

## MEMORANDUM OF AGREEMENT

This Memorandum of Agreement is an **ADMENDMENT** to the previous 2011-12 MOA, going into effect 2 day of January, 2012 by and between Fayette County Public Schools ("FCPS") and Lexington-Fayette Urban County Government ("LFUCG") (individually, each a "Party" and collectively, the "Parties").

### RECITALS

1. FCPS Child Nutrition will provide breakfast and lunch to enrolled FCPS school-aged students at LFUCG's Day Treatment and Family Care Center. This does not include those children participating in Head Start or Early Start programs at the Family Care Center.
2. LFUCG shall continue to claim reimbursement for the Head Start or Early Start children under CACFP (Daycare).
3. FCPS shall provide meals for FCPS students and claim those meals under NSLP. Meals produced for FCPS students shall be produced based upon the procedure as outlined in this Agreement.
4. Meals for GED students not enrolled in FCPS will be made available from FCPS. LFUCG shall notify FCPS Child Nutrition designee of these students, and FCPS shall bill LFUCG for these meals.
5. The hours of meal service will be determined for breakfast and lunch service based on mutual agreement between FCPS and LFUCG.
6. When school is cancelled for FCPS students due to inclement weather, there will be no meal service provided for students at either location.
7. When school arrival or dismissal times are altered for FCPS students due to inclement weather, the meal service for students and adults will be adjusted accordingly. Meal service may be adjusted by time of service or type of meal provided.
8. Meals provided will be based upon and meet NSLP guidelines.

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions contained herein, and for good and valuable consideration, the receipt, mutuality, and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

**1. OBLIGATIONS OF FCPS**

- 1.1 FCPS shall be responsible for the staffing, operation, food/supplies and meal preparation/service for FCPS students.
- 1.2 FCPS will be producing student meals off-site. These meals will then be transported to Day Treatment and Family Care Center to be served by FCPS staff members. FCPS will not be responsible for or utilize any on-site equipment.
- 1.3 In order to provide the proper number of meals per day, a Day Treatment and FCC staff member (hereafter referred to as Staff) will be required to take daily lunch counts from students. Menus will be provided so that students can make their own selections of lunch entrees. FCPS will work with Staff in order to create an easy-to-use spreadsheet for this purpose, and to set up a time when the order must be sent to FCPS Child Nutrition designee. Breakfast will be served grab-n-go style, and will not require prior ordering.
- 1.4 FCPS Child Nutrition shall provide meals during the 33 day extended calendar for Day Treatment as well as the Family Care Center's summer program via the Summer Feeding Program.
- 1.5 FCPS will not be responsible for the cafeteria or kitchen areas. This includes setting up tables, cleaning tables/spills/floors, or any maintenance issues that arise in the cafeteria or kitchen areas.
- 1.6 Any equipment/smallwares purchased and used in FCC by FCPS remains property of FCPS, and shall be transported daily as needed. FCPS does request use of a cart for transport while on site.
- 1.7 FCPS will make available child nutrition/meal service information to the contact person of each program for dissemination to relevant parties.
- 1.8 In accordance with federal regulations, FCPS shall make substitutions in reimbursable meals as specified by a recognized medical authority for participating children and students who are unable, because of disability or other special dietary need, to consume specified foods. In order for food substitutions to be provided by FCPS, the parent/guardian must provide the Eating/Feeding Evaluation: Children with Special Needs form. This form must be completed by a licensed medical authority. This form can be obtained from FCPS Child Nutrition staff.



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- 1.9 FCPS shall provide breakfast and lunch to FCPS students under the NSLP guidelines. GED students participating in Family Care Center programs will be eligible for meal service, with LFUCG being invoiced for those meals (invoice shall be separate from CACFP invoice).
- 1.10 When school is cancelled for FCPS students due to inclement weather, meals will not be available.
- 1.11 FCPS understands and agrees that its employees, agents or subcontractors are not employees of LFUCG for any purpose whatsoever. FCPS is an independent entity at all times during the performance of the services specified.
- 1.12 FCPS will provide special meals (i.e. graduations, retirements) to LFUCG as requested. These meals will be negotiated and invoiced separately as per FCPS catering policy/procedure.
- 1.13 FCPS shall procure and maintain for the duration of this MOA the following or equivalent insurance policies at no less than the limits shown below and cause its sub-contractors to maintain similar insurance with limits acceptable to LFUCG in order to protect LFUCG against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by FCPS.

<u>Coverage</u>	<u>Limits</u>
General Liability	\$1 million per occurrence, \$2 million aggregate
(Insurance Services Office Form CG 00 01)	or \$2 million combined single limit
Commercial Automobile Liability	combined single, \$1 million per occurrence
(Insurance Services Office Form OA 0001)	
Worker's Compensation	Statutory
Employer's Liability	\$1,000,000.00

The policies above shall contain the following conditions:

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- a. LFUCG shall be named as an additional insured in the General Liability Policy and Commercial Automobile Liability Policy.
- b. The General Liability Policy shall be primary to any insurance or self-insurance retained by LFUCG.
- c. LFUCG shall be provided at least 30 days advance written notice via certified mail, return receipt requested, in the event any of the required policies are cancelled or non-renewed.
- d. Copies or the certificates reflection such coverage and any renewal shall be provided to LFUCG upon request. Said coverage shall be written by insurers acceptable to LFUCG and shall be in a form acceptable to LFUCG. Insurance placed with the insurers with a rating classification of no less than Excellent (A or A-) and a financial size category of no less than VIII, as defined by the most current Best's Key Rating Guide shall be deemed automatically acceptable.
- e. The General Liability Policy or sub-contractor providing the food shall include Products Liability coverage or endorsement in the amount of \$1 million.

## **2. OBLIGATIONS OF LFUCG**

- 2.1 LFUCG shall be responsible for providing meal service and submitting all necessary paperwork for the application and monthly claiming process for the CACFP (infant up to school age) to the appropriate State agencies. This will include meal service and CACFP claiming for those children enrolled in Head Start and Early Start.
- 2.2 LFUCG will provide payment of invoices received from FCPS Child Nutrition Division for GED participant meals. Payment shall be due to FCPS within 45 days from invoice date.
- 2.3 Monthly invoices will be based on the following contract pricing for remaining contract period ending 6/30/12:

GED Student Meal Prices  
Breakfast \$1.75 Lunch \$3.50

Pricing will be adjusted annually per FCPS pricing guidelines.

- 2.4 LFUCG shall be responsible for providing FCPS breakfast/lunch meal count orders for students as per 1.3.
- 2.5 LFUCG shall be responsible for regulations pertaining to building maintenance. LFUCG shall be responsible for any and all maintenance of the kitchen area. FCPS will not utilize any on-site equipment.
- 2.6 LFUCG shall be responsible for the kitchen and cafeteria areas.
- 2.7 LFUCG shall notify FCPS of any special dietary needs as specified in 1.7.
- 2.8 When school is cancelled for FCPS students due to inclement weather, meals will not be available.
- 2.9 Special occasion meal service (i.e. graduations, retirements) will be negotiated and paid separately as per FCPS catering policy/procedure.
- 2.10 LFUCG recognizes and will inform adults and any youth not eligible for the NSLP (if any) that they will not be able to purchase meals/a la carte items through FCPS. GED students participating in Family Care Center programs will be able to obtain meals through FCPS. These meals will be tallied monthly and invoiced to LFUCG.

### **3. MUTUAL OBLIGATIONS**

- 3.1 In the event either party to this Agreement fails to fulfill any of its obligations under this Agreement, the other party may terminate this Agreement without further obligation to the other Party with written notice received within 60 days.
- 3.2 Unless otherwise stated in the Agreement, all Parties shall be responsible for any costs incurred in fulfilling respective obligations under this Agreement.
- 3.3 Both Parties shall exercise good faith in fulfilling obligations.
- 3.4 Each party shall be responsible for its own acts and omissions and shall be liable for payment of that portion of any and all claims, liabilities, injuries, suits, and demands and expenses of all kinds that may result or arise out of any alleged malfeasance or neglect caused or alleged to have been caused by said party, its employees, agents or subcontractors, in the performance or omission of any act or responsibility of said party under this MOA. In the event that a claim is made against both parties, it is the



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intent of both parties to cooperate in the defense of said claim and to cause their insurers to do likewise. Both parties shall however, retain the right to take any and all actions they believe necessary to protect their own interests. Nothing contained herein is intended to act as a waiver of any defense, including that of sovereign immunity, that either party may have as to any third party.

#### **4. MISCELLANEOUS**

4.1 This Agreement shall be in effect through Day Treatment's 33 day extended calendar unless either Party provides written notice received within 60 days.

4.2 All notices, requests, waivers and other communications provided in this Agreement shall be in writing, sent by First Class Mail to:

If FCPS: Fayette County Public Schools  
Attn: Tom Shelton, Superintendent  
701 E. Main Street  
Lexington, KY 40502

If LFUCG: Lexington-Fayette Urban County Government  
Attn: Beth Mills  
Commissioner of Social Services  
200 E. Main Street  
Lexington, KY 40507

\_\_\_\_\_  
(SIGNATURE - FCPS)

\_\_\_\_\_  
(DATE)

\_\_\_\_\_  
(SIGNATURE - LFUCG)

\_\_\_\_\_  
(DATE)

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