

STATE OF UTAH



OFFICE OF THE LIEUTENANT GOVERNOR

CERTIFICATE OF CREATION

I, GREG BELL, LIEUTENANT GOVERNOR OF THE STATE OF UTAH, HEREBY CERTIFY THAT there has been filed in my office a notice of creation of the SOUTHEAST EDUCATION SERVICE CENTER, dated May 31<sup>st</sup>, 2011, complying with Section 11-13-204, Utah Code Annotated, 1953, as amended.

NOW, THEREFORE, notice is hereby given to all whom it may concern that the attached is a true and correct copy of the notice of creation, referred to above, on file with the Office of the Lieutenant Governor pertaining to the SOUTHEAST EDUCATION SERVICE CENTER, located in Carbon, Emery, Grand and San Juan Counties, State of Utah.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Utah at Salt Lake City, this 31<sup>st</sup> day of May, 2011.

  
\_\_\_\_\_  
GREG BELL  
Lieutenant Governor

**INTERLOCAL COOPERATIVE AGREEMENT  
SOUTHEAST EDUCATION SERVICE CENTER**

This Interlocal Cooperative Agreement is entered into by the Carbon County School District/local board of education, the Emery County School District/local board of education, the Grand County School District/local board of education, and San Juan County School District/local board of education, (collectively referred to herein as the "Parties"), each a political subdivision of the State of Utah, as of the 31st day of May, 2011, for the purpose of establishing the Southeast Education Service Center as an interlocal entity under the Utah Interlocal Cooperation Act, in order that the Southeast Education Service Center may continue to provide services to these school districts and their patrons, as stipulated by state statute and State Board of Education Rules.

**RECITALS**

**WHEREAS**, the Southeast Education Service Center was originally established pursuant to Utah Code §§ 53-7-16(a)(10) and 53-7-18 (1969) to provide services to the school districts in southeastern Utah; and

**WHEREAS**, Utah Code § 53A-3-429, enacted in 2011, expressly authorizes school districts/local boards of education to form regional service centers as interlocal entities under the Interlocal Cooperation Act, and further expressly authorizes school districts/local boards of education to enter into interlocal agreements under Interlocal Cooperation Act to formalize and confirm regional service centers in operation prior to July 1, 2011; and

**WHEREAS**, the regional educational service centers such as the Southeast Education Service Center are also recognized by Utah State Board of Education administrative rules, including Rule R277-706, and

**WHEREAS**, since its establishment the Southeast Education Service Center has functioned to provide a variety of services to its member school districts, and continues to so function; and;

**WHEREAS**, the Utah Interlocal Cooperation Act, Title 11, Chapter 13, Utah Code Annotated (1953, as amended) (the "Act"), permits local governmental units including school districts as political subdivisions of the State of Utah to make the most efficient use of their powers by enabling them to cooperate with other public agencies on the basis of mutual advantage and are authorized to enter into written agreements with one another for joint or cooperative action and to create interlocal entities through such agreements; and

**WHEREAS**, the parties to this Agreement are public agencies as defined in the Interlocal Cooperation Act; and

**WHEREAS**, the establishment of the Southeast Education Service Center as an interlocal entity of the Parties under the Utah Interlocal Cooperation Act will provide a clear legal basis for the operation of the Southeast Education Service Center and will facilitate its continued provision of services to the Parties; and

**WHEREAS**, the Parties are committed to efficiently and effectively providing services to their patrons, employees, and officers; and

**WHEREAS**, the Southeast Education Service Center furthers the interest of and provides a vehicle for the Parties to efficiently and effectively provide various services to the Parties' patrons, employees, and officers;

**NOW, THEREFORE**, the Parties hereby express their commitments and agree as follows:

## **ARTICLE I**

### **DEFINITIONS AND INTERPRETATIONS**

**Section 1.1. Meanings and Constructions.** The terms defined in this section, for all purposes of this Interlocal Cooperative Agreement and any amendments hereto, shall have the meanings herein set forth:

- (a) "Act" shall mean the Interlocal Cooperation Act, Title 11, Chapter 13, Utah Code Annotated (1953, as amended).
- (b) "Interlocal Cooperative Agreement" or "this Agreement" shall mean this Interlocal Cooperative Agreement and any amendments and supplements hereto.
- (c) "SESC" shall mean Southeast Education Service Center

**Section 1.2. Interpretations.** This Agreement, except where the context by clear implication herein otherwise requires, shall be construed as follows:

- (a) definitions include both singular and plural;
- (b) pronouns include both singular and plural and cover both genders; and
- (c) the captions or heading of this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provision, article, or section of this Agreement.

## ARTICLE II

### ESTABLISHMENT OF SOUTHEAST EDUCATION SERVICE CENTER

**Section 2.1. Interlocal Entity Created.** Southeast Education Service Center is hereby established and created as a separate interlocal entity under Section 11-13-203 of the Act.

## ARTICLE III

### PURPOSES AND POWERS

**Section 3.1. Purposes.** The purposes of SESC are as follows:

1. To develop, operate, participate in and/or supervise selected educational programs and services.
2. To provide any such program or services to any public agency, other than a member, or to any other person, to the extent any of the members could provide such programs or services, individually, at a cost thereof as determined by SESC.
3. To allow the member school districts/local boards to cooperate and share certain programs and services which they collectively may implement. Such programs and services may include, but are not limited to, curriculum development, pupil personnel services, professional development, instructional materials and multi-media services, purchasing and financial management, needs assessment, technology utilization, and research and development.
4. To purchase, construct, lease, improve, manage, sell, dispose of and otherwise deal in property, including real, personal or mixed property, of every kind and character whatsoever.
5. To finance the purchase, improvement, development and construction of land and buildings belonging to or to be acquired by SESC.

**Section 3.2. Powers.** In carrying out such purposes, SESC shall have the following powers:

1. To acquire, by gift, grant, purchase, lease, or otherwise, and to hold and dispose of, real and personal property.
2. To sue and be sued;
3. To adopt, amend, and repeal rules, bylaws, policies, and procedures for the regulation of the affairs and conduct of its business;

4. To employ instructional, supervisory and other personnel and to contract for other services.
5. To budget, account for, collect and disburse funds.
6. To apply for, accept, utilize, disburse and expend loans, grants and aid from the state or federal governments.
7. To enter into, assume the obligations of and to enforce contractual obligations and to charge and collect the costs of any program or services rendered by SESC, including, but not limited to, billing for services rendered in accordance with the criteria established by SESC's Board of Directors.
8. To apply for such state and federal grants as are approved by SESC's Board of Directors.
9. To implement, with respect to any program or services, any applicable ruling, regulation, policy, directive, ordinance, plan or program promulgated by any duly authorized administrative or other unit of the federal or Utah state government, including the Utah State Board of Education and to make and file any report or reports required to any such unit, and to make periodic operational reports to the members or public agencies and such other reports as may be appropriate.
10. To enter into agreements and contracts with the members or public agencies and to acquire or purchase property, facilities or services therefrom.
11. To act in the capacities possessed by natural persons and to do everything necessary, advisable or convenient for the accomplishment of any of the purposes set forth above, or which shall at any time appear conducive for the protection or benefit of SESC, and to do all other things incidental to the exercise of these powers.
12. Without limiting any of the foregoing powers, the power to have, exercise and enjoy in furtherance of the purposes set forth above, all of the general rights, privileges and powers granted to interlocal entities by the Act, as it now exists or as amended.
13. To account for State funds as required by the Utah State Board of Education.

#### **ARTICLE IV**

#### **DISTRIBUTION OF POWERS: ORGANIZATION, COMPOSITION AND NATURE OF SESC**

**Section 4.1. Board of Directors.** SESC shall be governed, directed, and managed by a Board of Directors composed of the Superintendents of each school district and the Chancellor of USU/CEU, all of which is a Party to this Agreement.

**Section 4.2. Legislative Body.** The Board of Directors shall be a body which is legislative in nature and as such may function only as a whole, with no member designated with individual authority except as set forth herein with respect to its officers.

**Section 4.3. Powers of the Board of Directors.** The Board of Directors shall have the authority to exercise all of the powers of **SESC**, as set forth above in Section 3.2 or as permitted by law. Such authority includes, but is not be limited to, the following:

1. To select from its membership those persons who shall constitute **SESC**'s officers.
2. To review, and, as necessary, to amend the terms of this Agreement, subject to the limitations set forth herein for such amendments.
3. To review the evaluation procedures and results to assure that the objectives of **SESC** are being met in an efficient and economical manner.
4. To consider and approve **SESC**'s budget and programs.
5. To approve any changes in the operational procedures for the following year.
6. To employ an Executive Director who is appropriately qualified and the salary.
7. To employ such other licensed and non-licensed personnel and establish salaries, fringe benefits, and other conditions of employment as it deems necessary to carry out the function of **SESC**.
8. To establish policies, programs, procedures and controls with respect to the administration and general operation of **SESC**, and any program or service operated by or under the supervision of **SESC**.
9. To approve the acquisition of real and personal property (including facilities), supplies, and the hiring of personnel and other services, as it deems necessary to carry out the function of **SESC**.
10. To establish criteria to bill each participating school district/school board for the services rendered by **SESC**.
11. To determine the amount of charges for any program or service, provided such charges shall be on a uniform basis to each member for similar participation and to adjust such charges from time to time.
12. To invest any funds for **SESC** not needed for immediate cash flow in securities authorized for investment by political subdivisions or municipal corporations under applicable law.

13. To review periodically, at least quarterly, the process and development of existing services and programs.
14. To make appointments to fill any officer vacancies on the Board of Directors that may arise, as set forth herein.
15. To take any other action necessary or desirable to carry out the work of **SESC**.
16. To delegate, by resolution or rule, authority to take action on behalf of **SESC** to its Executive Director, including, but not limited to, the hiring or firing of personnel or other persons and the awarding of contracts after complying with all bidding requirements.
17. To appoint any standing or special committee to facilitate the management of **SESC**.

Such authority shall, however, be limited by the terms of this Agreement, any policy or rule of the Board of Directors, and any applicable statute or regulation validly issued pursuant thereto.

**Section 4.4. Approval for Payment.** Upon approval of this Agreement by each member District's Board of Education, each member has granted approval for payment of its proportionate share of the services of **SESC**.

**Section 4.5. Meetings of the Board of Directors.** The Board of Directors shall meet monthly or as appropriate and as determined by the Board of Directors. The Board of Directors may also call special meetings at such other times during the year as necessary for policy consideration and/or other matters deemed beneficial to operation of the member districts, their schools, or **SESC**.

1. Notice of each regular meeting and each special meeting of the Board of Directors shall be given to each member of the Board in writing a minimum of ten (10) days prior to the meeting date.
2. At all meetings of the Board of Directors, a quorum shall consist of the majority of the members of the Board of Directors. Passage of any motion, ordinance or resolution or conduct of any business must be by a vote of the majority of the quorum of members of the Board of Directors who are then present and voting.
3. Meetings of the Board of Directors shall be conducted in accordance with Robert's Rules of Order.

**Section 4.6. Officers of the Board of Directors.** The Board shall organize annually during the August meeting. The officers of the Board of Directors shall be constituted by a chair. The **SESC** director shall serve as secretary or assign the office manager to this responsibility. The secretary will not be a voting member of the board. The chair will be chosen from the member schools, selected by the following rotation: San Juan, Grand,

Emery, and Carbon.

1. Chair. The Board Chair shall have the usual powers of a chair. The Chair shall conduct all meetings, shall cause official minutes of each meeting to be recorded and filed which contain motions and votes of the Board of Directors. The Chair shall also have the authority to act upon emergency items and requests when operating within general policy guidelines, subject to ratification at a future meeting of the Board of Directors.
2. The chair of the Board of Directors shall serve for a one (1) year term beginning at the August Board meeting.
3. The Executive Director of **SESC** shall serve as the executive officer of the Board of Directors.

**Section 4.7. Board Officer Vacancies.** When a vacancy in the office of the chair occurs by reason of the death of a member, the resignation of a member, or a Board member no longer being employed as a member district's superintendent, the Board of Directors, by a majority vote of its remaining members, shall make an appointment to fill such vacancy for its unexpired term.

**Section 4.8. SESC Executive Director.** The Board of Directors shall employ and appoint an Executive Director who shall be chief administrative officer of **SESC**. The Director is the chief executive officer with the authority to manage and direct the affairs of **SESC** under the policies and regulations established by the Board of Directors. It is the duty of the Executive Director to administer the policies of the Board of Directors and to provide leadership for **SESC**. The Director is the professional consultant to the Board of Directors and submits recommendations regarding the operation of **SESC** to the Board for consideration. The Director coordinates the functions of **SESC** and its personnel, makes decisions regarding functions and actions of **SESC**, appraises the progress of **SESC** and the work of its personnel, serves as an innovator and resource person for the improvement of the program and sets an image for **SESC** as an education leader. The delegation of responsibility and authority for the operation of **SESC** is one of the Executive Director's prime duties. The direct responsibility to the Board of Directors for all functions of **SESC** rests with the Executive Director. Under the direction of the Board, the Executive Director shall be responsible for carrying out all policies, programs, and activities developed, formulated and approved by it. The Executive Director, by direction of the Board, shall have the authority to hire, promote or remove employees or persons on the staff of **SESC** and to exercise such other authority as shall be delegated by the Board of Directors, all subject to its rules and regulations.

## ARTICLE V

### OPERATIONS, FINANCE, EMPLOYMENT AND SUPPLY

**Section 5.1. Method of Operation.** The programs and services, if any, supervised by **SESC** shall be provided in one of three different methods: by **SESC** for all members, by **SESC** through contract with a limited number of participating members, or by a member under an agreement between the member and other participating members. Any other method not mentioned in this section must be approved by a simple majority of the entire Board of Directors.

**Section 5.2. Budgets for Programs and Services.** **SESC** shall adopt a budget for each program or service, if any, operated by **SESC** which, in the case of an ongoing activity, shall be based on a fiscal or calendar year. Such programs or activities need not serve all the members of **SESC**. The income to support the budget shall include appropriations from the State of Utah and its agencies, grants, and/or charges to the participating members, which charges shall be on a uniform basis to each member for similar services, and any other income. The budget for any program or service shall be approved by the Board of Directors. The Board of Directors shall specify the time or times of payment of the charges and the amount of charges in connection with providing programs or services as set forth by the terms of this Agreement.

**Section 5.3. Financing.** In addition to the monies appropriated by the State of Utah and its agencies, each participating district/local board may be billed based on the services that the participating district/local board utilize and request as determined by the Board of Directors.

**Section 5.4. Property of SESC.** All of the funds and property currently held by the Southeast Education Service Center shall be transferred to and become the property and assets of the newly created Southeast Education Service Center Interlocal Entity. All other property or any interest hereafter acquired by **SESC** shall be its sole property and not the property of any member. Neither the voluntary withdrawal nor the expulsion of any member shall entitle it to any claim, interest or ownership therein. Any member district may provide property or an interest in property for the use of **SESC** while retaining ownership of the property or may contribute and transfer ownership of property to **SESC**. In either case, the minutes of the Board of Directors shall set forth the ownership of the property and the terms and conditions, if any, of its use by **SESC**.

**Section 5.5. Damage to SESC Property.** Each participating district/local board will insure or otherwise be financially responsible for any and all **SESC** media and equipment while in its possession. Should any **SESC** media equipment be lost, stolen, or damaged beyond repair while in the custody of the participating member, payment will be made to **SESC** to cover the cost of replacement. Should any **SESC** media or equipment be damaged while in the custody of a participating district, payment will be made to **SESC** to cover the cost of repairs. The extent of damage and liability for such damage shall be determined by the Executive Director.

**Section 5.6. Collection of Charges and Obligations of Members.** The parties to this Agreement shall include in their respective appropriations any charges to which they are obligated under this Agreement, and the parties agree to provide the information required by the Board of Directors and to observe the validly adopted rules of the Board of Directors.

**Section 5.7. Other Financial Provisions.** Contracts for the purchase of property, supplies, construction of public works and employment of personnel shall be made in accordance with applicable law by the board or official of **SESC** given the power under this Agreement to make such contract. Sales of property shall be made in accordance with applicable Utah law and the terms of this Agreement. The Board of Directors may authorize any conveyance to be executed by the Executor Director. **SESC** shall use generally accepted accounting procedures and shall make all financial information available upon request to members of the Board of Directors.

## ARTICLE VI

### PARTIAL AND COMPLETE TERMINATION OF SESC

**Section 6.1. Withdrawal.** Any district which does not wish to continue as a member of **SESC** during the succeeding year shall submit written notice of such intent to the Board of Directors with delivery of said notice to the Chair of the Board, or, in the Chair's absence, to the appointed chair, before July 1 of the fiscal year prior to which it wishes to terminate. A withdrawing district/local board shall be liable for its pro rata share of **SESC's** budget, as approved pursuant to this Agreement, for the fiscal year in which such termination of participation occurs. It is understood that until such time as a member withdraws, its monetary obligation shall continue through the end of the fiscal year in which such termination is effective and shall be enforceable by action of the Board of Directors or its designee. Upon a member's/local board's withdrawal, any contractual obligations or indebtedness **SESC** owes or has towards the withdrawing member's/local board's shall be satisfied in accordance with any previously agreed upon terms. If **SESC** is dissolved within 5 years of a member's/local board's withdrawing, the member's/local board's shall, notwithstanding the member's/local board's prior withdrawal, be entitled to a prorated share of the asset distribution.

**Section 6.2. Duration of SESC.** Southeast Education Service Center shall continue to exist as an interlocal entity under the Act for 50 years after the date this Agreement is initially effective or after the most recent amendment of this Agreement, unless terminated sooner as provided for below.

**Section 6.3. Dissolution of SESC.** **SESC** shall be dissolved upon any of the following events: (1) upon unanimous vote of the Board of Directors; (2) upon the mutual written consent of all, or of all but one, of the parties to this Agreement; (3) in the event, through withdrawal, the number of members in **SESC** is reduced to one; (4) or in the event its existence becomes contrary to law,

**Section 6.4. Distribution of Property.** Upon dissolution of **SESC**, its property shall be distributed in an equitable manner approved by the Board at the time of dissolution, but first taking into consideration the issue of existing indebtedness. For purposes of making such distribution, the Board of Directors shall cause the fair market value of all such property to be fixed by appraisal and shall, insofar as possible, distribute the property thus appraised so that each member receives its distributive share in-kind. Any property

not distributable or reasonably saleable shall be distributed to the State of Utah. The determination of the Board of Directors in connection with such distribution shall be final unless it is arbitrary and capricious.

## ARTICLE VII

### GENERAL PROVISIONS

**Section 7.1. Principal Office.** The principal office of **SESC** shall be located at 685 East 200 South, Price, Utah 84501.

**Section 7.2. Fiscal Year.** The fiscal year of **SESC** shall be July 1 through June 30 of each year unless and until such time is changed by resolution of the Board.

**Section 7.3. Fiscal Agent District.** Subject to its consent to doing so, Carbon County School District shall remain as the fiscal agent district for **SESC**. If Carbon County School District determines to relinquish that responsibility, the Board of Directors shall select one of the other member school districts as the fiscal agent district for **SESC**.

**Section 7.4. Amendment.** Amendments may be made to the Agreement provided the proposed amendment is distributed to all members of the Board of Directors at least thirty (30) days prior to the Board taking action on the proposed amendment. The proposed amendment must be approved by a two-thirds majority of the Board, by resolution approved and duly entered in the minute book of each of the member school districts, and a copy of the amended document must be provided to each of the member districts within thirty (30) days of the amendment being approved.

**Section 7.5. Severability.** If any provision of this Agreement or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or application of this Agreement which can be given effect without the invalid provision or application, and to this end, the provisions of this Agreement are declared to be severable.

**Section 7.6. Construction of Statutes and Rules.** Where any statute or rule is referred to in this Agreement, it shall include such statute or rule as it is from time to time amended, supplemented, re-codified or replaced.

**Section 7.7. Effective Date.** SESC shall come into existence upon the following:

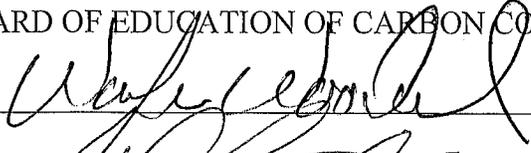
1. The adoption of a resolution by the Board of Education of each member district approving this Agreement as required by the Act and authorizing its execution on its behalf by the parties to this Agreement;
2. The review and approval of this agreement by legal counsel authorized to represent each district, as required by the Act;
3. The execution of this Agreement by each of the members;
4. The filing of this Agreement with the keeper of records for each member district, as required by the Act; and
5. The issuance of a certificate of creation by the lieutenant governor as provided for in Section 11-13-204(4) of the Act.

**Section 7.8. Effect of this Agreement on Members' Obligations.** Neither this Agreement, nor any program or service performed or furnished hereunder, if any, shall relieve any of the parties to this Agreement of any obligation or responsibility imposed upon it by law except to the extent that such performance constitutes a satisfaction of such obligation or responsibility.

**Section 7.9. Execution of Agreement.** This Agreement is executed for and on behalf of the Board of Education of each of the participating districts by its respective Board President. The Board President certifies that the Board of Education has, by resolution, agreed to the terms of this Agreement, has duly entered that action in the minutes of the Board of Education, and has authorized execution of this agreement.

**IN WITNESS WHEREOF**, the parties have signed and executed this Interlocal Cooperation Agreement, after resolutions duly and lawfully passed, on the dates listed below:

BOARD OF EDUCATION OF CARBON COUNTY SCHOOL DISTRICT

By: , Board President

ATTEST: , Business Administrator

APPROVED AS TO FORM:

UTAH STATE OFFICE OF EDUCATION ATTORNEY



BOARD OF EDUCATION OF EMERY COUNTY SCHOOL DISTRICT

By: Laurel Johnson, Board President

ATTEST: [Signature], Business Administrator

APPROVED AS TO FORM:  
UTAH STATE OFFICE OF EDUCATION ATTORNEY

Carol Bear

BOARD OF EDUCATION OF GRAND COUNTY SCHOOL DISTRICT

By: James W. Webster, Board President

ATTEST: [Signature], Business Administrator

APPROVED AS TO FORM:  
UTAH STATE OFFICE OF EDUCATION ATTORNEY

Carol Bear

BOARD OF EDUCATION OF SAN JUAN COUNTY SCHOOL DISTRICT

By: Nelson Yule, Board President

ATTEST: [Signature], Business Administrator

APPROVED AS TO FORM:  
UTAH STATE OFFICE OF EDUCATION ATTORNEY

Carol Bear