

ESUCC
Technology Committee Meeting
Wednesday, January 3, 2018, 10:00 AM
ESU 3 plus Zoom, 6949 South 110th Street, LaVista, NE 68128

Attendance Taken at 9:54 AM.

Bell ESU 10:	Absent
Dr Kraig Lofquist:	Present
Shoemake ESU 06:	Absent
Bill Heimann (ESU 01):	Present
Ted DeTurk (ESU 02):	Present
Gregg Robke (ESU 04):	Present
Constance Wickham (ESU 19):	Present

Attendance Update Taken at 10:07 AM.

Bell ESU 10: Present

Dr Bell arrived at 10:07 AM.

1. Call to Order

2. Roll call

3. Agenda Item

3.1. DE2TAILS - Innovation Grant

3.1.1. Tech Plan

3.1.1.1. ADVISER Update

3.1.1.2. Single Sign On

3.1.1.3. Sustainability

3.1.2. SRS/AAP Technology update

3.1.3. BlendEd

3.1.4. NROC/EdReady

3.1.5. SIMPL

3.2. OER Update

3.3. LMS / Core Tools Package

3.4. MSA 2018-2019

3.4.1. BlendEd Special Projects

3.4.2. BlendEd Learning Objects

3.5. Staff Reports

3.5.1. Beth Kabes

3.5.2. Rhonda Eis

4. Next Meeting Agenda Items

5. Executive Session

6. Adjournment

{{Name: Agenda Item Name}}
{{Discussion: Agenda Item Discussion}}
{{Comments: Agenda Item Comments}}
{{Actions: Agenda Item Actions}}

Technology Committee Update

Scott Isaacson

January 3, 2017

Work Priorities

1. AAP & SRS Code Upgrades
2. Complete single sign-on (SSO) software and app launch portal software updates
3. Integrate additional applications with the SSO framework
4. Develop future hosting recommendations
5. Invent future data ecosystem features

DE²TAILS Project Plan

A link to the live project plan is available here:

<https://app.smartsheet.com/b/publish?EQBCT=0b7ad9d3aaa1499b8cbf9009b62ad07c>

Technology Infrastructure

Data Privacy and Security Policies

Based on initial discussions, the legal team has drafted a scope of work and issue memo listing legal items for consideration as policy development begins. Dave and Scott met with the legal team in September to review this document and refine the scope of policy development work to be accomplished during 2017-2018. The team is beginning with the foundation of policy development with the question of which entity(ies) own data hosted by the ESUCC - school districts, NDE, ESUs, ESUCC. The answer to this question determines responsibilities and liabilities and determines the direction of our policies and procedures.

The Future Ready Council Data and Privacy team has developed near-term goals of assessing needs and gaps in data privacy and security and then developing resources and supports to address those. These may take the form of template policies, best practice documents and professional development opportunities to address areas of focus.

Hosting Infrastructure

The NOC hosting and sustainability work group is evaluating options for future hosting needs. Options for hosting include an in-state approach cooperating among ESUs or commercial providers. The work group has examined and estimated the OpenStack platform, are talking with Microsoft (Azure) and with Amazon (AWS) in December, collecting additional information on hosting costs and features to form a recommendation.

During the Christmas break, 11 older servers were shut down and removed from the Nebraska Hall data center. This consolidates the ESUCC equipment into one rack from two which were used previously and will reduce cost.

Single Sign-On (SSO) and App Launch Portal

As of January 3rd, 222 districts and ESUs are listed in the production single sign-on framework. The Innovation grant includes work to enhance the portal and single sign-on experience. SAS Curriculum Pathways (a free resource) and EdReady are software resources being connected with the framework now. The uPortal app launch portal is in full production. The application launch service will be transferred to another software solution to improve long-term cost and sustainability, while maintaining the functionality of the current uPortal solution.

SRS and AAP

The SRS software has completed the ADVISER certification process with NDE in the staging environment with live district data. A few districts will be selected to begin publishing data in the production ADVISER environment with 2 or 3 districts' live data. A new feature was introduced which allows a user of SRS to enter the state ID of a new student and automatically populate student and parent data from the ADVISER data store. This raises the quality of data and reduces workload because data need only be entered once in the SIS and can be used in SRS without re-entering it. When those districts are in operation with ADVISER, the remaining districts will be scheduled. Next, focus will be on modernizing software further to incorporate and accomplish the 5-year plan being developed by the SRS advisory committee. This raises the quality of data and reduces workload because data need only be entered once in the SIS and can be used in SRS without re-entering it.

BlendEd and NROC/EdReady

Work continues with pilot districts in the use of BlendEd strategies and the NROC EdReady software. Beth Kabes and Nancy Movall will provide details in their reports.

SIMPL

The version 1 web application is live. Pilot ESUs meet regularly and additional ESUs have joined these meetings to collaborate on the process of service planning and implementation. Additional enhancements to processes and the software are in progress.

ADVISER

As of December 13th, 200 districts were publishing 2017-2018 data into the ADVISER data store. Secret and key credentials for publishing data are available for all Nebraska districts with a certified vendor. Six districts are estimated to be with a vendor who does not plan to become certified and are in transition to one of the certified vendors.

Project goals for the 2017-2018 year are:

- Have all EAP 2 Districts with certified vendor publishing by October 15, 2017
- Have all districts publishing by December 1, 2017.
- Have up to 2 or more Ed-Fi workdays at each ESU
- All districts and appropriate staff members can successfully view the Dashboard by February, 2018

- All districts have done a data check and review utilizing the ADVISER Validation site and other tools that are available. They have addressed any errors/issues by June 1, 2018.

The ADVISER dashboard software has problems which are known and are queued for development attention. Due to resource constraints these fixes may not be available until the summer of 2018. Concerns include:

- Difficulty accessing the dashboard application due to data or SSO problems
- Data not displaying correctly in the dashboard application
- Data not available or not incorporated into the current dashboard design. (The application may need enhancements to present the right data in the right way).

Council for a Future Ready Nebraska

The full council met in Lincoln on October 19th. The council, involving about 30 people from a broad cross-section of NDE, ESU, school district and external partner representatives. From the prior work and outcomes of the October meeting, a draft statewide digital learning plan will be produced and released for broad review.

From the vision document: “The Future Ready Nebraska Council provides intellectual and practical insights toward the development of Nebraska’s Digital Learning comprehensive plan for PK-12. This digital learning plan will build a coherent long-term strategy that sets directions and priorities, supports innovation, and provides resources to enable Nebraska educators and students to benefit fully from digital-age teaching and learning.”

The Future Ready framework is helpful in discussing technology planning and useful for the council to discuss priorities in 7 areas:

- Curriculum, Instruction, and Assessment
- Use of Space and Time
- Robust Infrastructure
- Data and Privacy
- Community Partnerships
- Personalized Professional Learning
- Budget and Resources

Learning Management Systems

The LMS committee met on December 20th to discuss steps forward. The group identified these challenges in the LMS space:

Fragmentation of solutions - increasing options and hybrid systems

Inertia - it is hard to change LMS once one has been adopted

Vendor cooperation

Equity of pricing = access

Steps identified at the meeting to move forward and provide leadership:

1. Focus on systems of support around LMS - Future Ready Council, curriculum integration

2. Continue marketplace approach to LMS - provide evaluation guidelines and reduce costs for districts as much as possible through group purchases
3. Advocate for funding to incentivize LMS adoption and fidelity

The committee also identified connections with others who should be included in future discussions:

CAO/Curriculum Director representation

Cory Epler - NDE

Higher education -

UNL (maybe UN system) switching to Canvas

Wayne State - implementing Sakai

Peru State - RFP in progress



2015-2018 SPECIAL BUY AGREEMENT

THIS AGREEMENT (this "Agreement") is entered into by and between the Nebraska ESUCC Cooperative Purchasing ("Cooperative"), and Schoology, Inc. ("Contractor"). The Cooperative is an organization founded in 1968 with the purpose of providing the Educational Service Unit (ESU) member school districts ("Members") of Nebraska an opportunity to secure the maximum procurement value through cooperative synergies. The Educational Service Unit Coordinating Council (ESUCC) Advisory group serves as the steering committee for new and future cooperative buys statewide under its direction. A chief executive officer coordinates the statewide purchasing agreement between service units and their school districts and other serviceable entities. The Director manages the program with the guidance of the ESUCC, Advisory Board, and the Fiscal Agent. Nebraska ESUCC Cooperative Purchasing serves 17 ESUs that provide a statewide network of educational opportunities to approximately 249 school districts and more than 300,000 students.

In consideration of mutual covenants, the parties agree as follows:

- 1. Scope of the Contract.** The Contractor shall provide Members the opportunity to purchase the goods and/or services as defined in **Exhibit A**, which is attached hereto and incorporated herein by this reference, upon the terms and conditions and at the prices set forth in this Agreement and its Exhibits.
- 2. Payment Terms/Payment Schedule.** Members shall pay for services rendered and/or for accepted goods on the terms and payment schedule as set forth in **Exhibit B** which is attached hereto and incorporated herein by this reference. Prices listed in Exhibit B shall remain in effect during the term of this Agreement unless agreed otherwise by the parties in writing. All prepaid subscription fees paid by the Cooperative or Members to Contractor in accordance with this Agreement are non-refundable.
- 3. Administrative Fee.** Contractor shall submit to the Cooperative as an administrative fee a sum equal to two percent (2%) of the total subscription fees, excluding annual support and maintenance, paid by the Cooperative, ESUs, and Members in accordance with this Agreement. This fee will be submitted to the Cooperative on a quarterly basis beginning three months from the Effective Date of this Agreement for all applicable transactions completed and paid during said quarter.
- 4. Term.** This Agreement is effective on June 1, 2015 ("Effective Date") and shall continue until 12:00 midnight (CST) on July 31, 2018, unless terminated earlier as provided by this Agreement or by law.
- 5. Governing Law; Designation of Forum.** This Agreement is governed by and construed in accordance with the laws of the State of Nebraska. Any action to enforce this Agreement must be brought in the state or federal courts of the State of Nebraska. Mandatory and exclusive venue for any disputes shall be in Brown County, Nebraska.

6. Termination.

- A. The Cooperative may terminate this Agreement in whole or part if funding from federal, state, or other sources for the Cooperative or its Members is not obtained and continued at levels sufficient to allow for purchase of the good and/or services in the indicated quantities or term. The Cooperative shall notify the Contractor as soon as practicable if funds to meet the Cooperative's or Members' obligations become unavailable. The determination of the Cooperative as to the insufficiency of funds is conclusive.
- B. Each party may terminate this Agreement if the other party breaches or is in default of any material obligation hereunder which default is incapable of cure, or which, being capable of cure, has not been cured within 30 days after receipt of written notice of such default or such additional cure period as the nondefaulting party may authorize in writing.
- C. Each party may terminate this Agreement by written notice if federal or state laws or rules are modified or interpreted in a way that the services are no longer allowable or appropriate for purchase under this contract or are no longer eligible for the funding proposed for payments authorized by this contract.
- D. The Cooperative may terminate this Agreement, in whole or in part, by written notice to the Contractor and may regard the Contractor in default of this Agreement if the Contractor becomes:
 - (1) Insolvent;
 - (2) Makes a general assignment for the benefit of creditors;
 - (3) Files a voluntary petition of bankruptcy;
 - (4) Suffers or permits the appointment of a receiver for its business or assets;
 - (5) Becomes subject to any proceeding under any bankruptcy or insolvency law, whether domestic or foreign; or
 - (6) Has wound up or liquidated, voluntarily or otherwise.
- E. The Cooperative may terminate this Agreement, in whole or in part, immediately, without notice, if the Contractor is debarred or suspended from performing services on any public contracts.
- F. The parties may terminate this Agreement without cause by mutual written consent or by either party with a minimum of 90 days written notice.
- G. Upon the termination for any reason or expiration of this Agreement, the Contractor promptly must return to the Cooperative all papers, materials and other property of the Cooperative then in its possession.
- H. Any provision of this Agreement which by its nature is intended by the parties to survive termination of this Agreement shall survive such termination for any reason or expiration of this Agreement, including without limitation Sections 2, 3, 5, 6.G, 6.H, 7, 13, 17, 18.B, 19-26 and 29-34.

7. Indemnification.

- A. The Contractor hereby waives and agrees to indemnify and save harmless the Cooperative and the ESUs and their officials, agents, employees, and volunteers (hereinafter collectively referred to as "Cooperative Indemnities"), against any and all third party claims of injuries, death, damage to property, liabilities, judgments, costs and expenses ("Claims") which may otherwise accrue against Contractor Indemnities to the extent such Claim results from (i) Contractor's material breach of this Agreement or (ii) the gross negligence, willful misconduct or fraud of Contractor in connection with its performance under this Agreement. .
- B. The Cooperative hereby waives and agrees to indemnify and save harmless the Contractor and its officials, agents, employees, and volunteers (hereinafter collectively referred to as "Contractor Indemnities" and, together with the Cooperative Indemnities, the "Indemnities"), against any and all third party Claims which may otherwise accrue against Contractor Indemnities to the extent such Claim results from the Cooperative's or any ESU's or Member's (i) material breach of this Agreement or (ii) use of the Schoology System.
- C. The indemnifying party, as applicable ("Indemnitor"), shall, at his or her own expense, appear, defend and pay all reasonable charges of attorneys and all reasonable costs and other expenses arising therefrom or incurred in connection therewith.
- D. If any judgment shall be rendered against the Indemnities in any such third party Claim, the Indemnitor shall, at his or her own expense, satisfy and discharge the same in accordance with this Section 7.
- E. Any performance bond or insurance protection required by this contract, or otherwise provided by the Indemnitor, shall in no way limit the responsibility to indemnify and save harmless and defend the Indemnities as herein provided.
- F. The Contractor's obligation to indemnify and save harmless any Indemnities will survive the expiration or termination of this Agreement by either party for any reason.

8. Insurance. Contractor shall secure and keep in force during the term of this Agreement the following insurance coverages from insurance companies or government self-insurance pools authorized to do business in Nebraska:

- A. Commercial general liability, including premises or operations, contractual, and products or completed operations coverages (if applicable), with minimum liability limits of \$1,000,000 per person and \$5,000,000 per occurrence; and
- B. If applicable, workers compensation coverage meeting all statutory requirements.

The Contractor shall furnish a certificate of insurance to the undersigned Cooperative representative prior to commencement of this Agreement. Failure to provide insurance as required in this agreement is a material breach of contract entitling the Cooperative to terminate this Agreement immediately.

9. **Public Records.** The Contractor acknowledges that the Cooperative must comply with NEB. REV. STAT. § 84-712 through § 84-713 and release public records as defined law upon request, which may include this Agreement and all records created and maintained in relation to this Agreement.
10. **Publicity.** The Cooperative does not endorse the goods or services of the Contractor. Except for listing the Cooperative as a client during the term of this Agreement, news releases or other publicity concerning this Agreement must not be made by the Contractor without the prior written approval of the Cooperative.
11. **Drug/Alcohol/Tobacco/Weapons Free Workplace.** The Contractor and all subcontractors, if any, shall not manufacture, sell, distribute, dispense, possess or use controlled substances or marijuana, as defined by Nebraska law, during the performance of this Agreement while on Cooperative, ESU, or Member premises or at Cooperative, ESU, or Member related functions. The Contractor and all subcontractors, if any, shall not possess any weapon, as defined by Nebraska law and the federal "Drug-Free Schools Act," on Cooperative, ESU, or Member property or at Cooperative, ESU, or Member related functions. The Contractor and all subcontractors, if any, also shall adhere to all Cooperative, ESU, and Member policies and regulations that prohibit the possession, distribution, sale, dispensation, or use of any alcohol or tobacco products while on Cooperative, ESU, or Member premises or at Cooperative, ESU, or Member related functions. Failure to comply with this provision may be considered a material breach. The Cooperative may suspend or terminate the Contractor, subcontractor, or both if it violates these laws, regulations, or policies or this provision.
12. **Nondiscrimination.** The Contractor and all subcontractors, if any, shall not discriminate against any employee or applicant who is to be employed for performance of this Agreement with respect to his or her hire, tenure, terms, conditions, or privileges of employment, because of his race, color, religion, sex, disability, or national origin.
13. **Independent Contractor.** Contractor is an independent contractor under this contract and is not a Cooperative, ESU, or Member employee for any purpose. The Contractor retains sole and absolute discretion in the manner and means of carrying out Contractor's activities and responsibilities under this Agreement, except to the extent specified in this Agreement.
14. **Employment Eligibility Verification.** The Contractor shall use a federal immigration verification system to determine the work eligibility status of employees hired on or after October 1, 2009 and who are physically performing services within the State of Nebraska. If the Contractor employs or contracts with any subcontractor in connection with this Agreement, the Contractor shall include a provision in the contract requiring the subcontractor to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska.
15. **Taxpayer Identification.** Contractor's federal employer identification number is: 26-0808340.
16. **Sales Tax.** The Cooperative, ESUs, and Members are exempt from sales tax and shall not pay any sales tax under this Agreement. The Cooperative, ESUs and/or Members

will provide the Contractor with applicable sales tax exemption certificates upon written request.

17. **Notice.** Each party giving any Notice ("Notice") under this Agreement must give written Notice by personal delivery, registered or certified Mail (in each case, return receipt requested and postage prepaid), or nationally recognized overnight courier (with all fees prepaid.) Notice shall be sent to the following addressees at the following addresses:

Cooperative: Nebraska ESUCC Cooperative Purchasing
Attn: Craig Peterson
1292 East 4th Street
Ainsworth, NE 69210

With copy to:

Steve Williams, Legal Counsel
Harding & Shultz, P.C., L.L.O.
P.O. Box 82028
Lincoln, NE 68501-2028

Contractor: Schoology
Attn: Contracts
115 W 30th Street, 10th Floor
New York, NY 10001
billing@schoology.com

Notice is effective only if the party giving the Notice has complied with this section.

18. **Warranties and Specifications; Disclaimer.**

A. Contractor warrants to the Cooperative that: (i) Contractor will comply with all applicable laws, rules and regulations, and (b) the learning management system provided by the Contractor (the "Schoology System") will perform substantially in accordance with its specifications. In the event the Schoology System fails to conform to these warranties, Contractor will use its best efforts to correct the Schoology System. If Contractor is unable to correct the error after using its best efforts, Contractor will refund the unused subscription fees paid by the Cooperative, as depreciated over the term of this Agreement on a straight line basis, and terminate this Agreement. The limited warranties provided in this Section are void if the failure of Schoology System results from (x) use of the Schoology System in connection with software or hardware not compatible with the Schoology System or not meeting the technical specifications provided by Contractor; (y) improper or inadequate maintenance of the Cooperative's or any Member's equipment or software; or (z) inadequate Internet connectivity or bandwidth. The Cooperative or the Member is responsible for the results obtained and decisions made from its use of the Schoology System. The Schoology System may include open source software components and use of such components may be subject to additional terms and conditions.

B. EXCEPT FOR THE EXPRESS LIMITED WARRANTY PROVIDED IN THIS SECTION 18, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SCHOOLY SYSTEM IS PROVIDED "AS-IS" WITHOUT WARRANTY OF ANY KIND,

EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR USE, QUALITY, PRODUCTIVENESS OR CAPACITY, OR THAT THE OPERATION OF THE SOFTWARE INCLUDED WITHIN THE SCHOLOGY SYSTEM WILL BE ERROR FREE. EXCEPT AS PROVIDED HEREIN, THE ENTIRE RISK AND LIABILITY ARISING OUT OF THE USE OF THE SCHOLOGY SYSTEM REMAINS WITH THE COOPERATIVE, ESU AND MEMBERS INCLUDING, BUT NOT LIMITED TO, WHEN THE COOPERATIVE'S OR ANY ESU'S OR MEMBER'S PRACTICES ARE INCONSISTENT WITH *THE STANDARDS FOR EDUCATIONAL AND PSYCHOLOGICAL TESTING* (1999) BY THE AMERICAN EDUCATIONAL RESEARCH ASSOCIATION. WITHOUT LIMITING THE FOREGOING, THERE IS NO WARRANTY FOR PERFORMANCE ISSUES (I) CAUSED BY FACTORS OUTSIDE OF CONTRACTOR'S REASONABLE CONTROL; OR (II) THAT RESULTED FROM ANY ACTION OR INACTION OF THE COOPERATIVE, OR SUBSCRIBER'S THIRD PARTIES; OR (C) RESULTING FROM SCHEDULED MAINTENANCE PERIODS.

19. Confidentiality.

A. Definition of Confidential Information. Confidential Information means all confidential information disclosed by the Cooperative to Contractor, whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure ("Confidential Information"). Confidential Information shall also include Cooperative Data and Personally Identifiable Information.

B. Cooperative Data. Cooperative Data includes all Personally Identifiable Information and other information that is not intentionally made generally available by Cooperative on public websites or publications, including but not limited to business, administrative and financial data, intellectual property, and student and personnel data and metadata.

C. Personally Identifiable Information. Personally Identifiable Information means any of the following: personal identifiers such as name, address, phone number, date of birth, Social Security number, and student or personnel identification number; "personal information" as used in Neb. Rev. Stat. § 84-712.05; personally identifiable information contained in student education records as that term is defined in the Family Educational Rights and Privacy Act, 20 USC 1232g; "protected health information" as that term is defined in the Health Insurance Portability and Accountability Act, 45 CFR Part 160.103; nonpublic personal information as that term is defined in the Gramm-Leach-Bliley Financial Modernization Act of 1999, 15 USC 6809; credit and debit card numbers and/or access codes and other cardholder data and sensitive authentication data as those terms are defined in the Payment Card Industry Data Security Standards; other financial account numbers, access codes, driver's license numbers; and state- or federal-identification numbers such as passport, visa or state identity card numbers.

D. Protection of Confidential Information. Contractor will protect the Confidential Information using the same degree of care that it uses to protect the confidentiality of its own Confidential Information (but in no event less than reasonable care). Contractor shall not disclose or use any Confidential Information of the Cooperative for any purpose outside the scope of this Agreement and will not disclose or share such Confidential

Information with any third party without the prior written consent of Cooperative, except for the purpose of performing its obligations under this Agreement or as required by law. Contractor must use best practices to limit access to Confidential Information of Cooperative to those of its employees and contractors who need such access for purposes consistent with this Agreement and who have signed confidentiality agreements with Contractor no less restrictive than the confidentiality terms of this Agreement. Contractor will ensure that employees and subcontractors who perform work under this Agreement have read, understood, and, received appropriate instruction as to how to comply with the Confidential Information protection provisions of this Agreement. If Contractor will have access to "education records" for Cooperative's students as defined under the Family Educational Rights and Privacy Act (FERPA), Contractor acknowledges that for the purposes of this Agreement it will be designated as a "school official" with "legitimate educational interests" in the education records, as those terms have been defined under FERPA and its implementing regulations, and Contractor agrees to abide by the FERPA limitations and requirements imposed on school officials. Contractor will use the Education records only for the purpose of fulfilling its duties under this Agreement for Cooperative's and its User's benefit, and will not share such data with or disclose it to any third party except as provided for in this Agreement, required by law, or authorized in writing by the appropriate party.

E. Exclusions. Confidential Information excludes information that: (i) is or becomes generally known to the public without breach of any obligation owed to Cooperative, (ii) was known to the Contractor prior to its disclosure by the Cooperative without breach of any obligation owed to the Cooperative, (iii) is received from a third party without breach of any obligation owed to Cooperative, or (iv) was independently developed by the Contractor without use or access to the Confidential Information. Notwithstanding any of the foregoing, the Contractor may disclose Confidential Information to the extent required by law or court order, but will provide Cooperative with advance notice to seek a protective order.

F. Security Breach.

(i) **Response.** Promptly upon becoming aware of a Security Breach (an event in which Confidential Information is exposed to unauthorized disclosure, access, alteration, or use), or of circumstances that are reasonably likely to have resulted in unauthorized access to or disclosure or use of Confidential Information, Contractor will notify Cooperative, fully investigate the incident, and reasonably cooperate with Cooperative's investigation of and response to the incident. Except as otherwise required by law, Contractor will not provide notice of the incident directly to individuals whose Personally Identifiable Information was involved or regulatory agencies, without prior written permission from Cooperative.

(ii) **Liability.** In addition to any other remedies available to Cooperative under law or equity, Contractor will reimburse Cooperative in full for all costs reasonably incurred by Cooperative in investigation and remediation of any Security Breach to the extent caused by Contractor or its subcontractors, including but not limited to providing notification to individuals whose Personally Identifiable Information was compromised and to regulatory agencies or other entities as required by law or contract; providing one year's credit monitoring to the affected individuals if the Personally Identifiable Information exposed during the breach could be used to commit financial identity theft; and the payment of reasonable legal fees, audit costs, fines, and other fees imposed against Cooperative as a result of the Security Breach.

G. Response to Legal Orders, Demands or Requests for Confidential Information. Except as otherwise expressly prohibited by law, Contractor will:

- (i) promptly notify Cooperative of any subpoenas, warrants, or other legal orders, demands or requests received by Contractor seeking District Data;
- (ii) consult with Cooperative regarding its response;
- (iii) cooperate with Cooperative's reasonable requests in connection with efforts by Cooperative to intervene and quash or modify the legal order, demand or request; and
- (iv) upon Cooperative's reasonable request, provide Cooperative with a copy of its response.

If Cooperative receives a subpoena, warrant, or other legal order, demand (including requests pursuant to the Nebraska law or requests seeking Confidential Information maintained by Contractor), Cooperative will promptly provide a copy of the request to Contractor. Contractor will promptly supply Cooperative with copies of records or information required for Cooperative to respond, and will cooperate with Cooperative's reasonable requests in connection with its response.

20. Proprietary Rights.

Notwithstanding anything to the contrary set forth in this Agreement (including the Exhibits hereto), the Schoology System is owned and copyrighted by Contractor and offered through a subscription, not sold, to the Cooperative, ESU or Members. All right, title, and interest in and to all images, source code, updates, enhancements, modifications, and improvements contained in or related to the Schoology System, along with all intellectual property rights related thereto, shall remain with Contractor, regardless of the source giving rise to the intellectual property and despite any modifications or adaptations made for the benefit of the Cooperative, ESUs or Members. The "Schoology" trademark is protected by United States and international trademark laws and treaties, as well as other intellectual property laws. The Cooperative, ESUs and Members are not granted any license to use any of Contractor's trade or service marks and Contractor retains all right, title, and interest in its trade and service marks. The Cooperative agrees that Contractor may use, without restriction or royalty obligation, any comments, suggestions or contributions provided by the Cooperative, ESUs and Members with respect to the Schoology System during the course of the Cooperative's, ESUs' and Members' use of the Schoology System. The Cooperative, ESUs and Members hereby grants and assigns to Contractor any intellectual property rights that the such party may incidentally obtain or have with respect to any such comments, suggestions or contributions.

21. Limitation of Liability. EXCEPT TO THE EXTENT THE FOLLOWING LIABILITY LIMITATION IS PROHIBITED BY APPLICABLE LAW, IN NO EVENT WILL A PARTY BE LIABLE TO ANOTHER PARTY FOR, NOR SHALL THE MEASURE OF DAMAGES INCLUDE, ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, PUNITIVE OR SPECIAL DAMAGES OR EXPENSES OF ANY KIND WHATSOEVER, IN EACH CASE ARISING OUT OF OR RELATING TO ITS ACTS OR OMISSIONS OR OTHERWISE ARISING FROM THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, LOST OPPORTUNITY, LOST SAVINGS, LOSS OF GOODWILL, LOST BUSINESS, LOSS OF ANTICIPATED BENEFITS, BUSINESS INTERRUPTION,

LOSS OF BUSINESS INFORMATION, LOSS OF OR DAMAGE TO DATA, OR COMPUTER FAILURE OR MALFUNCTION, EXCEPT IN THE LIMITED SITUATIONS EXPRESSLY PROVIDED IN THIS SECTION 21. A PARTY'S ENTIRE LIABILITY UNDER THIS AGREEMENT SHALL BE LIMITED TO THE AMOUNT ACTUALLY PAID OR PAYABLE BY THE COOPERATIVE, ESU OR MEMBER FOR THE SERVICES PROVIDED HEREUNDER IN THE TWELVE (12) MONTHS PRECEDING THE INCIDENT GIVING RISE TO LIABILITY. The foregoing limitations of liability shall not apply, however, to liability of a Party arising from (a) defect or deficiency caused by willful misconduct or fraud on the part of such Party; or (b) amounts payable to third parties as a result of such Party's indemnification obligations under this Agreement. The limitations of liability set forth in this Section 21 shall apply even if the breaching party has been advised of the possibility of such damages in connection with this Agreement.

22. **Entire Agreement.** The Agreement is the complete and exclusive expression of the parties' agreement on the matters contained in this Agreement. All prior and contemporaneous negotiations and agreements between the parties on the matters contained in this Agreement are expressly merged into and superseded by this Agreement.
23. **Amendments and Modifications.** The parties may amend or modify this Agreement only by a signed, written agreement by both parties that identifies itself as an amendment or modification to this Agreement. No other alternations in the terms of this agreement shall be valid or binding.
24. **Waivers.** The parties may waive any provision in this Agreement only by a writing executed by the party or parties against whom the waiver is sought to be enforced. No failure or delay: (1) In exercising any right or remedy, or (2) In requiring the satisfaction of any condition under this Agreement, and (3) No act, omission, or course of dealing between the parties operates as a waiver or estoppel of any right, remedy or condition. A waiver made in writing on one occasion is effective only in that instance and only for the purpose stated. A waiver once given is not to be construed as a waiver on any future occasion or against any other Person.
25. **Severability.** If any provision of this Agreement is determined to be unenforceable, the remaining provisions of this Agreement remain in full force, if the essential terms and conditions of this Agreement for each party remain enforceable.
26. **Counterparts.** The parties may execute this Agreement in multiple counterparts, each of which constitutes an original, and all of which, collectively, constitute only one agreement. The signatures of all of the parties need not appear on the same counterpart, and delivery of an executed counterpart signature page by facsimile or other electronic means is as effective as executing and delivering this Agreement in the presence of the other parties to this Agreement. This Agreement is effective upon delivery of one executed counterpart from each party to the other parties. In proving this Agreement, a party must produce or account only for the executed counterpart of the party to be charged.
27. **Force Majeure.** Neither party shall be liable for any loss or damage suffered by the other party, directly or indirectly, as a result of the non performing party's failure to perform, or delay in performing, any of its obligations contained in this contract (except any obligations to make payments for services rendered or accepted goods received


before the failure to perform or the delay in performance), where such failure or delay is caused by circumstances beyond the non-performing party's reasonable control or which make performance commercially impracticable, including but not limited to fire, flood, storm or other natural disaster, explosion, accident, war, riot, civil disorder, government regulations or restrictions of any kind or any acts of any government, alien enemy, judicial action, power failure, acts of God, or other natural circumstances. This Force Majeure provision excludes economic hardship, changes in market conditions, and insufficiency of funds on the part of the non-performing party.

28. **Assignment.** This Agreement binds the parties and their respective successors and permitted assignees. A party shall not assign or otherwise dispose of this Agreement or any duty, right, or responsibility contemplated in this Agreement to any other person without the previous written consent of the non-assigning party; provided, however, that a party may assign this Agreement in connection with a merger, acquisition, divestiture, sale of business, reorganization or similar corporate transaction of such party without the prior written consent of the non-assigning party.
29. **Subcontractors.** The Contractor will retain all responsibility for the performance of its obligations under this Agreement, regardless of whether or not the Contractor uses subcontractors to perform any such obligations. The Contractor shall be the sole point of contact with the Cooperative with regard to all matters covered by this Agreement.
30. **Captions.** The descriptive headings of the Articles, Sections and subsections of this Agreement are for convenience only, do not constitute a part of this Agreement, and do not affect this Agreement's construction or interpretation.
31. **Rights and Remedies Cumulative.** Any enumeration of a party's rights and remedies set forth in this Agreement is not exhaustive. A party's exercise of any right or remedy under this Agreement does not preclude the exercise of any other right or remedy. All of the parties' rights and remedies are cumulative and are in addition to any other right or remedy set forth in this Agreement, any other agreement between the parties, or which may now or subsequently exist at law or in equity, by statute or otherwise.
32. **Relationship Among Parties.** This Agreement creates no relationship of joint venture, partnership, limited partnership, agency, or employer-employee between the parties, and the parties acknowledge that no other facts or relations exist that would create any such relationship between them. Neither party has any right or authority to assume or to create any obligation or responsibility on behalf of the other party except as may from time to time be provided by written instrument signed by both parties.
33. **Rules of Construction.** The parties hereto have each been represented by counsel, or had the opportunity to be represented, during the negotiation and execution of this Agreement, and therefore waive application of any law or rule of construction providing that ambiguities in the contract will be construed against the party drafting such contract.
34. **Attachments.** Attachments to this Agreement include the following:

Exhibit A – Scope of Good or Services to be provided to Cooperative
Exhibit B – Payment Terms & Schedule

IN WITNESS WHEREOF, each of the Cooperative and Contractor has caused this Agreement to be executed as of the Effective Date by its duly authorized representative.

**Nebraska ESUCC Cooperative Purchasing
("COOPERATIVE")**

By: 
Name: David M. Ludwig
Title: Executive Director
Date: 6-8-15

**Schoology, Inc.
("CONTRACTOR")**

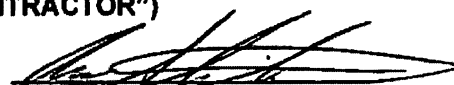
By: 
Name: Amar Shrivastava
Title: VP of Finance and Admin
Date: June 1, 2015

EXHIBIT "A"

SCOPE OF GOODS OR SERVICES TO BE PROVIDED TO MEMBERS

See attached document entitled "Project Team and Implementation Plan"

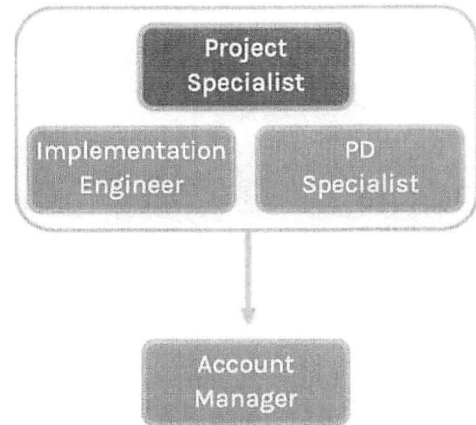
Project Team and Implementation Plan

The following table identifies and describes the different roles and included services that will support your Schoolology implementation process, as well how each role fits in to the overall project workflow.

Team Roles

- Project Specialist (PS):
 - Product Subject Matter Expert (SME)
- Implementation Engineer (IE):
 - Technical SME
- Professional Development Assistant (PDA):
 - Training Coordinator
- Account Manager (AM):
 - Long-term relationship manager

Project Workflow Overview



Services Included

- | | |
|--|---|
| <ul style="list-style-type: none"> ▪ Kickoff Call led by Schoolology team. ▪ Regular status calls and communication with Project Specialist. ▪ Assistance from Project Specialist with Enterprise Configuration. ▪ Custom Branding of your Schoolology site. ▪ Domain Customization of Schoolology landing page to your domain or subdomain. ▪ Data Consolidation of free Schoolology user data. ▪ Technical Planning Call between Implementation Engineer and equivalent at your organization to create a Data Population timeline if needed. ▪ Assistance from Implementation Engineer with Data Population provisioning of users, courses, and enrollments if needed. | <ul style="list-style-type: none"> ▪ Assistance with User Authentication via Single Sign-On. ▪ Schoolology Enterprise Administration Training delivered by Project Specialist. ▪ Assistance with all aspects of the implementation process guidance, documentation, and other non-hands-on help. ▪ Guidance and Best Practices for migrating data from existing LMS into Schoolology. ▪ Professional Development delivered via Open Enrollment Courses: 2 attendees, 4 hours of training each. ▪ Standard Support from Schoolology Client Advisors. |
|--|---|

EXHIBIT "B"

1. Payment Terms/ Payment Schedule

- A. Members will pay Contractor for all undisputed amounts for the goods and/or services identified in Exhibit A and provided by Contractor under this Agreement within thirty (30) days of receipt of invoice, provided that goods/services have been accepted by the Member as hereinafter provided.
- B. The procedure for billing and payment for services or products and deliverables shall be as specified in this exhibit.

2. Acceptance of Services or Products:

- A. The Contractor shall deliver any goods, perform any services or both in accordance with the mutually agreed schedule as set forth in any RFP, purchase order issued by the Cooperative, ESU, or Member and accepted by Contractor, or this Agreement (whichever is later).
- B. Unless otherwise agreed to by the parties, the Contractor shall provide written notification of completion of any deliveries, or performances of services or both, to the Member ("Delivery Notice").
- C. Members shall have sixty (60) days from the date of receipt of the Delivery Notice to provide the Contractor with written notification of acceptance or rejection due to failure of the Schoology System to conform the requirements of this Agreement.
- D. If the Member issues a rejection notice, the Contractor shall as quickly as is practicable, correct or replace all such non-conformities at its expense. The Cooperative shall not unreasonably withhold or delay its acceptance or rejection.

3. Title and Risk of Loss:

- A. Title and risk of loss for goods shall remain with the Contractor until goods are accepted by the Member, ESU, or Cooperative.
- B. Insurance during shipment and until the goods are accepted by the Cooperative, ESU, or Member is the responsibility of the Contractor.

See attached document entitled "Education Service Unit Coordinating Council Pricing Schedule"

Education Service Unit Coordinating Council Pricing Schedule

Schoology offers a complete cloud-based solution so all hardware, database, maintenance and priority support costs are included in the pricing. Education Service Unit Coordinating Council (ESUCC) member organizations will not incur costs associated with system upgrades or releases that improve current features. The discount percentage is applied to enterprise services based on the established partnership between Schoology and ESUCC member organizations. Discount percentages are not standard pricing and pertain only to this agreement. This agreement is only valid for the 2015-2016 school year. Subscription price may be subject to change without notice.

Schoology will provide ESUCC member organizations the following discounted annual subscription cost structure:

*\$4,200 annual subscription fee for districts or schools w/ less than 600 students

*\$7 per student annual subscription fee for districts or schools w/ 600-5,000 students

*15% off list price for districts or schools w/ 5,001+ students, please inquire with Schoology for pricing

Schoology will provide ESUCC member organizations the following discounted implementation/training cost structure:

*\$2,500 implementation/training fee (one-time cost) for districts or schools w/ less than 2,000 students

*\$5,500 implementation/training fee (one-time cost) for districts or schools w/ less than 2,001-5,000 students

*15% off list price for districts or schools w/ 5,001+ students, please inquire with Schoology for implementation/training pricing

All district adults (admin, teachers, parents) are included at no additional fee.

Requirements for discount pricing:

- i. Full school or district implementation
- ii. District or school is not an existing Schoology subscriber

Implementation Information

Schoology has a systematically structured approach to effectively integrate our software into the workflow of districts. Our professional and experienced team will work step-by-step with ESUCC districts through the Project Management, Implementation and Training phases of the project to ensure a smooth installation.

Implementation Specialists from Schoology will start implementation on or around the contract award date to meet the district's implementation and training schedule. Schoology will work with each district to design the most efficient and structured implementation methodology for the LMS project. Simultaneously, Schoology will be working towards the go-live launch which will be completed prior to a district's start date to allow for testing and trial runs. System Admins, School Admins, Educators, Students, and Parents will all have access to the system upon the go-live launch.

Throughout the implementation of the District System, it will be Schoology's mission to outline the resources that the district will need to successfully implement the solution and achieve the districts desired results.

Schoology's implementation plan is a phased approach that covers planning, implementation, training, and support. Schoology will work closely with each district to fully integrate Schoology across all levels of the institution. There are standard pieces involved in all implementations. Kick-off calls, branding, logins and consulting are part of every implementation.



Committee Report

PROJECT NAME: BlendEd and Distance Ed

PROJECT DIRECTOR: Beth Kabes

REPORT PERIOD: January, 2018

COMMITTEE REPORT:

BlendEd Committee meet on Fridays at 9 a.m. over zoom throughout the months of November and December. Discussion items include:

[December 15, 2017 - Teacher's Guild, Friday Institute, Future Ready, Models of Change](#)

[December 8, 2017 - OER, Cohort 2, Webinars](#)

[December 1, 2017 - Cohort 2, Feedback, Westside](#)

BlendEd Pilot:

- Pilot school visits continue this fall.
- Visited in November are: Bancroft-Rosalie, Rock County, The Career Academy (LPS), Broken Bow, Clarkson, Shelby-Rising City, South Sioux City.
- ESU Coaches Monthly Meetings 1st Monday of each month
 - [December 4, 2017](#)
- Cohort 2 – 2018-2020
 - Applications are due January 15
 - BlendEd Pilot website: bit.ly/neblend
 - 11 Schools/District applied as of 12/18/2017
 - ESUCC/NCSA Leadership Team meeting January 26, 2018
 - Replaced Dawn Ferreyra with Crystal Hurt as per request by Dawn.
- Dates for training for Cohort 2
 - March 14 = Cohort 2 Kick Off in Kearney
 - March 15 = Cohort 2 Kick Off in Lincoln
 - March 16 = BlendEd Coaches Training in Lincoln (available to any ESU staff)
 - July 16-20, 2018 across the state
- OER Commons
 - Sent email to SDA about upcoming presentation at PDO
 - Identified Implementation team for the Kick-Off

- Craig Hicks, Jason Everett, Rhonda Eis, Dorann Avey, Dean Folkers, David Ludwig, Ted DeTurk, Scott Isaacson, Beth Kabes, Crystal Hurt, Molly Aschoff, Stuart Clark, Gary Needham
- Asking PDO Affiliates to volunteer for other teams
- Kick-Off Meeting on January 8 for Implementation Team.
- Katie Graham from NDE is designing Logo for the site
- Design Team is working on text and tags for the site (TLT members currently)

Promotion and Professional Development of BlendEd

- None in November and December in Nebraska.

DISTANCE EDUCATION:

- Added Nepris.com to NVIS.esucc.org VFT database. This was needed for schools to receive Grant \$ form NETA VFT grant.

ESUPDO

- OER Presentation by Craig Hicks, Jason Everett, Rhonda Eis and myself to SDA Strategists on December 13.
- OER and EdReady presentation by Nancy Movall and myself to Literacy Cadre on December 7.
- Emailed NOC and ESPD to present on OER at their next regular meeting.

AESA

- OER Affinity Group – member of the planning committee. Next meeting is: February 14, 2018
- Blended and Personalized Learning Affinity Group – co leader of the group. Next meeting: March 14, 2018
- Presented on DE2TAILS with David Ludwig at AESA Conference.



PROJECT NAME: BlendEd Projects – Instructional Materials

PROJECT DIRECTOR: Rhonda Eis

REPORT PERIOD: January 2018

TLT Affiliate

January 16th is the next Teaching and Learning with Technology affiliate meeting. The group will first meet as a large group to share updates on projects and then break into the working groups for the remainder of the time. Feedback from the November meeting about this format was positive and many felt it helped the groups to work on goals and action items.

Learn360

New Marketing – The new google group for marketing Learning360 received the first awareness email in November. Increase in active users went up by approximately 900 accounts.

Nebraska OER Commons

- Design Team met in December
 - Team Members: Rhonda Eis, Beth Kabes, Jason Everett, Craig Hicks, Dorann Avey, Eileen Barks, Shara Johnson, Linda Dickeson
 - Katie Graham (NDE) is designing logo for the site
 - Team is working on text and tags for the site
- Contract was reviewed by legal and is ready for signatures by both parties
- Kick Off Meeting for Implementation Planning – January 8
 - The purpose of the kick-off meeting is to establish meeting schedules, communication plans, proposed project plan and timeline
 - Implementation team for the Kick-Off: Craig Hicks, Jason Everett, Rhonda Eis, Beth Kabes, David Ludwig, Dorann Avey, Dean Folkers, Ted DeTurk, Scott Isaacson, Crystal Hurt, Molly Aschoff, Stuart Clark, Gary Needham
- Requesting PDO Affiliates to volunteer for other teams
 - Curation, Technical, Training, Communication and Marketing

Hub Phases

- Phase 1: Planning and Design
 - Hub Design: Goals, Audience, User Flow, Branding, Images, Copy, Curation Plan, Templates, and Identify Contributors
- Phase 2: Content Curation
 - Group set-up, Collection set-up, standards mapping and integration
- Phase 3: Training, Public Release and Marketing