

**NORTHEAST EDUCATIONAL SERVICES COOPERATIVE**

**NO. 28-201**

# **BY-LAWS**

**Revised and Approved July 2017**

**AGREEMENT ESTABLISHING**

**NORTHEAST EDUCATIONAL SERVICES COOPERATIVE**

28-201

**BY-LAWS**

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***ARTICLE I***

**Name**

- 1.1 The name of the educational services cooperative unit credited and established by this agreement shall be the NORTHEAST EDUCATIONAL SERVICES COOPERATIVE (Referred to herein as the NESC).

***ARTICLE II***

**Creation, Purpose, and Limits**

- 2.1 There is hereby created and established as a legal entity, an educational services unit as authorized by SDCL 13-5-31 and 32, and SDCL 13-37-14.2, and pursuant to the provisions of SDCL Chapter 1-24 inclusive, to exercise the powers, privileges and authority of the Members as herein provided.
- 2.2 The NESC shall assist member districts in providing appropriate educational services for all children and to offer, on a cooperative basis, services that districts would not be able to provide as effectively or as economically acting alone.
- 2.3 The NESC will exercise the powers granted to it by its members and by-laws. The NESC shall not have the power to levy taxes or commit any member district to obligations extending beyond the term of membership, except as provided by Article III, Section 3.6 and 3.7 of this agreement.

**ARTICLE III**  
**Membership**

**3.1** The following school districts shall be the charter members of the NESC for the 1980-81 school year.

Arlington School District # 38-1  
Castlewood School District # 28-1  
Clark School District # 12-2  
Clear Lake School District # 19-2  
Deubrook School District # 5-2  
Estelline School District # 28-2  
Grant-Deuel School District # 25-3  
Gary School District # 19-3  
Hamlin School District # 28-3  
Henry School District # 14-2  
Lake Preston School District # 38-3  
Sioux Valley School District # 5-5  
South Shore School District # 14-3  
Waverly School District # 14-5  
Willow Lake School District # 12-3

**3.2** The following school districts are the current members of the NESC.

Arlington School District # 38-1  
Britton-Hecla School District # 45-4  
Castlewood School District # 28-1  
Clark School District # 12-2  
De Smet School District # 38-2  
Deubrook School District # 5-6  
Deuel School District # 19-4  
Elkton School District # 5-3  
Enemy Swim Day School  
Estelline School District # 28-2  
Florence School District # 14-1  
Hamlin School District # 28-3  
Henry School District # 14-2  
Iroquois School District # 02-3  
Lake Preston School District # 38-3  
Rosholt School District # 54-4  
Sioux Valley School District # 5-5  
Summit School District # 54-6  
Waubay School District # 18-3  
Waverly/South Shore School District # 14-5  
Webster Area School District # 18-5  
Willow Lake School District # 12-3  
Wilmot School District # 54-7

**3.3** Each district participating in NESC shall submit a resolution indicating their adoption of this Cooperative Educational Services Agreement. Any school district who is not currently a member of NESC and wishes to become a member shall indicate its desire to join by submitting to the President of the NESC Board of Directors a resolution that has been adopted by its Board of Education authorizing membership in NESC and this Agreement. The request for membership must be approved by a majority vote of the NESC Board of Directors. School districts requesting membership will have the option of paying the membership fee, pursuant to Article III – 3.4, in full at the time they join or prorated over a three year period with all payments due and payable on or before August 1<sup>st</sup> of each school year.

**3.4** The newly admitted school district will be assessed an admittance fee. The fee will be determined by adding the total NESC Capital Asset expenditures minus the accumulated depreciation as of June 30 of the current year of the date of application and the combined total of the undesignated fund balances for the General Fund and Special Education Fund as of June 30 of the current year of the date of application. The sum of depreciated capital assets and undesignated fund balances will be divided by the current grades K-12 student enrollment of the existing Cooperative members to determine the per student cost. The per student cost will be multiplied by the grades K-12 student enrollment of the newly admitted school district as identified in the current year Fall Enrollment Report to the South Dakota Department of Education.

If a current NESC member district completes a reorganization process with a district that is not a member of the Cooperative, the new district shall be assessed an admittance fee. The admittance fee will be determined based on the formula listed herein using the number of students enrolled in grades K-12 as reported on the non-member district's Fall Enrollment Report to the South Dakota Department of Education for the year preceding the first year of the existence of the newly reorganized school district.

**3.5 A** Any member school district wishing to withdraw from the NESC shall deliver to the NESC Board of Directors, prior to February 15th, a resolution of its Board of Education authorizing withdrawal from the NESC. The resolution to withdraw must be approved by a majority vote of the NESC Board of Directors. Termination of membership shall become effective at the end of the school fiscal year in which notice of such withdrawal is given. Any payments due under this agreement shall be paid in full prior to the withdrawal. Any member district withdrawing shall lose any vested rights in any assets held by the NESC and shall no longer be considered a member, provided NESC is not simultaneously dissolving as set forth below.

**3.5 B** Speech Therapy, Occupational Therapy, Physical Therapy, Early Childhood Special Education, and School Psychologist Services are mandatory participation services for NESC member districts. Member districts cannot withdraw from those services.

All other services are optional to member districts. Any member district wishing to withdraw from an NESC optional service shall deliver to the NESC Board of Directors, prior to February 15<sup>th</sup>, a resolution of its Board of Education authorizing withdrawal from the service. A copy of the attached Change of Status form must be included. The resolution to withdraw must be approved by a majority vote of the NESC Board of Directors. Termination of the service shall become effective at the end of the school fiscal year in which notice of such withdrawal is given. Any payments due concerning this service shall be paid in full prior to the withdrawal. Member districts withdrawing from a service shall lose all vested rights in any assets held by NESC relating to the service. Item 5.8 of these By-Laws further defines withdrawal from optional services.

Member school districts requesting to participate in any of the optional services for the ensuing school year must notify the NESC Director by June 1 of the preceding school year. An exception will be the Center Base Program, placements will be determined on a case by case basis.

- 3.6** The NESC shall be dissolved by unanimous vote, less one (1), of the governing board. The resolution to dissolve the NESC shall be passed on or before February 15<sup>th</sup> of the year NESC is to be dissolved. In the event that dissolution is determined, the President of the Board of Directors shall instruct the Director to take such action as necessary to facilitate the dissolution of NESC prior to July 1 following the resolution to dissolve.
- 3.7** In the event of dissolution, the Board of Directors shall terminate the affairs of the NESC promptly prior to July 1<sup>st</sup>. All property owned by the NESC shall be disposed of by the Board of Directors in accordance with SDCL 6-13. Upon settlement of all obligations of the NESC, the remaining funds and/or property shall be distributed to those members enrolled at the time of the dissolution on a pro-rata basis based on the student enrollments. Employee records will be maintained by the Hamlin School District, student records will be returned to the school of the student's enrollment.

## ***ARTICLE IV***

### **Governance**

- 4.1** The NESC shall be governed by a Board of Directors composed of one voting school board member from each member district. Each local board representative to the NESC governing board and a first and second alternate shall be appointed by the local school board at its annual meeting. In the event that the board representative is unable to attend NESC Board of Directors' meetings, it will be the responsibility of the board member and local school district to notify the first or second alternate to attend in his/her place. In the event that the appointee cannot continue representing the local district, the local school board shall appoint a replacement board member.

- 4.2** For the purpose of holding meetings and conducting business under this agreement, a quorum shall exist if a majority of local district representatives are present. A majority vote of all member districts (and not merely a majority vote of all member districts present at any such meeting) shall be required to conduct all business, unless otherwise specifically stated in these by-laws.
- 4.3** The Board of Directors shall hold its annual meeting in July. The Board of Directors will meet on a monthly basis with such meetings to be held on or about the third Monday of the month. An agenda will be provided to the Board of Directors four (4) days prior to the meeting. Special meetings may be called by the President of the Board of Directors, or in his/her absence, by the Vice President, or a majority of the Board of Directors. Notice of such meetings shall be given by the Business Manager to the board members either orally or in writing in sufficient time to permit their presence.
- 4.4** The Board of Directors shall elect a President and Vice President from its membership and such other officers or agents as are deemed necessary. The responsibility of the Secretary-Treasurer of the Board of Directors may be delegated to the Business Manager whose duties shall include recording Board proceedings, preparing financial statements, and publishing in a newspaper of general circulation, as designated by the Board of Directors, such notices and records of the NESC as are required by law.
- 4.5** The Board of Directors shall be responsible for the administrative and fiscal control of the NESC. The Board shall have the authority to employ all personnel, negotiate terms and conditions of employment and terminate employees as provided by law; to establish policy; to adopt a budget; to approve or disapprove monthly and annual financial reports; to approve or disapprove the payment of claims; to approve or disapprove the record of Board proceedings; and to perform any other business as is deemed necessary.
- 4.6** The Advisory Board shall consist of the Superintendent or Chief Executive Officer of each member school district. The Advisory Board will elect a President from the membership and such other officers or agents as is deemed necessary. The responsibility of the Secretary-Treasurer of the Advisory Board may be delegated to the Business Manager whose duties shall be as stated in Article IV, 4.4.
- 4.7** The Advisory Board shall meet with times and dates to be determined by the Director and the Advisory Board President. The President of the Advisory Board may call special meetings as necessary. Notification will be made in sufficient time to permit member presence.
- 4.8** The Advisory Board shall make administrative recommendations to the Board of Directors concerning the employment of personnel, policy, financial, and any other administrative functions as are deemed necessary for the successful operation of the NESC.
- 4.9** No later than the August meeting of the Board of Directors, the Board President shall appoint a six member Steering Committee from its membership with one alternate member. Membership on the committee will include the Board of

Directors' Chairperson, Vice Chairperson, and a minimum of two members from member districts with enrollments of 400 upward, two with enrollments of 251-399, and two with enrollments of 0-250. The December 1 K-12 enrollments of the previous school year will be used. The committee shall meet at their discretion with dates, time and location of meeting selected by the committee. The committee will review the NESC By-Laws on an annual basis and discuss pertinent NESC issues. The committee will make recommendations and suggest updates to the Board of Directors and Advisory Board. Compensation and mileage reimbursement will be paid by NESC at a rate authorized by the Board of Directors.

## **ARTICLE V**

### **Means of Finance**

- 5.1** The NESC will receive, budget, and expend funds available to it from state, federal, and other sources.
- 5.11** Medicaid billing services for member school districts will be funding by assessing every member school district \$500.00. The remaining program costs will be prorated and assessed to the member districts based on the percentage of Medicaid claims submitted for each school district during the period of January 1 through December 31 of each calendar year.
- 5.2** All program costs not supported by state and/or federal sources, with the exception of the Advisory board members' mileage and the Board of Directors' expenses (to include salary, social security and mileage), will be assessed to the member school districts. Administrative, other Governing board expense, Fiscal Services, Capital Acquisitions, and Contingency costs will be distributed fifty percent (50%) on a membership basis and fifty percent (50%) on a special education child count basis. All other program costs will be funded on a special education child count basis. Non-special education services are provided based on a general fund assessment to member districts on a per pupil basis. Also, for billing purposes, operational and other administrative costs will be allocated to each of the services provided. Member school districts shall make monthly payments. Membership will be defined as equal distribution of costs to each member district. Per pupil basis will be defined by the K-12 enrollment as of December 1 of the prior school year. Special education child count basis will be defined as the total number of students identified as being on an Individual Education Program (IEP) as of December 1 of the prior school year. Member school districts will be responsible for submitting this information to the NESC Business Manager at the time it is collected. This By-Law will be reviewed every three years with the next review being in 2018-2019. Any changes resulting from the review will become effective the ensuing school year. (Adopted 11-16-2009)

- 5.3** The Center Base Programs will be funded by tuition. Only those school districts with placements in the program will be charged tuition.

A preliminary tuition rate for the ensuing school year will be calculated prior to April 1. The projected number of Center Base students for the ensuing school year will be divided into the proposed budget total to create a per student base rate. Percentages set by the Board of Directors will then be applied to the per student base rate. Example: The first placement will be 130% of the per student base rate; the second placement will be 75% of the per student base rate per placement; and the third placement plus any additional placements will be 50% of the per student base rate per placement. The Board of Directors will determine the percentage rates on an annual basis prior to May 1.

Tuition will be billed to the participating school districts on a monthly basis. The rate of tuition, per placement, will be prorated in eight monthly payments beginning in October. The October billing will include September and October tuition.

On October 1 the tuition rate will be recalculated using the current number of placements in the program and any changes to the program budget. A final tuition rate for the school year will be recalculated again on April 1 and will be based on total program expenses to date and estimated year end expenses. Tuition exceeding program expenditures will be deferred to the following fiscal year and applied to the Center Base tuition for that year.

School districts hosting NESC Center Base Programs will be paid a facility use fee beginning with the 2006/07 school year. The facility use fee will be twenty-five percent (25%) of the current school year's per student general state aid allocation, excluding any one-time money. The facility use fee will be included in the calculation of the per student base rate. NESC will pay the host school districts the facility use fee on a monthly basis.

- 5.4** Non-member school districts requesting to place students in the Center Base Program will be charged the same rate of tuition as the participating member districts plus a fifteen percent (15%) administrative fee. The non-member school district will be responsible for transportation of the student.
- 5.5** Extended school year services and/or evaluation costs will be assessed to the participating school district on a per service basis.
- 5.6** The Professional Development / Curriculum Coordinator Program will be funded based on a per day rate. The per day rate will be calculated based on total program costs divided by the total number of available days of services. Distribution of days to participating districts will be based on number of elementary classroom units and left to the discretion of the Chief Administrators of the participating districts. Decisions concerning participation of additional districts will be made by Chief Administrators of districts currently participating in the program.



- 5.7 The Reading Recovery Teacher Leader Program will be funded based on total program costs divided by the number of participating districts. Two school districts may share up to one FTE Reading Recovery teacher at a rate equal to one school district. Participating districts will be responsible for all costs associated with the Reading Recovery teacher at the local level. Decisions regarding participation of additional schools, distribution of training slots, purchasing of training slots by non-participating districts, and all other pertinent matters will be made at a meeting of the Chief Administrators of the participating districts.
- 5.8 When a new program is initiated through the Cooperative that involves a multi-year staff employment agreement(s), the schools committing to participation will also be committed to financial responsibility for the duration of the employment agreement(s).
- 5.9 If a member school district chooses to provide additional services to students above those prescribed by the NESC evaluation process the school district will pay the additional cost.
- 5.91 The cost of student evaluations from sources other than NESC Staff will be paid by the member district where the student attends school.

## **ARTICLE VI**

### **Adoption and Amendments**

- 6.1 By-Laws may be adopted or amended at any regular or special meeting by a two-thirds (2/3) membership vote of the Board of Directors provided written notice has been submitted to the membership at the previous regular monthly meeting. Proposed amendments may themselves be amended by a majority vote of the Board of Directors at the meeting, provided such amendments do not alter the intent of the proposed amendment as originally submitted. Amendments shall become effective upon passage, unless the amendment stipulated the date it is to become effective.
- 6.2 A policy or procedure can be adopted at any regular or special meeting by a majority vote of the Board of Directors. Any policy or procedure can be waived by a two-thirds (2/3) membership vote of the Board of Directors.

## **ARTICLE VII**

### **Dispute Resolution**

- 7.1 Disputes arising under this Agreement and these By-Laws shall be referred to the Advisory Board. Any dispute that cannot be resolved by the Advisory Board

shall be submitted to the Board of Directors. The Board of Directors, by majority vote, shall act upon the dispute.

- 7.2** Should the disposition of a dispute by the Board of Directors not be acceptable to any party, or should the Board of Directors fail to get a majority vote relative thereto, the aggrieved party may appeal the dispute or decision to the Circuit Court pursuant to S.D.C.L.1-26.

## ***ARTICLE VIII***

### ***Parliamentary Authority***

- 8.1** The rules contained in the current edition of Parliamentary Procedure At A Glance - New Edition shall govern the NESC in all cases to which they are applicable and in which they are not inconsistent with these By-Laws and any special rules of order the NESC may adopt.