is a change of any law, regulation or rule, federal, state or local, which affects this Agreement or any Party's performance hereunder, the Parties shall renegotiate the terms of this Agreement to address such change. If the Parties are unable to reach an agreement concerning the modification of this Agreement within ten (10) days after the effective date of change, then either Party may terminate this Agreement upon providing written notice to the other Party.

Neither Party shall assign this Agreement without the prior written consent of the other Party, not to be unreasonably withheld. The provisions of this Agreement shall be binding upon and inure to the benefit of the successors and permitted assigns of the Parties. All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and addressed to the designated point of contact for each Party set forth in Section II at the addresses set forth on the signature page of this Agreement (or to another address that may be designated by the receiving party). This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument.

[Signature Page Follows]


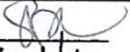
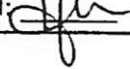
IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives, effective as of the date first written above.

BEWELL IN SCHOOL

By: 
Title: Executive Director
Date: 07 / 06 / 2023
Address: 2817 West End Ave #126-340
Nashville, TN 37203

BOARD OF EDUCATION OF FAYETTE COUNTY, KENTUCKY

By: _____
Title: _____
Date: _____
Address: 450 Park Place
Lexington, KY 40511


FCPS LEGAL IN.: 
FCPS CABINET IN.: 

PRINCIPAL/DIRECTOR APPROVAL

By: _____
Title: _____
Date: _____
Address: _____

APPENDIX A

Schools:

1) Ashland Elementary School

Contact Name: John Moore

Contact Telephone: (859) 381-3243

Contact Email: john.moore@fayette.kyschools.us

Trained BeWell Teacher: Caroline Ackerman

Trained BeWell Ambassadors: Ambassadors for each school partner site will be confirmed and documented via email by August 9, 2023

2) Northern Elementary School

Contact Name: Ashley Fischer

Contact Telephone: (859) 381-3541

Contact Email: ashley.fischer@fayette.kyschools.us

Trained BeWell Teacher: Mary Beth Hickman

Trained BeWell Ambassadors: Ambassadors for each school partner site will be confirmed and documented via email by August 9, 2023

3) Rise STEM Academy for Girls

Contact Name: Jennifer Jacobs

Contact Telephone: (859) 381-4720

Contact Email: jennifer.jacobs@fayette.kyschools.us

Trained BeWell Teacher: Beverly Brothers

Trained BeWell Ambassadors: Ambassadors for each school partner site will be confirmed and documented via email by August 9, 2023

4) Mary Todd Elementary School

Contact Name: Angela Miller

Contact Telephone: (859) 381-3512

Contact Email: angela.miller@fayette.kyschools.us

Trained BeWell Teacher: Abigail Woodie

Trained BeWell Ambassadors: Ambassadors for each school partner site will be confirmed and documented via email by August 9, 2023

5) Rosa Parks Elementary School

Contact Name: Claudine Barrow

Contact Telephone: (859) 381-3132

Contact Email: claudine.barro@fayette.kyschools.us

Trained BeWell Teacher: Sarah Jane Kimball

Trained BeWell Ambassadors: Ambassadors for each school partner site will be confirmed and documented via email by August 9, 2023

APPENDIX B

Tiers of Support for the BWS Program

Tiers of support apply to the services BWS provides and coordinates. Groups of students are described separately below.

Tier 1

The introduction of tools/strategies designed to foster a positive school culture and address the impact Adverse Childhood Experiences (ACEs) have on learning and development:

- *Possible examples: full-group classes, professional development for teachers/school staff, wellness classes for staff and families, daily meditations/mindfulness during announcements, mindful movement in the classroom*

Tier 2

Programming provided in a group setting to students with a common need.

- *Possible examples: small-group classes (scheduled), check in/check out (scheduled)*

Tier 3

Individualized support typically provided one-on-one in BeWell Room.

- *Possible examples: 15 minute sessions with BeWell Teacher (scheduled and unscheduled)*

APPENDIX C

Data Sharing Agreement

[Attached]



FAYETTE COUNTY PUBLIC SCHOOLS

Memorandum of Agreement: Data Sharing Agreement

PARTIES

1. Fayette County Public Schools ("FCPS") is a public school district organized and existing under and pursuant to the constitution and laws of the State of Kentucky and with a primary business address at 450 Park Place, Lexington, Kentucky 40511.
2. BeWell in School [CONTRACTOR NAME] ("Contractor") provides curriculum and coaching for mindful movement proactive behavior management system [CONTRACTOR TO INSERT DESCRIPTION] with a primary place of business at 2817 West End Ave., #126-340, Nashville, TN 37203 [ADDRESS].

PURPOSE AND SCOPE

1. The purpose of this Data Sharing Agreement ("DSA") is to allow FCPS to provide the Contractor with student and teacher personally identifiable information (PII) data and the subsequent processing of that data.
2. This Agreement is meant to ensure that both parties adhere to the requirements concerning the use of student information protected under the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. §1232g, 34 Code of Federal Regulations Part 99; the Children's Online Privacy Protection Act ("COPPA"), 15 U.S.C. §6501-6506, 16 Code of Federal Regulations Part 312
3. This DSA shall be effective as of 07/01/2023 ("Effective Date"), terminating on 06/30/2024 and shall not continue longer than one (1) year.
4. This contract is deemed to be made under and shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky
5. Pursuant to KRS 61.932 and KRS 365.734
6. This agreement excludes any data which is freely and publicly available through other sources.

PROCESS FOR DATA TRANSFER

FCPS and the Contractor will at the appropriate time agree on a file or data sharing process that will involve the encrypted transfer of the data via the public networks.

AN EQUAL OPPORTUNITY SCHOOL DISTRICT

Board of Education: Tyler Murphy, Chair • Amy Green, Vice Chair • Tom Jones • Amanda Ferguson • Marilyn Clark
Superintendent Demetrus Liggins, PhD

450 Park Place, Lexington, Kentucky 40511 • Phone: 859.381.4100 • www.fcps.net

FCPS DUTIES

FCPS shall provide confidential data in compliance with all applicable federal, state, and local privacy laws, rules, and regulations.

CONTRACTOR DUTIES

The Contractor warrants that it will:

1. Use this data only for the joint project outlined above.
2. The Contractor shall comply with all applicable federal, state and local laws, rules and regulations pertaining to data privacy and security, including but not limited to FERPA; the Kentucky Family Educational Rights and Privacy Act, KRS 160.700 et seq.; the Personal Information Security and Breach Investigation Procedures and Practices Act, KRS 61.932 et seq.;
3. While in possession of this data maintain it in a secure, non-public location.
4. Allow FCPS access to any relevant records for the purposes of completing authorized audits
5. Ensure that the student data will be accessed, used and manipulated only by those individuals necessary for the successful implementation of the project.
6. Advise all individuals accessing the data on proper procedures for securely maintaining the data.
7. Take appropriate technical and organizational measures against the unauthorized or unlawful accessing of the data.
8. Securely delete all copies of the student data when they are no longer required. "Securely delete" means that industry-standard methods will be taken for the purpose of ensuring that no unauthorized person shall be able to reasonably locate or extract the data after the deletion date.
9. Promptly comply with any request from FCPS to amend, transfer or delete the data or a subset thereof.
10. The Contractor shall not in any case process student data to advertise or facilitate advertising or to create or correct an individual or household profile for any

advertisement purpose, and shall not sell, disclose, or otherwise process student data for any commercial purpose.

11. To the extent permitted by law, the Contractor assumes all liability for damages which may arise from its use, storage or disposal of the data. FCPS will not be liable to the Contractor for any loss, claim or demand made by the Contractor, or made against the Contractor by any other party, due to or arising from the use of the data by the Contractor, except to the extent permitted by law when caused by the gross negligence or willful misconduct of FCPS.
12. Defend, indemnify, and hold harmless FCPS its agencies, officers and employees from any and all claims of any nature, including all costs, expenses, and attorney's fees, which may in any manner result from or arise out of this agreement, except for claims resulting from or arising out of the FCPS' sole negligence. The legal defense provided by the contracting party to FCPS under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the FCPS is necessary. The contracting party also agrees to defend, indemnify, and hold FCPS harmless for all costs, expenses, and attorneys' fees finally awarded by a court or that are included in a settlement entered into by the parties. FCPS agrees to notify the contracting party of such a claim within a reasonable time and agrees to cooperate with the contracting party in the defense and any related settlement.

Data Breach Act

In the event of an unauthorized release, disclosure, or acquisition of confidential data that compromises the security, confidentiality, or integrity of the confidential data maintained by the Contractor, the Contractor shall provide notification to FCPS within seventy-two (72) hours of confirmation of the incident. The contractor shall follow the following process:

1. The security breach notification described above shall include, at a minimum, the following information to the extent known by the Contractor and as it becomes available:
 - a. The name and contact information of the individual reporting a breach subject to this section
 - b. A list of the types of personal information that were or are reasonably believed to have been subject of a breach.
 - c. If the information is not possible to determine at the time the notice is provided, then either (1) the date of the breach, (2) the estimated date of the breach, or (3) the date range within which the breach occurred. The notification shall also include the date of the notice.
 - d. A general description of the breach incident, if that information is possible to determine at the time the notice is provided.

- 2. The Contractor agrees to adhere to all federal and state requirements with respect to a data breach related to the confidential data, including, when appropriate or required, the required responsibilities and procedures for notification and mitigation of any such data breach.**
- 3. The Contractor further acknowledges and agrees to have a written incident response plan that reflects best practices and is consistent with industry standards and federal and state law for responding to a data breach, breach of security, privacy incidents or unauthorized acquisition or use of confidential data or any portion thereof, including personally identifiable information and agrees to provide FCPS, upon request, with a summary of said written incident response plan.**
- 4. FCPS shall provide notice and facts surrounding the breach to the affected students, parents or guardians, or staff, as applicable.**
- 5. In the event of a breach originating from FCPS's use of service, the Contractor shall cooperate with FCPS to the extent necessary to expeditiously secure the confidential data.**
- 6. If the Contractor receives personal information as defined by and in accordance with Kentucky Personal Information Security and Breach Investigation Procedure and Practices Act, KRS 61.932, *et seq.*, the Contractor shall secure, protect and maintain the confidentiality of the personal information by, without limitation, complying with all requirements applicable to "non-affiliated third parties" set forth in KRS 61.932, *et seq.*, including but not limited to the following:**
 - a. "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.**
 - i. 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;**
 - ii. A Social Security number;**
 - iii. A taxpayer identification number that incorporates a Social Security number;**
 - iv. A driver's license number, state identification card number or other individual identification number issued by an agency;**
 - v. A passport number or other identification number issued by the United States government; or**

- vi. 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 FERPA.
 - b. As provided in KRS 61.931 (5), a “non-affiliate third party” means any person or entity that has a contract or agreement with an agency and receives (accesses, collects or maintains) personal information from the agency pursuant to the contract or agreement.
 - c. The Contractor shall not re-disclose, without the written consent of FCPS, any “personal information” as defined in KRS 61.931, or any other personally identifiable information of a student or other persons, such as employees.
 - d. The Contractor agrees to cooperate with FCPS in complying with the response, mitigation, correction, investigation, and notification requirements of KRS 61.931, *et seq.*
 - e. The Contractor agrees to undertake a prompt and reasonable investigation of any breach as required by KRS 61.933.
7. If the contractor is a cloud computing service provider (as defined in KRS 365.734(1)(b) as “any person other than an educational institution that operates a cloud computing service”), The Contractor agrees that:
 - a. The Contractor shall not process student data for any purpose other than providing, improving, developing, or maintaining the integrity of its cloud computing services, unless the Contractor receives express permission from the student’s parent. The Contractor shall work with the students’ school and district to determine the best method of collecting parental permission. KRS 365.734 defines “process” and “student data.”
 - b. Pursuant to KRS 365.734 (2), the Contractor shall not in any case process student data to advertise or facilitate advertising or to create or correct an individual or household profile for any advertisement purpose, and shall not sell, disclose, or otherwise process student data for any commercial purpose.
 - c. Pursuant to KRS 365.734 (3), the Contractor shall certify in writing to the agency that it will comply with KRS 365.734 (2).
8. Within 48 hours of completion of the investigation, the contracting party shall notify the above if the investigation finds that the misuse of personal information occurred or is likely to occur.

Notices

All notices or other communication required or permitted to be given pursuant to this agreement may be given via e-mail transmission, or certified mail, sent to the designated representatives below.

The designated representative for FCPS for this DSA is:

Name: Raymond Ross Title: Information Security Manager

Address: 450 Park Place, Lexington, KY 40511

Phone: (859) 381-3886 Email: moa.fayette@fayette.kyschools.us

The designated representative for the Contractor for this DSA is:

Name: Riki Rattner Title: Founder & Executive Director

Address: BeWell in School, 2817 West End Ave., #126-340, Nashville, TN 37203

Phone: (615)293-5276 Email: riki@bewellinschool.org

Data Opt Out

FCPS may provide a mechanism for students, parents or guardians to opt out of any data sharing agreement with any contracting party.

Successors Bound

This DSA is and shall be binding upon the respective successors in interest to Contractor in the event of a merger, acquisition, consolidation or other business reorganization or sale of all or substantially all of the assets of such business. In the event that the Contractor sells, merges, or otherwise disposes of its business to a successor during the term of this DSA, the Contractor shall provide written notice to FCPS no later than sixty (60) days after the closing date of sale, merger, or disposal. Such notice shall include a written, signed assurance that the successor will assume the obligations of the DSA and any obligations with respect to confidential data within the service agreement. FCPS has the authority to terminate the DSA if it disapproves of the successor to whom the Contractor is selling, merging, or otherwise disposing of its business.


IN WITNESS WHEREOF, FCPS and the Contractor execute this DSA as of the Effective Date above.

FCPS Superintendent/Designee (Print full name/title)

Riki Rattner

Contracting party representative (Printed)

FCPS Superintendent/Designee (Signature)



Contracting party representative (Signature)

Date

07 / 06 / 2023

Date



Social Emotional Learning Data

Department of Student Support
Services
May 2023

The Screening Tool

- To further the work of the 10-Point Safety Investment Plan and to strengthen supports for student social, emotional, & behavioral well-being, FCPS contracted with Aperture Education to implement a Social Emotional Learning assessment tool across grades K-12.
- Aperture is the digital platform that houses the DESSA (the Devereux Student Strengths Assessment).
- The DESSA is an empirically sound, standardized social and emotional competence assessment that has been normed for K-12.
- The district's second DESSA rating window was held from March 1-31, 2023.



Strategic Plan Alignment: Student Achievement; Diversity, Equity, Inclusion, & Belonging; Organizational Health & Efficiency

More About the DESSA

- The DESSA provides a Social-Emotional Total (SET) score that provides an indication of a student's overall social and emotional competence at the time of the assessment.
- The DESSA aligns with CASEL's 5 Social and Emotional Competencies.

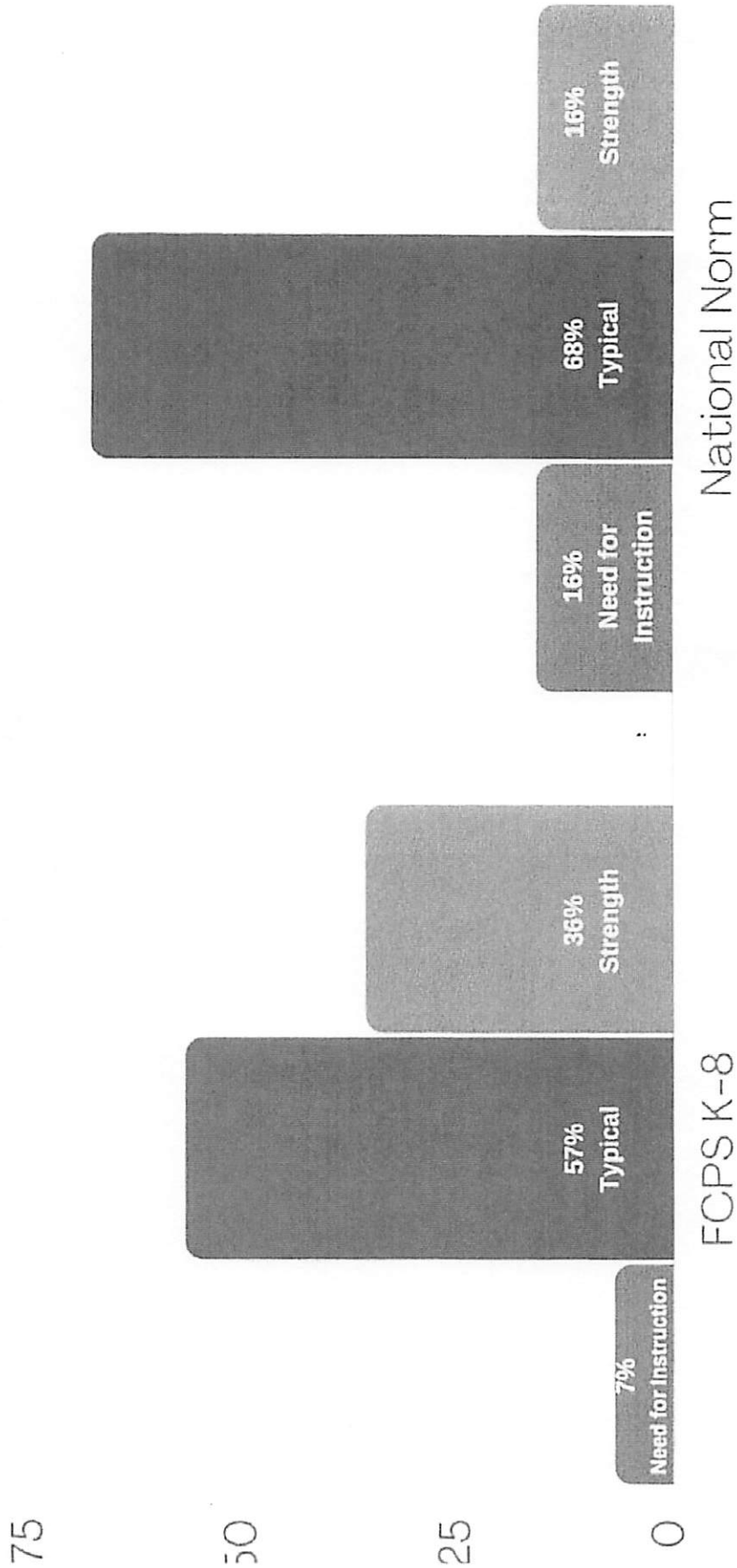


Descriptive Score Ranges

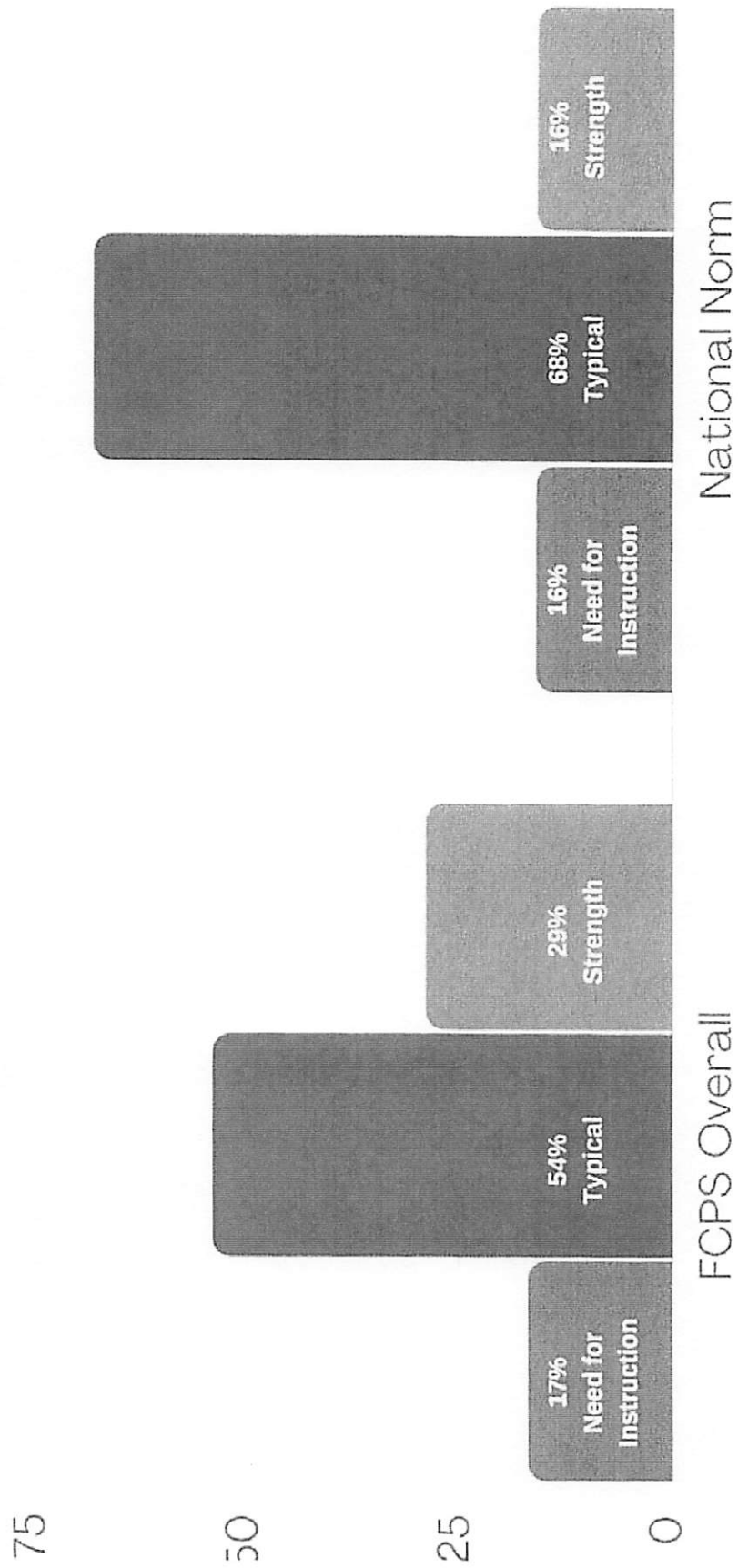
- The DESSA provides a T-score for each student.
 - A T-score is reported on a scale in which a score of 50 is the mean (with standard deviations of 10 points).
- As a strength-based measure, high T-scores mean a higher level of Social Emotional Competence at the time the measure is completed.

T-Scores & Descriptive Ranges		
T-Score: 40 & Below Need for Instruction	T-Score: 41-59 Typical	T-Score: 60 & above Strength

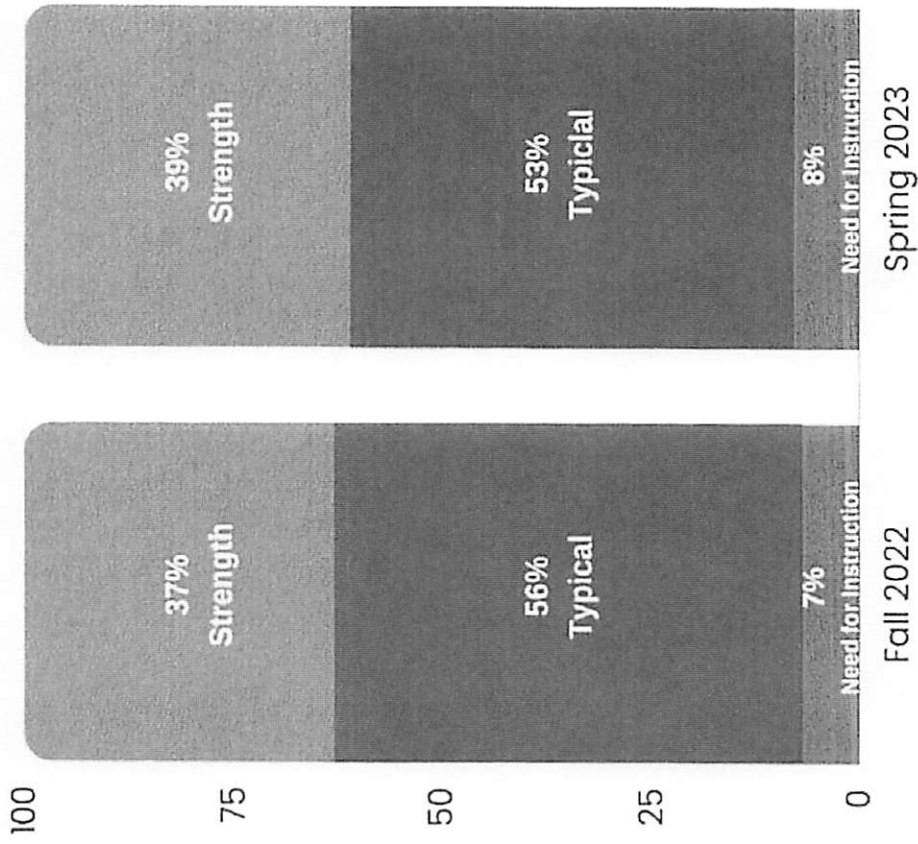
District Results Overview Grades K-8 DESSA and Grades 9-12 DESSA-HSE SSR



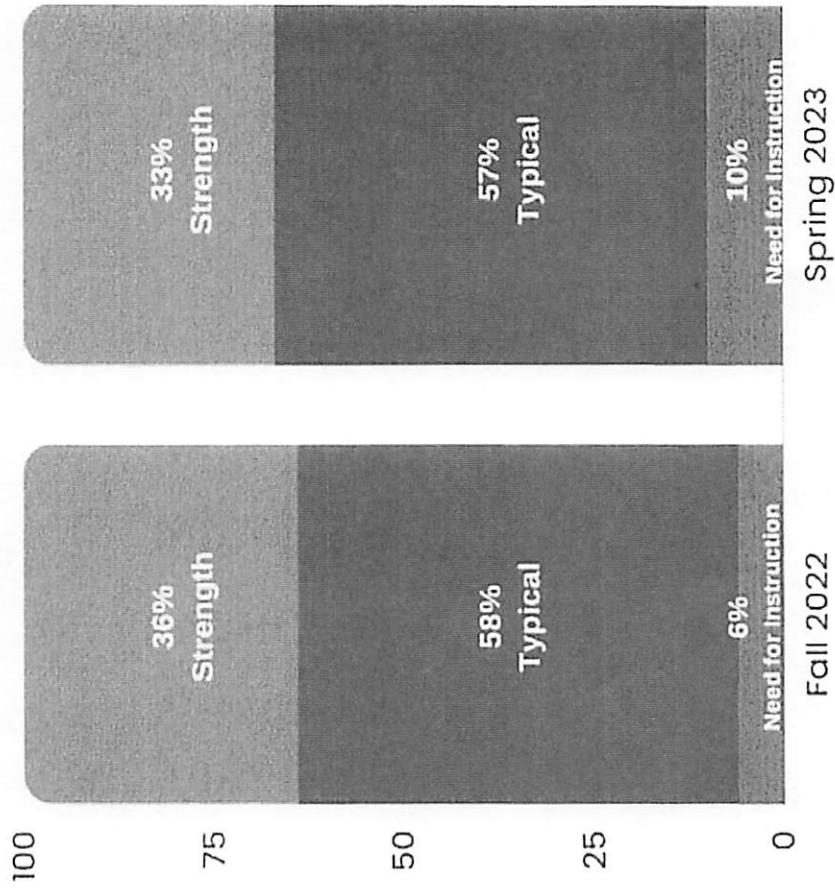
District Results Grades K-8 DESSA



Elementary Fall to Spring Comparison



Middle School Fall to Spring Comparison



High School Student Self-Report

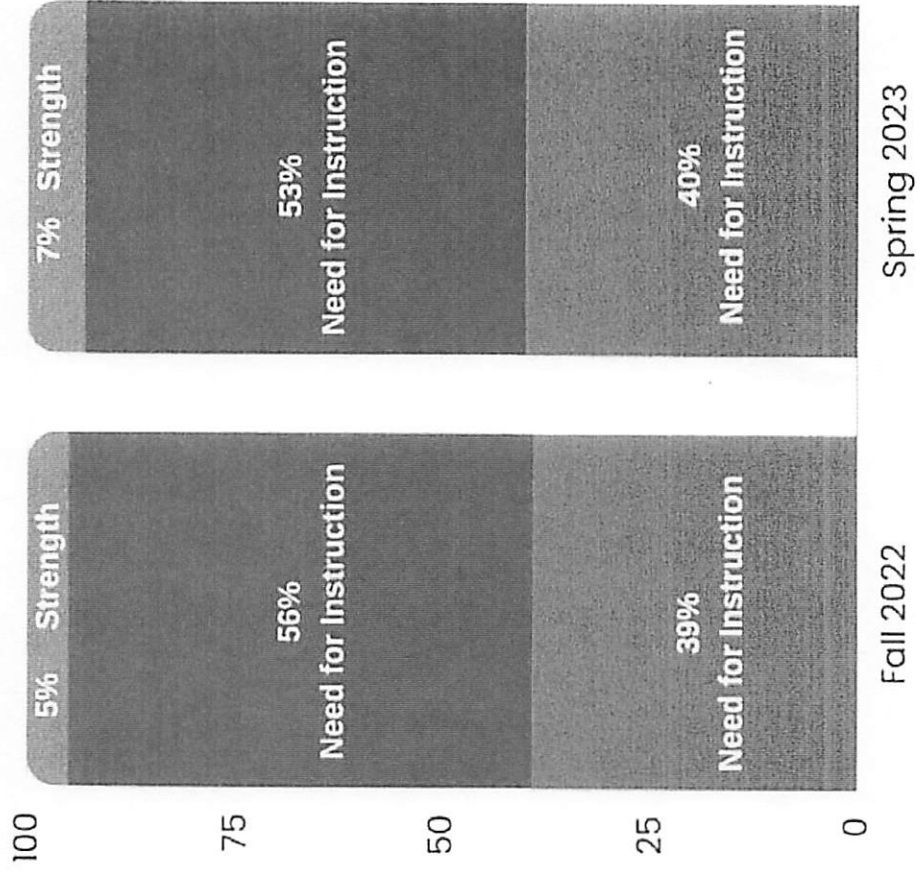
Recent High School Student Self-Report National Trends

45% Need for Instruction 50% Need for Instruction 5% strength

FCPS Student Self-Report Results

41% Need for Instruction 52% Need for Instruction 7% strength

High School Fall to Spring Comparison



Planning for Next Year:

- Continued Professional Learning & Coaching for schools around:
 - Assessment Implementation
 - Navigating the Aperture Platform
 - Using data to guide SEL instruction at Tier 1
 - Integrating DESSA data into the MTSS system
 - Using the DESSA for progress monitoring
 - Intervention matching strategies
 - Utilizing the student platform grades 6-12 for self-paced learning, growth strategies, and self monitoring
- Roll-out of an integrated system for identifying classroom strategies and tiered interventions that align with student areas for growth.
- Middle School students will transition to Student Self-Report