

THIS CONTRACT, made and entered into this the 1st day of August, 2020 by and between the **BOARD OF EDUCATION OF FAYETTE COUNTY, KENTUCKY**, of 701 East Main Street, Lexington, Kentucky 40502, a political subdivision of the Commonwealth of Kentucky, (hereinafter referred to as Board), and **Lexington-Fayette Urban County Government, an urban county government created pursuant to KRS Chapter 67A through its Division of Family Services and The Family Care Center, whose principal address is 1135 Harry Sykes Way, Lexington, Kentucky 40504**, (hereinafter referred to as Family Care Center).

WITNESSETH:

WHEREAS, the Board is legally required, effective at the beginning of the 2020-2021 school year, to make available free appropriate preschool education and related services to all eligible children with disabilities (Kentucky Education Reform Act [KERA] Preschool Handicap Program, KRS 157.3175).

WHEREAS, the Family Care Center, a provider of preschool services, desires to provide services that will fully comply with the requirements enforceable against the Board;

NOW, THEREFORE, for and in consideration of the foregoing premises, the parties agree as follows:

1. The Family Care Center will comply with all federal and state laws and regulations required to provide a free appropriate education to all eligible children with and without disabilities assigned to the Family Care Center by the Board and accepted by the Family Care Center. Moreover, all preschool services and staff requirements of the Kentucky Education Reform Act will be met by the Family Care Center.

2. Child evaluation, special education, and related services will be made available as follows: Evaluations shall be started no later than September 22, 2020. Evaluation data shall be used along with other information by the Admissions and Release Committee (ARC) for development of the Individualized Education Program (IEP) developed for each child. Special education and related services to be provided to each disabled child shall commence at level, frequency, and initiation date as determined by the IEP.

At the Board's request, the Family Care Center will provide representation to the Board's ARC meeting at which the IEP is developed that identifies the Preschool as the program in which the child will be placed. By the end of the 2020-2021 school year, the Board will schedule this and any other meetings to review or revise the IEP at times that are mutually agreeable for the parent and the Family Care Center. The Board shall ensure that the parents, the Family Care Center, and the Board are involved in any decision about the child's IEP and agree to any proposed changes in the IEP before those changes are implemented. In addition, the Family Care Center will hold periodic parent conferences to which the Board is welcome to send a representative.

The Family Care Center will comply with all requirements of any assigned child's IEP, including related services. FCPS will provide all needed related services.

Transportation shall be provided only when a student lives on an established transportation route and the Family Care Center is within the boundaries of the same route. In addition, transportation will be provided only on days in which FCPS is open and in session. Transportation delivery and pick up will be during regularly scheduled route times. When transportation is required as part of the IEP, the ARC committee may consult with the FCPS

Preschool Coordinator, Preschool Program Specialist, and Transportation. FCPS, in order to comply with KERA regulations, has responsibility to offer an appropriate placement for eligible children.

The Family Care Center will implement the IEP, and will be responsible for compliance with PL 94-142, as amended by PL 99-457, as amended by PL105-17.

3. The Family Care Center will meet or exceed and maintain the standards identified as critical to a strong preschool program. Compliance with this requirement may be established by a satisfactory score, as determined by the Board, on the Early Childhood Education Rating Scale (ECERS) or its equivalent.

4. The Family Care Center will provide class size and adult/child ratios in compliance with the suggested KERA regulations, which are attached hereto and made a part hereof.

5. The Family Care Center, in cooperation with Child Find, shall notify the Board of children who may, according to local standards, be identified as at-risk or disabled. Costs of evaluations to determine the special needs of the child will be covered by the Board.

6. Services provided under this Contract shall be at no cost to the parent. Billing the parent's insurance or accessing other third party funding available for services to the child shall not be seen as a cost to the parent so long as the parent does not incur any out-of-pocket expense.

7. The Family Care Center will submit child count data on required forms to the Board for the KERA December 1, 2020, enrollment count of eligible children and other related data as may be required for purposes of reporting information required under KERA or under PL 94-142, as amended by PL 99-457, as amended by PL105-17.

The Family Care Center assures that children counted are either three (3) or four (4) years of age or who become five (5) years of age after August 1 of the school year (KERA, Section 17).

8. The Family Care Center will work with FCPS in hiring, training, and monitoring all staff required to perform the services covered under this Contract. All persons employed under this Contract shall be subject to the Interim Early Childhood Personnel Policy, and state and federal laws, including but not limited to: criminal record checks pursuant to KRS 160.380, Age Discrimination in Employment Act, Rehabilitation Act, 42 U.S.C. 1983, Title VII, 42 U.S.C. 2000 (e), et seq. All lead teachers and therapeutic staff shall hold credentials to be classified as Level I according to the Kentucky Department of Education Interim Personnel Guidelines (704 KAR 25:010). Lead teachers will direct instruction for the time specified as per the child's IEP.

9. The Family Care Center shall maintain all required data specified by KERA and PL 94-142, as amended PL 99-457, as amended by PL105-17, including enrollment verification data, annual program evaluation data, and such financial reporting as necessary to document audit trails for the funds expended under this Contract. The Family Care Center will assist the Board in preparing required reports and information to be submitted to the Kentucky Department of Education within the time frame established by the Board. This includes child identification data (including evaluation data) and ARC information and submit to the Board prior to the ARC meeting.

10. The records maintained by the Family Care Center on all children served through this Contract shall be fully available to the Board without parental consent. The Family Care Center will make the parents aware of this matter. All child records shall be governed by the Family Education Rights and Privacy Act (FERPA) and other applicable federal and state requirements.

11. The Family Care Center shall provide the Board the name of the person responsible for all communications and follow-up required by or resulting from the implementation of this Contract.

12. The FCPS Coordinator of the Preschool Program shall be the contact person for the Board, who shall be responsible for all communications and follow-up required by or resulting from the implementation of this Contract. This person shall:

a. Monitor the services provided by the Family Care Center to assure compliance with all federal, state, and local laws and regulations pertaining to the education of eligible preschool children;

b. Serve as liaison on matters concerning program implementation, services to children with disabling conditions, including ARC participation, and planning for transition.

c. Serve as liaison to the Family Care Center to address mutual concerns.

13. The Board will solicit from the Family Care Center such child data on such forms as may be required for purposes of counting children for funding under KERA and PL 94-142, as amended by PL 99-457, as amended by PL105-17. The Board will submit to the Kentucky Department of Education such data and forms as may be required for implementation of programs under these state and federal requirements. The Board shall supply the Family Care Center with such information and data necessary for implementation of the requirements of this Contract. The Board shall invite the Family Care Center to send a representative to state and local meetings when information or training is made available that impact this Contract.

14. The program provided by the Family Care Center will operate a minimum of two and one-half (2 1/2) hours for instruction. Direct child instruction shall be made available 5 days per week. The Family Care Center shall provide services as required by this Contract in conformance to the calendar, including snow days, and non-traditional learning (virtual), followed by the Fayette County school system. For children who are at-risk, at least two (2) home visits will be made, the first of which will occur no more than sixty (60) days after the child is enrolled in the Family Care Center. For children who have a disability, the Family Care Center shall report to the parent the progress of the child at least twice yearly or as specified by the child's IEP.

Children will be educated in an environment that integrates children who are not disabled or at-risk, children who are at-risk, and children who are disabled, unless otherwise noted within the child's IEP and agreed to by the parent(s).

15. The Family Care Center shall notify the Board in writing of any child, affected by this Contract, who has an attendance record below 75% within any school month (20 days), unless there is a valid excused absence, (e.g. surgery, chicken pox) on file with the Family Care Center. Written notification shall be made in a timely manner.

16. The Family Care Center will provide space, including utilities, for all children participating in the KERA preschool program. All facilities will comply with the Cabinet for Human Resources Day Care requirements unless approved under Kentucky Department of Education Preschool Administrative Regulations. The location of the facility for this program will be 1135 Harry Sykes Way, Lexington, Kentucky, (859)288-4040. Each classroom will be furnished with developmentally appropriate materials, furniture, and equipment. A playground approved by day care licensing will be available to the program.

17. A variety of curricular resources will be utilized to implement the requirements specified in the IEP and under KERA as a foundation for the child's successful transition to and participation in kindergarten or first grade, whichever is the point of transition to school district services for the child. As available, the Family Care Center will use the curriculum developed or adopted by the Board, making adaptations as may be required to meet the individual needs of children.

18. This Contract may be amended from time to time as mutually agreed upon by the parties, but no such agreement shall become effective unless in writing and signed by both parties.

19. The term of this Contract shall be for one (1) fiscal year from the date of execution through June 30, 2021. The Family Care Center shall not be required to provide any services after the close of the school year, as determined by the calendar followed by the Fayette County school system, to children placed with the Family Care Center.

20. In the event that either party is unable to perform any of its obligations under this Contract or to enjoy any of its benefits because of natural disaster, actions or decrees of governmental bodies other than the Board, communication line failure or other causes not the fault of the affected party (hereafter referred to as an "Unpreventable Event"), the party who has been affected shall immediately give notice to the other party and shall do everything possible to resume performance. Upon receipt of such notice, this Contract shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Unpreventable Event, the party whose ability to perform has not been so affected shall have the right, by giving written notice, to terminate this Contract.

21. If the grant under which this Contract is made is terminated, the Board shall thereupon have the right to terminate this Contract by giving written notice to the Family Care Center of such termination and specifying the effective date thereof, which shall be at least thirty (30) days after the giving of notice by the Board. If the Family Care Center is unable or unwilling to comply with such additional conditions as may be lawfully imposed in the funding or contract under which the Board is performing the program to which these contracted services are being rendered, the Family Care Center shall have the right to terminate this Contract by giving written notice to the Board, signifying the effective date thereof, which shall be at least thirty (30) days after the giving of notice by the Family Care Center.

22. In the event of termination, all property, documents, and reports purchased or prepared by the Family Care Center under this Contract shall, at the option of the Board, become its property. Notwithstanding the above, the Family Care Center shall not be relieved of liability to the Board for any damages sustained by the Board by virtue of any breach of the Contract by the Family Care Center, and the Board may withhold any reimbursement to the Family Care Center for the purpose of set-off until the exact amount of damages due the Board from the Family Care Center is agreed upon or otherwise determined.

23. The Board may, from time to time, request changes in the scope or the services of the Family Care Center to be performed herein.

24. All remedies available to either party for breach of this Contract are cumulative and may be exercised concurrently or separately. The exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of any other remedy. In event of conflict or breach of contract, the party alleging conflict or breach shall provide written notice to the other party of the specific nature of the alleged conflict or breach. Remedies available herein should be exercised

whenever possible. If additional remedies are necessary and such remedies incur additional cost, such cost shall be the responsibility of the party alleging conflict or breach of contract.

25. The Family Care Center will not discriminate against any employee in the performance of this Contract, or against any applicant for employment in the performance of this Contract because of race, creed, color, religion, marital status, age, political affiliation, national origin, or disabling condition. The Family Care Center will ensure that applicants are employed and that employees are treated during employment without regard to their race, creed, color, religion, marital status, age, political affiliation, national origin, or disabling condition. This requirement shall apply, but not be limited, to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

26. No person in the United States shall, on the ground of race, creed, color, or national origin, be excluded from participation in, be denied the proceeds of, or be subject to discrimination in the performance of this Contract. The Family Care Center will comply with the regulations promulgated by the President, pursuant to the Civil Rights Act of 1964.

27. None of the funds, materials, property or services contributed by the Board or the Family Care Center under this Contract shall be used in the performance of this Contract for any partisan political activity, or to further the election or defeat of any candidate for public office.

28. No part of the program's curriculum may be religious in nature. There shall be no religious worship, instruction, or proselytization as part of or in connection with the performance of this Contract. The program is separately incorporated from any religious institution and maintains a non-sectarian board of directors.

29. The program provided under this Contract shall be provided in a drug-free work place.

30. The Family Care Center shall make financial, program progress, and other reports relating to matters within the scope of this Contract and upon such time tables as are reasonably requested by the Board.

31. To the extent permitted by law, the Family Care Center will indemnify, defend, protect, and save harmless the Board, its officers, agents, and employees, from and against any claims, damages, liabilities, losses, and expenses (including court costs and attorneys' fees) for all injury, including damages to any property due to any negligent or willful act or omission of the Family Care Center, arising out of or during the Family Care Center's services under this Contract. Provided, however, each party shall promptly notify the other party of any claim that may give rise to the Family Care Center's obligations under this paragraph, and provided that the Board, should the Family Care Center refuse legal representation regarding the claim, shall have the rights to hire an attorney of its choice to defend against or compromise any claim for which the Family Care Center may be ultimately responsible. Nothing contained herein is intended to act as, nor shall it be, a waiver of any defense, including that of sovereign immunity, that either party may have as to any third party.

32. If any section, paragraph, or clause of this Contract shall be held invalid by any court of competent jurisdiction, the invalidity of said section, paragraph, or clause shall not affect any other remaining provisions herein.

33. This Contract is deemed to be made under and shall be governed by and construed according to the laws of the Commonwealth of Kentucky.

IN WITNESS WHEREOF, the parties have hereunto set their hands on the day and year first above written.

FAYETTE COUNTY PUBLIC SCHOOLS

Marlene Helm
Dr. Marlene Helm, Acting Superintendent *MLH*
12-17-2020

Date

BY: Kate McAbilly
Title: Senior Director of Academic Services
Date: 12-11-20

BY: Whitney Astker
Title: Associate Director of Early Childhood
Date: 12/11/2020

**Lexington-Fayette Urban County Government
Div. of Family Services-Family Care Center**

BY: _____
Ms. Linda Gorton, Mayor
DATE: _____