

ESUCC

Executive Committee Meeting

Wednesday, September 9, 2015, 12:00 PM

Educational Service Unit No. 10 76 Plaza Blvd Kearney NE, 6949 South 110th Street, LaVista,  
NE 68128

Attendance Taken at 12:01 PM.

Beatty ESU 16: Present

Gegg ESU 05: Present

Jeff West (NE): Absent

Dr Kraig Lofquist: Present

Radford ESU 17: Present

1. Call to Order

2. Roll Call

3. Agenda Item

3.1. AESA Insurance

3.2. Approve NDE/ESUCC MOU

3.3. Approve ESUCC Lobbyist

3.4. Review Goals of ESUCC

3.5. Master Service Agreement (MSA)

3.5.1. ESU Expenses Charged to ESUs

3.6. Approval NROC (National Repository of Online Content)

3.7. Procedural Manual

3.8. ESU 50th Celebration

3.9. 2015-2015 Admin Roster

3.9.1. ESUCC Team Roster

3.10. 2015-2016 ESUCC Committees

3.11. Approve Home Base for Staff

3.12. Approval of Attorney Letter of Engagement

3.12.1. Board Meeting Attendance

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}}

**MEMORANDUM OF UNDERSTANDING  
BETWEEN THE  
EDUCATIONAL SERVICE UNIT COORDINATING COUNCIL  
AND  
THE NEBRASKA DEPARTMENT OF EDUCATION**

This Memorandum of Understanding ("MOU") is made and entered into between the Educational Service Unit Coordinating Council ("ESUCC") and the Nebraska Department Of Education ("NDE"), collectively referred to as "the parties." THIS AGREEMENT is entered into by and between the Nebraska ESU Purchasing Cooperative ("Cooperative"), and \_\_\_\_\_ ("Contractor").

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

- 1. Purpose.** The purpose of this MOU is to enhance the working relationship between the parties in order to provide more effective and efficient services to students, school districts and their employees, and educational service units and their employees. The parties shall achieve this purpose by collaborating on the following projects:
  - A. STATEWIDE DATA COLLECTION SYSTEM.** The parties agree to collaborate and to share technical resources to build and support a data collection and storage system, along with software tools and resources designed to help school districts and staff to make informed, data-driven decisions targeting improved student learning. This system design provides districts, schools, and teachers with access to historical data, to allow stakeholders to make informed (data-driven) decisions to improve student learning, identify academic strengths and weaknesses, increase student achievement and close achievement gaps, and to identify and address potential recurring impediments to student learning, e.g., problems with attendance or difficulty in mastering prerequisite knowledge or skills, before they negatively affect student success. As part of the collaboration, significant efforts and work to support technical security of these systems and protection of the privacy of information will be followed.
  - B. INSTRUCTIONAL SUPPORT SYSTEMS.** The parties shall engage in joint planning and implementation of software applications for the administration, documentation, tracking, reporting and delivery of electronic educational technology education courses or training programs (also called e-learning or BlendEd). These joint efforts will include collaboration on the creation and active management of a learning object repository (LOR) for the state of Nebraska and

on the deployment and management of learning management systems.

- C. STATEWIDE SINGLE SIGN ON.** The parties shall engage in joint planning and will share technical resources to create a statewide single sign-on protocol for all educational data systems. Single sign-on (SSO) is a property of access control of multiple related, but independent software systems. With this property an education user will log in once and gain access to all related educational data systems without being prompted to log in again at each of them.
- D. ACCREDITATION/SCHOOL IMPROVEMENT.** The parties shall collaborate to provide professional development, technical guidance and assistance to school districts in the school improvement process. The parties provide professional development opportunities and technical support in guiding school staff in planning, implementing, and evaluating continuous school improvement activities.
- E. EVALUATION AND INSTRUCTIONAL FRAMEWORKS.** The parties shall collaborate to provide professional development, technical guidance and assistance to school districts and administrators in the implementation of the Nebraska Instructional Framework.
- F. AQUESTT (ASSESSMENT).** The parties shall collaborate to provide professional development, technical guidance and assistance in implementing the accountability system adopted by the Nebraska State Board of Education. The board has announced its desire to build a framework that supports student learning to integrate components of accountability, assessment, accreditation, career education, and data into a system of school improvement and support.
- G. SPECIAL EDUCATION.** The parties shall collaborate to provide professional development, technical guidance and assistance in the implementing Rules 51 and 52 of the Nebraska Department of Education as well as the provisions of the federal Individuals with Disabilities in Education Act and Section 504 of the Rehabilitation Act.
- H. EARLY CHILDHOOD.** The parties shall collaborate to provide professional development, technical guidance and assistance in the early implementing Rule 11 of the Nebraska Department of Education. The parties shall share resources to promote equitable access to inclusive programs and services for all children from birth through age eight; facilitate state and community partnerships that address the needs of young children and their families; and, provide professional development, technical

assistance and resources for personnel in early childhood care and education settings.

- I. TITLE AND FEDERAL PROGRAMMING.** The parties shall collaborate in providing programming and technical guidance to local schools and school districts with high numbers or high percentages of poor children to help ensure that all children meet challenging state academic standards.
- J. 21<sup>ST</sup> CENTURY COMMUNITY LEARNING CENTERS.** The parties shall collaborate in administering the grants from the 21st CCLC program, a federally-funded competitive grant program and specific designated funding from the Nebraska lottery system both of which are designed to support the establishment of community learning centers serving students in high need school buildings.
- K. NEBRASKA CAREER CONNECTIONS.** The parties shall collaborate in supporting the Nebraska Career education model. This model assists students, parents and P-16 educators in increasing student retention and career readiness.

- 2. Term.** This MOU shall begin on the day last signed by the representatives of the parties to this MOU, and shall remain in effect until terminated as provided in this MOU or as otherwise allowed by law.
- 3. Administration.** The parties agree that decisions and communications related to the creation, operations, and maintenance of this MOU and the projects identified herein will be the responsibility of the Commissioner of Education, or his or her designee, and the ESUCC Executive Director, or his or her designee. The parties agree that various staff working groups may be created to carry out the purposes and projects identified in this MOU.
- 4. Payments.** No payments shall be made to or between the parties under this MOU. Should such payments become necessary in the implementation of this MOU, the parties shall memorialize the financial arrangement in a written addendum to this MOU.
- 5. Governing Law.** This MOU is governed by and construed in accordance with the laws of the State of Nebraska. The parties further agree that all MOU projects or other activities shall be consistent with all applicable rules, regulations, and policies of NDE, ESUCC, and the Nebraska State Board of Education.
- 6. Termination.** Each party may terminate this MOU for any reason or no reason at all upon 30 days written notice delivered by hand or certified mail. Upon the termination of this MOU, each party shall promptly

return to the other party all papers, materials and other property of the other party then in its possession, including but not limited to all work in progress as is appropriate in its then existing form to the other party.

- 7. Indemnification.** To the extent permitted by applicable law, but without waiving any rights under any applicable state governmental immunity act, the Parties hereto agree to indemnify each other from any and all liabilities, claims, expenses, losses or damages, including attorneys' fees, which may arise in connection with the execution of the work herein specified and which are caused, in whole or in part, by the negligent act or omission of the Indemnifying Party.
- 8. Public Records.** The parties acknowledge that they must comply with NEB. REV. STAT. § 84-712 through § 84-713 and release public records as defined law upon request, which may include this MOU and all records created and maintained in relation to this MOU.
- 9. Student Records.** The parties agree to share data in a manner that safeguards the confidentiality of personally identifiable information in students' education records as defined by the federal Family Education Rights and Privacy Act (FERPA) and any other applicable federal or state laws and regulations. FERPA establishes restrictions on the disclosure and re-disclosure of personally identifiable information in students' education records without the written consent of the parent or eligible student. FERPA permits student information to be used by state educational authorities for the purposes of the evaluation of state or federally supported education programs, and/or conducting research for or on behalf of the state supported schools to improve education.
- 10. Nondiscrimination.** The parties shall not discriminate against any employee or applicant who is to be employed for performance of this MOU 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.
- 11. Employment Eligibility Verification.** The parties 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 a party employs or contracts with any subcontractor in connection with this MOU, the contracting party 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.

**12. Notice.** Each party giving any Notice ("Notice") under this Agreement must give written Notice by personal delivery, or certified mail (in each case, return receipt requested and postage prepaid). Notice shall be delivered to the following addressees:

ESUCC: Educational Service Unit Coordinating Council  
Attn: Council President  
6949 So. 110th Street  
Omaha, NE 68128

With copy to:  
Karen A. Haase, Legal Counsel  
KSB School Law, PC, LLO  
301 S. 13<sup>th</sup> St., Suite 210  
Lincoln, NE 68508

NDE: Nebraska Department of Education  
Attn: Commissioner of Education  
301 Centennial Mall South  
P.O. Box 94987  
Lincoln, NE 68509-4987

With copy to:  
  
Nebraska Department of Education  
Attn: General Counsel  
301 Centennial Mall South  
P.O. Box 94987  
Lincoln, NE 68509-4987

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

**13. Funding for Collaborative Efforts.** When necessary or appropriate, the parties shall enter into addenda to this agreement to designate the source of funding for specific collaborative efforts.

**14. Entire Agreement.** The MOU is the complete and exclusive expression of the parties' agreement on the matters contained in this MOU. All prior and contemporaneous negotiations and agreements between the parties on the matters contained in this MOU are expressly merged into and superseded by this MOU.

- 15. Amendments and Modifications.** The parties may amend or modify this MOU only by a signed, written agreement by both parties that identifies itself as an amendment or modification to this MOU. No other alterations in the terms of this MOU shall be valid or binding.
- 16. Counterparts.** The parties may execute this MOU 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 MOU in the presence of the other parties to this MOU. This MOU is effective upon delivery of one executed counterpart from each party to the other parties. In proving this MOU, a party must produce or account only for the executed counterpart of the party to be charged.
- 17. Assignment.** This MOU binds the parties and their respective successors and assignees. The parties shall not assign or otherwise dispose of this MOU or any duty, right, or responsibility contemplated in it to any other person or entity without the previous written consent of the Cooperative.
- 18. Subcontractors.** The parties shall not subcontract services or any part of this MOU without the prior written consent of the other party.
- 19. Third Party Beneficiaries.** This MOU does not and is not intended to confer any rights or remedies upon any person other than the signatories.
- 20. Relationship Among Parties.** This MOU 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.

IN WITNESS WHEREOF the parties have executed this Agreement on the date last date written below.

**[THE NEXT PAGE IS THE SIGNATURE PAGE]**

**ESUCC**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**NDE**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



We sincerely appreciate the opportunity to submit a proposal to provide the legislative and lobbying services for the Educational Service Unit Coordinating Council. A voice in the Nebraska Legislature is necessary now more than ever. Looking at the landscape of issues, you'll find a desire for property tax relief by some senators and others requesting additional poverty funding. With the learning community concerns, the final year for Senator Sullivan as the education chair, term limits, a divided committee at the end of the last session, and you have the perfect storm.

Bromm & Associates is proposing former Speaker and Education Committee member, Curt Bromm, as the primary lobbyist for these services. We are also prepared to offer supportive and clerical assistance to meet the needs of the Educational Service Unit Coordinating Council and assist with any filings necessary to meet the statutes and requirements by the state office of accountability and disclosure. As we examine the workload and process needed for the Educational Service Unit Coordinating Council for the 2015-16 legislative sessions, Bromm & Associates proposes a fee of \$27,500 for these services. We would also be willing to discuss the process, goals, and strategy for the upcoming session with Mr. Ludwig and/or the board as requested.

Resumes are available, and we would like to emphasize some of our experience and background that uniquely qualifies our firm for this position. Curt's experience serving on the Education Committee, as the Chair of the Transportation and Telecommunications Committee, and then as Speaker of the Nebraska Legislature provides a unique insight to the workings, procedures, and processes of the Nebraska Unicameral Legislature. Curt worked closely with all education interests while in the Legislature and on various occasions as a lobbyist following service in the Legislature to find solutions for important challenges in the education field. Of particular note were his efforts while serving on the Education Committee to transform the health insurance program for teachers to include representation and input from school boards and end a controversial period regarding health insurance carriers for teachers and school districts.

Curt also worked on the state aid formula on several occasions on behalf of the legislature and later, on behalf of school districts, to achieve more equity and fairness. He also undertook to revise the "Insurance Premium Bonding" process as a lobbyist on behalf of a number of districts, which was a successful effort.

Prior to his service in the Legislature, Curt served on the Wahoo School District Board for 11 years, serving 10 of those years as President of the Board.

We believe our background, experience, and interest in education prepares us well to represent the Educational Service Unit Coordinating Council, and we would be honored to do so.

Thank you for your consideration.

Sincerely,

BROMM & ASSOCIATES, LLC.

# QUOTE



## Monterey Institute for Technology and Education

P.O. Box 890  
Marina, CA 93933  
Phone (831) 642-9459  
Fax (866) 591-1431

FEIN: 57-1186598

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This quote prepared for:  
**NEBRASKA ESU COORDINATING COUNCIL**

**QUOTE #: 0395**  
**Prepared on 8/24/2015**  
**Valid through 9/15/2015**

**Attn: Dave Ludwig**

Nebraska ESU Coordinating Council  
6949 Sout 110th St.  
LaVista, NE 68128

Phone: (402) 499-6756

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### Standard Membership - \$ 305,000.00

**Description:** Standard membership includes a custom EdReady website, access to all NROC Assets including the right to host the NROC Downloadable Content locally within centrally managed applications, and the right to link to all NROC Assets through a customized HippoCampus website during the term of the agreement. See full terms of membership in the attached terms of use.

**Term:** 36-month membership -- 9/1/2015 through 8/31/2018.

**Service Area:** Schools or programs managed or supported by the Nebraska DoE, ESUCC and Nebraska's 17 ESUs.

**Organization Size\*:** Up to 132,594 enrollments.

**Special Terms:** This three-year membership includes access to NROC's implementation and success team to assist with strategic planning for scaling and impact.

The remaining term of this multi-year agreement may be terminated as mutually agreed upon between the two parties with written notice 30 days in advance of the annual payment/anniversary date. A termination fee of 10% of the remaining contract amount will be paid upon exercising this option.

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<b>Total</b>	<b>\$305,000.00</b>
<b>Scheduled Payments</b>	
<b>9/1/2015</b>	<b>\$75,000</b>
<b>9/1/2016</b>	<b>\$100,000</b>
<b>9/1/2017</b>	<b>\$130,000</b>

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**Payment of the membership invoice constitutes acceptance of the attached membership agreement and terms of use.**

**\*NROC Membership fee is based on total secondary (7-12) enrollment and/or FTE of the member organization, unless otherwise indicated in Service Area or Special Terms noted above.**

## DEFINITION OF TERMS — THE NROC PROJECT - STANDARD MEMBERSHIP

The following descriptions define the terms used on NROC quotes, invoices, contracts and terms of use for Standard NROC Network Members.

### **NROC ASSETS:**

#### **NROC LIBRARY: The NROC Library contains two types of collections:**

The *NROC Permanent Collection* refers to all content that is copyrighted to the Monterey Institute for Technology and Education (MITE), content that has been contributed for NROC distribution under a permanent license, and content made available under an "open license" (i.e. Creative Commons, GNU General Public License). Access to this content shall be available to member for the membership term defined in their agreement.

The *NROC Contributed Collection* refers to all content made available under a Content Distribution Agreement with the copyright owner for a defined period of time. Access to this content shall be available to member for the period defined in the Content Distribution Agreement, which may vary by course. Access to this content cannot be guaranteed past the end date of the Content Distribution Agreement. More information can be found at <http://www.montereyinstitute.org/nrocnetwork/agreement.php>.

**NROC DOWNLOADABLE CONTENT:** Select NROC Assets are available for hosting as part of the NROC Membership. These Assets include:

- NROC Algebra 1 - An Open Course
- NROC Developmental Math - An Open Program (standard version)
- Non-Majors Biology
- NOAA Collection
- Statistics for the Social Sciences
- Religions of the World

All other NROC Assets are hosted by NROC and are not available for member hosting as part of the NROC Membership Agreement.

**EDREADY:** An NROC-hosted application to assess student knowledge and provide access to educational resources.

**HIPPOCAMPUS:** An NROC-hosted content repository containing resources from the NROC Library.

### **INSTITUTIONAL RIGHTS OF USE:**

Institutional use is defined as incorporation of NROC Asset links or NROC Downloadable Content into institutionally-managed software applications, or incorporation of the content into shared course or curricula serving multiple sections/teachers.

### **STANDARD MEMBERSHIP:**

Standard Members are provided with institutional rights of use to the NROC Assets and support resources, including but not limited to:

- the right to deliver the NROC Library via multiple modes (Internet, Intranet, DVD, MP3, MP4, etc.) via NROC Asset links and the right to host NROC Downloadable Content and other select resources locally on centrally-managed applications per the terms of the Member Agreement
- a branded, customized instance of the HippoCampus.org repository with correlations to state and national curriculum standards
- a branded, customized instance of the EdReady application
- staff and faculty access to the NROC Network for professional development resources and webinars, access to conference presentations and white papers, forums for networking, problem solving, resource sharing, and content development assistance
- access to Standard-level member support (web, email) for designated implementation team
- access to implementation resources at the NROC Network.

### **HOSTING OPTIONS FOR STANDARD MEMBERS:**

#### **NROC Hosting:**

NROC membership includes a branded instance of the HippoCampus.org content repository and the EdReady application. These websites are hosted on NROC servers and maintained by NROC. All constituents of the member's organization may access the custom instance of these websites (i.e. Member's teachers, students, and staff). Custom member versions of these websites allow for institutional use which is not allowed from the public versions of these websites. In addition, NROC Library content may be viewed directly at the custom HippoCampus site or linked to via URL from the Member's local LMS/LOR.

*Please Note: Content available at the HippoCampus website may only be linked from HippoCampus and is not available for local hosting as part of the NROC membership agreement.*

#### **Central Hosting:**

Central hosting allows Standard Members to host NROC Downloadable Content and select resources (multimedia lessons and accompanying course content (student and instructor guides, assessments, training modules, etc.) from centrally-managed application(s) such as an LMS or LOR or other website(s). All centrally-managed applications must be managed by the Member's central staff.

### **ACCESS AND ENROLLMENT:**

Membership fees are determined by the size of the organization served, based on secondary school enrollments or student FTEs for higher education institutions. Any enrollment restrictions shall be defined on the attached invoice.

### **APPLICATIONS:**

LMS: Learning Management System

LOR: Learning Object Repository

Updated 3/18/15

# NROC NETWORK STANDARD MEMBERSHIP AGREEMENT

**Grant of Rights.** The Monterey Institute for Technology and Education (the Organization) hereby grants to Member the right to become a Standard Member of the “NROC Network” with benefits that include, but are not limited to:

- Access to a collaborative network of contributors, NROC users and other educators focused on improving online course quality.
- HippoCampus object repository site branded with Member’s logo, and hosted and maintained by Organization. Member shall have the right to link to this website through their LMS/LOR software during the term of this Agreement. (Content available at the HippoCampus website from collections other than the NROC Library may be available under different terms of use. Please see terms of use at the website.)
- Custom, branded EdReady instance for use by Member’s constituents.
- Unlimited access to the NROC Library with distribution rights to enrolled students and staff within Member’s institution via NROC Asset links and the right to host the NROC Downloadable Content and select resources locally. Limitations on installation and use rights of the NROC Library shall be as defined on Member invoice incorporated herein by reference.
- Priority status as reviewers and subject matter experts (SMEs) in NROC course development efforts.
- Standard member support including unlimited email and web access to the NROC Network support website.
- Access to secure implementation resources at the NROC Network for designated staff.
- Staff and faculty access to professional development and training opportunities available through the Network.

Access to the public NROC Network support website and NROC Community is open to all faculty and staff in the Member’s institution. Designated individuals are granted secure access to the Network for technical support and administrative purposes.

**Member Responsibilities.** While membership in the NROC Network does not require that a Member actively participate, all members are encouraged to participate and sustain the Network in the following ways which include, but are not limited to:

- Contributing new course content and technology innovations to NROC
- Sharing supplemental content, software tools, simulations and games with Network members through the NROC Network
- Designing, moderating and participating in online forums around specific issues on the NROC Community website
- Sharing and documenting development and teaching experiences with peers
- Acting as workgroup leaders on collaborative projects with other members
- Conducting online presentations in areas of expertise and member interest
- Contributing columns or articles to the Network and NROC Community
- Co-presenting related research at conferences with other Network members
- Using Network activities to support teaching and learning research projects
- Participating in social authoring projects for new course development

**Fees and Payments.** Member shall pay the Organization a fee as defined on attached invoice for the membership rights granted by this Agreement during the term of this Agreement. Payment of the NROC Network membership fee constitutes acceptance of the terms of this Agreement, including the Terms of Use for NROC Assets which terms are hereby incorporated herein by reference.

**Term and Termination.** The term of this Member Agreement shall commence on the date payment is received by Organization or as defined on the attached invoice and shall continue in effect for the term specified on the attached invoice. The Organization or Member may terminate this Agreement early in the event that the other party defaults in the performance of any of its obligations hereunder and fails to cure such default within thirty (30) days after written notice of such default. Member accepts the responsibility for insuring the NROC Assets, including all course multimedia files and course content, as well as all revised/adapted content, is removed from Member’s or Member’s Service Provider LMS and/or LOR environment or servers at the expiration or termination of this Agreement. Should Member decide not to renew their Agreement, all NROC Assets must be removed from Member’s server(s) within 10 days of the expiration of this Agreement, including links to NROC Assets within LMS and/or LOR software.

## **Course Information, Delivery Format, Installation and Technical Support, User and Server Requirements.**

Current information about the courses available in the NROC Library, delivery formats, course management system requirements, installation, technical and content support, end user requirements, and server requirements are available at our website ([www.montereyinstitute.org/nrocnetwork/agreement.php](http://www.montereyinstitute.org/nrocnetwork/agreement.php)).

It is the member’s responsibility to familiarize themselves with this information before entering into this agreement. (Copies available upon request.)

**General.** Any notice, request, instruction or other document to be given hereunder by any party to the other shall be in writing and delivered personally or sent by certified mail, postage prepaid by telecopy, or by courier service, to the address provided at the end of this agreement and to the address provided on the attached invoice or to such persons as may be designated in writing by the parties, by a notice given as aforesaid. This Agreement, including Exhibits, constitutes the entire understanding of the parties with respect to its subject matter and supersedes all prior agreements and understandings between the parties. This Agreement may be executed in counterparts, and when so executed each counterpart shall be deemed to be an original and said counterparts together shall constitute one and the same instrument. This Agreement shall be binding upon and inure to the benefit of the parties hereto. No party may assign or transfer any rights under this Agreement except in connection with a sale or merger transaction involving substantially all of a party’s assets. This Agreement shall be governed by, construed and enforced in accordance with the laws of the state of domicile of the Member as applied to contracts entered into solely between residents of, and to be performed entirely in, such state.

**Limitation of Liability and Remedies.** NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR PUNITIVE DAMAGES ARISING OUT OF THIS AGREEMENT OR ITS TERMINATION, WHETHER FOR BREACH OF WARRANTY OR ANY OBLIGATION ARISING THEREFROM OR OTHERWISE, WHETHER LIABILITY IS ASSERTED IN CONTRACT OR TORT (INCLUDING NEGLIGENCE AND STRICT PRODUCT LIABILITY), AND IRRESPECTIVE OF WHETHER THE PARTIES HAVE ADVISED OR BEEN ADVISED OF THE POSSIBILITY OF ANY SUCH LOSS OR DAMAGE. IN NO EVENT SHALL EITHER PARTY HAVE ANY RIGHT TO RECOVER OR OBTAIN ANY RIGHTS IN OR TO THE INTELLECTUAL PROPERTY OF THE OTHER.

## **Organization Contact Information:**

Monterey Institute for Technology and Education, P.O. Box 890, Marina, CA 93933, (831) 642-9459

## TERMS OF USE FOR NROC ASSETS

**NROC Library Grant of Rights.** The Monterey Institute for Technology and Education (the Organization) hereby grants to Member the nonexclusive right and license to make available the NROC Library materials and to distribute the NROC Library to Member's enrolled students subject to the following restrictions: (a) NROC Library Distribution. Member shall make the NROC Library available for access only by its students, faculty and staff through its own LMS/LOR environment or a LMS/LOR environment provided by third party, through closed circuit broadcast, or through other secure distribution channels. The NROC Library may not be accessed through, linked to or posted on third party websites without the prior written consent of the Organization. No other means of access to the NROC Library may be made available without the prior written consent of the Organization. (b) Third Party Access and Distribution. Providing access or distribution of the NROC Library to third parties for use or re-distribution is strictly prohibited without the prior written consent of Organization. (c) Content Revision. Member may utilize the NROC Library in their present form and/or revise or adapt the course content to meet Member requirements, provided that Member may make structural or organizational changes to a course but may not alter the course multimedia files. In the event that the Member desires to revise and/or adapt the course content multimedia files in any way, Member agrees to notify the Organization in writing of the desired revisions and obtain the Organization's prior written consent to such revisions, such consent not to be unreasonably withheld. Any revisions done by Member must be performed with Organization consent and shall be performed at Member's sole cost and expense. Member shall deliver to Organization on master CD/DVD media, a copy of all revisions to the NROC Library multimedia files developed by Member. Organization shall not be responsible for supporting content modified by Member. (d) Rights Reserved to Organization. Except as expressly authorized in this Agreement, this grant of rights to Member does not include the right to allow downloads, sell, transfer, license or distribute the NROC Library in any other format, context, manner or means or for any other purpose not specifically authorized in this Agreement without the Organization's prior written consent. All rights not expressly granted to Member in this Agreement are reserved to Organization.

**EdReady Grant of Rights:** The Monterey Institute for Technology and Education (the Organization) hereby grants to Member the non-exclusive right and license to make available the EdReady application to Member's enrolled students subject to the following restrictions: (a) Member agrees that they will access, store, and utilize all student data within the application according to institutional regulations and legal obligations. (b) Organization agrees to store these data on Member's behalf as long as the account remains active. (c) All data generated by the application shall be the property of the Organization but the Organization shall grant the Member the right to use the data for analytical purposes only. (d) Any alternations to the EdReady interface or underlying technologies (including technical integration with third-party applications) performed by Organization on Member's behalf within the scope of a Standard Membership Agreement cannot be guaranteed to either function or persist beyond the date of implementation and are subject to modification or removal at Organization's discretion at any time after consultation with Member.

**NROC Asset Changes.** Organization reserves the right to change, alter, revise, discontinue or add content to the NROC Assets at any time during the term of the Standard Membership.

**Privacy.** Organization believes that Member privacy rights are important. The complete NROC Privacy Policy can be found at <http://www.montereyinstitute.org/license/license.html#privacy> and is incorporated herein by reference.

**NROC Asset Disclaimer.** Member agrees that use of the NROC Assets is at Member's sole risk. Except for the express warranties set forth in the Warranty section of the Agreement, the NROC Assets are provided "AS IS" and "WITH ALL FAULTS" and without implied or express warranties or representations of any kind such as but not limited to uninterrupted use, accuracy, usefulness, fitness for the intended purpose, free of errors, or free of viruses or harmful components.

**Intellectual Property.** All ownership, copyrights, trademarks and other rights in the NROC Assets ("Intellectual Property") shall belong to the Organization or its licensors and title to the Intellectual Property shall remain with the Organization or its licensors. All updates, revisions and derivatives to the NROC Library developed by the parties shall belong to the Organization or its licensors. Member may incorporate the NROC Library into Member branded courses but shall include attribution prominently displayed in the form of:  
"Portions of the content made available through TheNROCProject.org".

Member shall not in any way alter or remove copyright information from any NROC Asset. Member shall maintain such notices in its sales and marketing materials and communications that incorporate any portion of the NROC Assets or any reference to the NROC Assets. If Member's use of the Intellectual Property is improper, Member will take all reasonable steps necessary to resolve such improper use within ten (10) days of receiving written notice from the Organization. The Organization may reasonably monitor the quality of Member's products and services utilizing the Intellectual Property under this Agreement.

Each party shall defend and indemnify the other, its directors, officers, employees, agents and representatives from any liability and expense (including reasonable attorneys' fees) imposed upon the indemnified party as a result of any claim arising out of the acts or omissions of, or breach of any representation or warranty hereunder by, the indemnitor under this Agreement and including all costs, expenses and damages incurred or suffered by the indemnified party in connection therewith; provided that the party seeking indemnification shall promptly notify the other of any such claim, and permit such other party to control the defense or resolution thereof, and the party seeking indemnification shall fully cooperate with the other in connection therewith. In the event that the NROC Asset or any portion thereof is held in such a suit or proceeding to infringe a third-party copyright or other proprietary right, Organization shall, at its sole option and expense (1) procure the right to continue using the NROC Asset or portion thereof or (2) replace the same with non-infringing content.

All copyrighted content developed by the Member or the Member's employees, that is not a derivative of the NROC Assets, will be retained by the Member and will not be included in the Organization's courses without express written consent of the Member.

**Dispute Resolution Procedure.** The parties agree that any dispute under this Agreement shall be resolved by final and binding arbitration in the state of domicile of the Member, subject to the arbitration Rules of the American Arbitration Association. The arbitration shall be before a single arbitrator if the parties can agree on a single arbitrator, and if they cannot agree, then the arbitration shall be before a panel of three arbitrators mutually selected by the parties or, if no agreement is reached, then under the Arbitration Rules of the American Arbitration Association, except that the Arbitrators shall be selected by alternately striking names from the panel of five arbitrators designated by the American Arbitration Association. The arbitrator shall have the authority to grant any relief authorized by law. The arbitrator shall not have the authority to modify, change or refuse to enforce the terms of this Agreement. The prevailing party shall be entitled to recover its reasonable attorneys' fees, costs and expenses incurred in connection with the dispute and arbitration. The arbitration hearing shall be transcribed. Arbitration shall be the exclusive final remedy for any dispute between the parties.

**Warranty.** The Organization warrants that it owns and/or has all the necessary rights to license the NROC Assets to Member in accordance with this Agreement; that it will not assume any contractual obligation that conflicts with its obligations granted in this Agreement; and that there are no claims pending or, to the best of the Organization's knowledge, threatened that relate to the NROC Assets. Except for the foregoing, Member agrees that the NROC Assets are delivered "AS IS" without any express or implied warranties, including warranties of merchantability or fitness for a particular purpose. Member acknowledges that Organization does not own or control all content available at our websites and therefore cannot warrant or guarantee that any product, service, or materials offered on our websites will be suitable for Member or Member's enrolled students. Members access and use our websites entirely at their own risk. Member acknowledges and agrees that under no circumstances will Organization be responsible or liable in any way for any claims, losses, damages, or injuries of any kind incurred by Member as a result of Member's use of or reliance upon any product, service or materials offered on our websites. The maximum liability of the Organization arising out of or in connection with any license, use or other employment of any of the NROC Assets delivered to Member under this Agreement, whether such liability arises from any claim based on breach or repudiation of contract, warranty, tort or otherwise, shall in no case exceed the actual price paid to the Organization by Member for the NROC Asset whose license, use, or other employment gives rise to the liability.

### Funding...

- Federal, state, and local tax dollars
- State and Federal grants
- Contracted services

In 1965, the Nebraska Legislature created ESUs to...

- Provide training for teachers, administrators, and support staff
- Encourage collaboration across district boundaries to enhance efficiency and equitable opportunities

There are too many requirements, expectations, and competing demands on local districts to overlook the importance of ESUs to Nebraska's educational system.

~ Commissioner Matt Blomstedt



### Educational Service Units Provide School Districts with...

- Cost effective resources
- Research-based instructional learning opportunities
- Opportunities to pilot innovative programs
- Enhanced learning through technology integration
- Facilitation of best practices
- Coordination of distance learning and other BlendEd learning opportunities
- Coordination between local districts and the Nebraska Department of Education (NDE)

Service is our middle name.

~Dave Ludwig

PLEASE CONTACT YOUR LOCAL ESU OR THE ESU COORDINATING COUNCIL FOR AN OPPORTUNITY TO LEARN MORE ABOUT NEBRASKA'S ESUs.



402-597-4843

# NEBRASKA EDUCATIONAL SERVICE UNITS



ADDING VALUE TO EDUCATION

### Cost Savings...

- Nebraska's ESUs helped drive a decrease in the need for special education services through efforts like early childhood services, response to intervention teacher training, early identification, and encouraging more referrals of young children who might need support. These efforts resulted in approximately \_\_\_\_\_ million savings based on a \_\_\_\_\_-student drop in those needing extra services in Nebraska's schools last year.
- Statewide cooperative purchasing saved local school districts approximately 4.5 million dollars on critical purchases like teaching supplies, copier paper, copiers, building/maintenance projects, score boards, furniture, technology hardware, software, custodial supplies, and food.
- A mid-sized ESU provides 16 districts customized technical support, maintenance, and infrastructure. Estimates indicate this arrangement saves each district up to \$100,000 per year.

**THE ROLE EDUCATIONAL SERVICE UNITS PLAY IN HELPING NEBRASKA'S 307,000 CHILDREN LEARN DESERVES A CLOSE LOOK.**

## ESUs support student achievement and leverage limited resources in six areas, many of which are mandated by federal and/or state law:

### Teaching and Learning:

- ESUs facilitate trainings annually for educators, informing them of the latest research and teaching methods, and improving the opportunities for achievement of students in poverty and students with diverse backgrounds.

### Technology Services:

- ESUs often manage the fiber network, purchase bandwidth, subsidize the cost and management tools, obtain lower costs for computer software, provide Internet protection filters, purchase digital collections, promote online and digital learning options, and provide technical support.

### Specialized Student Services:

- ESUs provide services to meet the increased needs in special education, vocational education and transition, learning centers, alternative education programs, English Language Acquisition programs, systems-involved youth, and homeless education programs.

### Early Childhood:

- ESUs take the lead in early childhood education to help ensure every child is safe, healthy and prepared to succeed in school and in life.

### Developing Partnerships:

- ESUs are often key partners in local economic development through their community ties with human service agencies, businesses, industries, municipalities, colleges and universities.

### Administrative Services:

- ESUs help districts share services in such areas as instruction, technology, transportation, business services, teacher training, and purchasing.

### Nebraska voters...

There is great support for the

**Today, ESUs are being reinvented and requested to do more than ever; and those requests are met daily.**



Serving Students and Schools for a Half Century.

50

Est. 1965

Educational Service Units

**ESUCC Committee Membership  
2015-2016**

	Executive	Finance, Audit, Budget	Legislative	Professional Development	Cooperative Purchasing	Educational Technology & Technology Infrastructure	Special Populations
Bob Uhing, ESU 1 (2)						X	X
Ted DeTurk, ESU 2 (2)				X		X (Chair)	
Dan Schnoes, ESU 3 (2)		X	X				
Jon Fisher, ESU 4 (2)					X	X	
Brian Gegg, ESU 5 (5)	X	X		X (Vice Chair)	X	X	X
Dan Shoemake, ESU 6 (2)			X			X	
Larianne Polk, ESU 7 (2)				X			X (Chair)
Bill Mowinkel, ESU 8 (2)		X			X		
Kraig Lofquist, ESU 9 (4)	X		X	X (Chair)		X	
Wayne Bell, ESU 10 (2)			X (Vice Chair)			X (Vice Chair)	
Paul Tedesco, ESU 11 (3)		X		X	X (Chair)		
Jeff West, ESU 13 (7)	X (Chair)	X (Co-Chair)	X	X	X	X	X
Paul Calvert, ESU 15 (3)		X	X		X (Vice Chair)		
Marge Beatty, ESU 16 (3)	X (Vice Chair)		X				X (Vice Chair)
Dennis Radford, ESU 17 (3)	X	X (Co-Chair)					X
Elizabeth Standish, ESU 18 (2)		X	X (Chair)				
Julia Allen, ESU 19 (2)			X	X			X
<b>Total Committee Membership</b>	<b>5</b>	<b>8</b>	<b>8</b>	<b>7</b>	<b>6</b>	<b>8</b>	<b>6</b>



January 13, 2015

Dave Ludwig, Executive Director  
Educational Service Unit Coordinating Council  
6949 South 110<sup>th</sup> Street  
LaVista, NE 68128

**Re: *Legal Representation Agreement***

Dear Mr. Ludwig:

We are delighted to confirm our agreement to serve as legal counsel for Educational Service Unit Coordinating Council. Our representation will begin upon our receipt of a copy of this Agreement. Our practice is to provide all clients with a written engagement letter so that you have a clear understanding of the terms of our representation of you and KSB School Law's policy for billing you for legal services.

We will charge hourly rates in connection with all of the work performed for your school. We send statements each month to the board in care of the superintendent. Our statements are due and payable each month. It is our firm's practice to record time in increments of one-tenth of an hour. We will assign tasks related to representing you among all of us, based on expertise, cost and availability. Karen Haase's current hourly rate is \$300.00, Steve William's current hourly rate is

\$275.00 and Bobby Truhe's current rate is \$200.00. Shari Russell is our paralegal and her current hourly rate is \$150.00. Our hourly rates are annually adjusted, however, the above rates will not be adjusted during the 2015 calendar year.

When our firm incurs various expenses such as photocopying, postage, mileage, and communications (long distance telephone and fax), we also include those costs in our monthly statements.

KSB School Law is not requiring you to pay an up-front retainer. However, we reserve the right to do so in the event that specific circumstances arise hereafter that would, in our judgment, require the deposit of a retainer. Any retainer provided to us will be deposited in KSB School Law's trust account. By signing this Agreement, you give KSB School Law permission to collect fees and expenses from the retainer based on our monthly billing. KSB School Law will provide you with its statement of fees and expenses paid from the retainer. You may be called upon by KSB School Law, in our discretion, to replenish the retainer amount periodically. Any unused portion of the retainer remaining after all legal fees and expenses have been paid will be returned to you. You will not earn or be paid interest on the retainer.

Our representation of the school will continue until the matter you have retained us to advise you upon is concluded, you terminate our agreement, or we withdraw from the representation. Our representation of you does not include tax advice. You may terminate our representation of you at any time, with or without reason. Your termination of KSB School Law's representation in no way relieves you of the obligation to pay for legal services that have been rendered and expenses incurred prior to the time of termination or that are necessitated to make an orderly transfer of our file materials. Likewise, KSB School Law reserves the right to withdraw from representation under circumstances permitted by the applicable rules of professional conduct. At the conclusion of our representation of you, we will retain your legal files for a period of 7 years after we close our files. At the expiration of the 7 year period, we may destroy these files unless you notify us in writing that you wish to take possession of them. We reserve the right to charge administrative fees and costs association with researching, retrieving, copying, and delivering such files.

KSB School Law has determined that there are no current conflicts of interest in our representation of you. However, as new matters arise in our ongoing representation of you, it is possible that new circumstances could present a conflict of interest concerning that new matter. If we become aware of a conflict we will promptly advise you and exercise our ethical obligation to withdraw or decline representation on the conflicting matter as required by the applicable rules of professional conduct. By signing this agreement, you acknowledge that we have informed you of the risks and the consequences of potential conflicts.

Please give one of us a call or drop us an e-mail at [ksb@ksbschoollaw.com](mailto:ksb@ksbschoollaw.com) if you have any questions about this engagement letter, any bill for services, or any other matter pertaining our representation of you.

Yours very truly,

KSB School Law, PC, LLO

Karen A. Haase  
[karen@ksbschoollaw.com](mailto:karen@ksbschoollaw.com)  
Cell (402) 499-0547

Steve Williams  
[steve@ksbschoollaw.com](mailto:steve@ksbschoollaw.com)  
(402) 499-1869

Bobby Truhe  
[bobby@ksbschoollaw.com](mailto:bobby@ksbschoollaw.com)  
(605) 670-2968

Approved and agreed to this \_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
Superintendent or other Authorized Representative