



Education Service Unit Coordinating Council

ESUCC Executive Board
Governing Body

Policy Code

ESUCC
6949 South 110th Street
LaVista, NE 68128

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2021-2023

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Article 1

Council Organization

Article 1. Coordinating Council Organization

1001. Philosophy Statement - See “Bold Step” information -

PURPOSE is to enable ESUs to work together effectively, efficiently, and equitably to accomplish common goals and deliver high value to the state’s education system.

Value Proposition: The ESUCC provides advocacy, leadership, structure, support and guidance for Nebraska’s seventeen ESUs and their respective schools.

Adopted On: November 20, 2019

Reviewed On:

1002. Role of ESUCC

The ESUCC was created to coordinate statewide activities of Nebraska's ESUs. The governing body for the ESUCC consists of an administrator representative from each ESU. The statutory description of and the duties of the ESUCC can be found in Nebraska Revised Statutes Sections 79-1245 through 79-1249. According to Section 79-1246:

The ESUCC shall work toward statewide coordination to provide the most cost-effective services for the students, teachers, and school districts in each educational service unit. The council's duties include, but are not limited to:

1. Preparation of strategic plans to assure the cost-efficient and equitable delivery of services across the state;
2. Administration of statewide initiatives and provision of statewide services; and
3. Coordination of distance education.

Adopted On: October 9, 2014

Reviewed On: November 20, 2019

1003. General Functions

General functions of the ESUCC include:

1. Set major directions reflecting guidelines of law, expectations of ESUs and Statewide projects.
2. Provide for financial resources necessary to provide projects/programs.
3. Provide for implementation and evaluation of the statewide projects/programs in terms of the Board's stated goals and to recommend initiation of desired or needed changes.

4. To work with the Nebraska Department of Education as stated in Rule 84 to collaborate the needs of statewide initiatives. (Moved from “Specific Functions”)

Adopted On: October 9, 2014

Reviewed On: November 20, 2019

1004. Specific Functions

1. Specific functions retained by the ESUCC Board include but are not limited to the following:
2. To work with ESU No. 17 on all appointments and dismissals of staff, to determine salaries and working conditions of employees, and to establish procedures for the development of personnel policy.
3. To determine facility needs, as necessary to meet the working needs of all personnel working for the ESUCC.
4. To adopt an annual budget which provides a detailed plan of income and expenditures.
5. To work with the Department of Education as stated in Rule 84 to collaborate the needs of statewide initiatives.
6. To work with the Nebraska Department of Education as stated in Rule 84 to collaborate the needs of statewide initiatives.

Adopted On: October 9, 2014

Reviewed On: November 20, 2019

1005. Authority of and Public Statements by Individual Members

ESUCC members have authority to take official action only when acting as a Board in legal session or as authorized by the Board in legal session.

All business of the Board will be conducted through its meetings. No committee of the Board, member of the Board, or staff member of the ESUCC shall have the power to act for the Board or to give the impression of acting on behalf of the Board or ESUCC without specific approval authorized by the Board.

The Board shall not be bound in any way by any action or statement on the part of any individual Board member or committee of the Board unless that person or committee is specifically authorized to bind the Board.

Adopted On: October 9, 2014

Reviewed On: November 20, 2019

1006. Members, Officers and Terms of Office

ESUCC members consist of one ESU administrator from each ESU. Each member shall serve on the Board during the duration of his/her employment as an ESU Administrator.

The officers of the ESUCC shall be the President, the Past-President, the President-Elect, the Treasurer and the Secretary, who shall be members of the Council/Board.

Adopted On: October 9, 2014

Reviewed On: November 20, 2019

1007. Officers

President:

The Board will biennially elect one of its members to serve as its president. The President of the Board shall preside over all regular and special meetings of the ESUCC Board. He/she shall sign contracts or any other instruments, which the Board has authorized to be executed; and in general he/she shall perform all duties incident to the office of President and such duties as may be prescribed by the Board.

President-Elect:

The Board will biennially elect one of its members to serve as its president-elect. In the absence of the President or in the event of his/her inability to act, the president-elect shall perform the duties of the president, and when so acting, shall have all the powers and be subject to all the restrictions upon the president. The president-elect shall perform such other duties as from time to time, may be assigned to him/her by the Board.

Past President:

Past President of the ESUCC will mentor the President in his/her duties so that his/her transition into the position will go smoothly without any undue disorder. The Past President may perform the duties of the President in the absence of the President and the President-elect.

If the President, Past President and President-elect are absent from a meeting, the Board members present will designate the chair for the meeting.

Treasurer:

The Board will biennially elect one of its members to serve as its treasurer. His/her duties shall be:

1. Custodian of all funds of the ESUCC Board.
2. Attend or be represented at all meetings of the ESUCC Board.
3. Submit in writing a monthly report of the state of finances.
4. Ensure that money paid out by the ESUCC has been approved by the Board or appropriate staff member per policy or Board directive.

Secretary:

The Board will biennially elect one of its members to serve as its secretary.

The ESUCC Secretary may sign contracts or any other instruments, which the ESUCC Board has authorized to be executed and in general perform all duties incident to the office of ESUCC Secretary and such duties as may be prescribed by the ESUCC Board.

Adopted On: October 9, 2014

Reviewed On: November 20, 2019

1008. Committees

Committees shall not have legislative or administrative functions, except as specifically authorized by the Board. All matters except those of routine or emergency nature may be referred to a committee before action by the Board.

The Board will have Standing Committees. The Board may have additional temporary, special, or ad hoc committees which shall be appointed by the President.

The President, with input from the Board members and/or Executive Director, shall appoint the members and chair of each committee.

Summaries of all committee meetings shall be reported to the Board for its information, recording and possible action, as directed by the Board.

Standing Committees

Executive Committee - Consists of President, Past-President, President-Elect, Treasurer, and Secretary. Review issues regarding the presentation and tracking of the General Fund Budget.

Information Services Committee – Reviews any technology related issues including but not limited to BlendEd initiative and those PD affiliates (Technology and Learning with Technology (TLT) and Network Operations Committee (NOC)

Educational Resources Committee - Review efforts by Professional Development Organization (PDO) and other professional development issues. Reviews statewide initiatives (SRS, Project para, ILCD) as well as other Special Education issues in state.

Legal Committee – Review issues regarding federal, state, and local legislation or regulations, NSBA and NASB resolutions, and issues of interest regarding other governmental bodies. Reviews the progress and future needs of Nebraska Coop Project. Reviews and recommends ESUCC Policy.

Special Appointments

Members of the Board may be appointed to represent the Board on joint committees with other agencies or as advisors to other agencies. The President or Executive Director as designee will make such special appointments.

Adopted On: October 9, 2014
Reviewed On: November 20, 2019

1009. Orienting New Council Members

The Executive Director and the Board will assist each new member in understanding the Board's functions, policies, procedures, and operation of the ESUCC.

Adopted On: October 9, 2014
Reviewed On: November 20, 2019

1010. Board Member Employment and Conflicts of Interest

No member of the Board shall be employed by the ESUCC.

Members of the Board shall comply with the rules and procedures set forth in the Nebraska Political Accountability and Disclosure Act (the "Act") and ESUCC policy in connection with employing family members, having an interest in a contract with the ESUCC, or otherwise having a conflict of interest with the ESUCC. The Act is the governing law and trumps any conflicts created by these policies. Any questions regarding conflicts of interest should be directed to the Executive Director, who may then confer with legal counsel and/or the Board.

Adopted On: October 9, 2014
Reviewed On: November 20, 2019

1011. Formulation and Adoption of Policies

All Board policies shall be adopted or amended at a public meeting and recorded in the minutes of the Board. All current policies will be posted on the ESUCC website and updated as added or amended by the Board so that the public and employees may be notified of such changes.

At the direction of the Board, the Executive Director will prepare a policy in the wording and codification with which they are to be entered into the official policy manual and present them for the approval of the Board.

Adopted On: October 9, 2014
Reviewed On: November 20, 2019

1012. Formulation/Adoption of Administrative Regulations

The Board delegates to the Executive Director the authority to create specific regulations or procedures to guide ESUCC staff in the successful completion of their duties. These administrative regulations must be in every respect consistent with the policies adopted by the Board. The Board will formulate and adopt administrative regulations when specific state laws require Board adoption, and they may do so at any time or when the Executive Director recommends Board adoption.

Adopted On: October 9, 2014
Reviewed On: November 20, 2019

1013. Suspension of Policies and Regulations

The Board may suspend any policy, regulation or procedure upon a vote of the members of the Board.

Adopted On: October 9, 2014
Reviewed On: November 20, 2019

1014. Control of Funds

The ESUCC will maintain fiscal operational procedures to ensure that public funds are expended for the purposes for which they were appropriated, in alignment toward the goals of the ESUCC.

Adopted On: October 9, 2014
Reviewed On: November 20, 2019

1015. Meetings

1. Open Meetings

The formation of policy is public business and will be conducted openly in accordance with the Nebraska Open Meetings Act.

2. Types of Meetings

- a. Regular Meetings: The council shall generally hold its regular meetings as adopted in an annual schedule of meetings.
- b. Special and Emergency Meetings: Special and emergency meetings may be called as provided by law.
- c. Work sessions and retreats. The council may schedule informal work sessions between regular meetings in order to provide council members and administrators with the opportunity to plan, research, and engage in discussion without taking immediate action.
- d. Topics for discussion and study will be announced publicly.

Notice

The council shall give reasonable advance publicized notice of the time and place of each of its meetings, which generally will be 48 hours or more in advance of the meeting. Such notice shall be transmitted to all members of the council and to the public. Notice of regular and special meetings shall be published in a newspaper of general circulation within the area of the ESUCC and, if available, on the newspaper's website. Newspapers of general circulation shall be those that serve more than one county. Such notice shall contain a statement that the agenda shall be readily available for public inspection at the administration office of the ESUCC during the normal business hours. In addition, the executive director is authorized, but not required, to publish the notice of any meeting on

the ESUCC's website, the website of any member ESU, or by any other appropriate method designated by the council..

When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes of the meeting, and that any formal action taken in such meeting shall pertain only to the emergency. Complete minutes of such emergency meetings specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public no later than the end of the next regular business day.

3. Weather Delays

In the event of inclement weather which makes it dangerous or unreasonable for council members or members of the public to attend a meeting for which notice has already been given, such meeting may be postponed by the council president. The council will communicate the delay to members of the public by posting it on the ESUCC's website. When possible, the council president and executive director will attempt to communicate the information to local media members and business owners to assist in notifying the public of the delay. Notice of the date, time, and location of the postponed meeting will be advertised as required in the "Notice" section above.

4. Minutes

- a. The council shall keep minutes of all meetings showing the time, place, members present and absent, the method(s) and date(s) of the meeting notice and the substance of all matters discussed.
- b. Any action taken on any question or motion duly moved and seconded shall be by roll call vote of the council in open session, and the record shall state how each member voted, or if the member was absent or not voting.
- c. The minutes of all meetings and evidence and documentation received or disclosed in open session shall be a public record and open to public inspection during normal business hours and may be published on the ESUCC's website.

5. Committees

Meetings of committees of the ESUCC are generally not "meetings" pursuant to the Nebraska Open Meetings Act, even if those meetings observe the formalities required by Act. in the event that a quorum of the Board members attend, or if the committee or subcommittee holds hearings, makes policy or takes formal action on behalf of the Board, this policy shall govern the conduct of those meetings.

Adopted On: February 4, 2021

Reviewed On: January 12, 2021

1016. Time and Place of Meetings

Regular meetings ordinarily will be held on the first Wednesday of the month unless advertised differently. Date, time and place of meetings are at the discretion of the Board.

Members of the Council will be notified of meetings via publication of the agenda on the ESUCC website. The Administrative Assistant will also keep a long-term schedule of future meetings.

Notice of special meetings must be delivered in writing to each member of the Board in a reasonable time before the meeting. Notice by electronic means, such as e-mail or SMS/text messaging, shall constitute written notice pursuant to this policy. In case of emergency, the President shall have power to call a special meeting on less than 48-hours' notice.

A Board member shall be considered notified under this policy if the ESUCC has made reasonable effort to notify by delivering notice in writing via email to each Board member.

Adopted On: October 9, 2014

Reviewed On: November 20, 2019

1017. Participation by the Public

All meetings of the Board shall be held in accordance with the Nebraska Open Meetings Act.

The Board shall make available at the meeting, for examination by members of the public, at least one copy of all reproducible written material to be discussed or received in the open session of the meeting.

The Board may make and enforce reasonable rules and regulations regarding the conduct of persons attending, speaking at, videotaping, photographing, or recording its meetings. The Board may not forbid public participation at all meetings, but the Board is not required to allow citizens to speak at each meeting.

The Board shall not require members of the public to identify themselves as a condition for admission to the meeting, nor shall such body require that the name of any member of the public be placed on the agenda prior to such meeting in order to speak about items on the agenda.

Individuals who wish to address the Board shall be governed by these and any other such rules and regulations adopted by the Board:

1. Fill out a Request to be Heard form and provide it to the person or persons designated to assist the Board in collection of such forms.
2. In seeking the floor, individuals will state their name and place of residence and indicate whether they speak for themselves or for an organization.
3. The Board will generally allow a total of 30 minutes for the presentation of all public comments. Individuals may speak only one time, and must limit comments to around 5 minutes. If there are more than 6 individuals who wish to address the board, the 30 minutes will be divided equally among the number of speakers. These time limits may be changed by a majority vote of the Board members in attendance to extend the time for a specific item or speaker.

Adopted On: October 9, 2014

Reviewed On: November 20, 2019

1018. Agenda Construction and Meeting Materials

The Executive Director, in cooperation with the President of the Board, shall prepare an agenda prior to each Board meeting. Individuals who wish to have items considered for addition to the agenda for a regularly-scheduled Board meeting must contact the President or Executive Director at least one week prior to the Board meeting with their request.

The purpose of the Consent Agenda is to allow for the efficient disposal of non-controversial Board agenda items. The Administrator, with the consent of the Board President, may place items on the Consent Agenda. Any board member can direct a specific item to be removed from the consent agenda and will be considered as regular business. Consent Agenda could include but not limited to: Minutes, Personnel changes, Disposals, COOP Contracts.

The regular order of business for ESUCC Board meetings shall generally be as follows, but the order may be amended at any time as deemed appropriate by the Board:

Roll Call

1. Approval of Consent Agenda
2. Executive Reports
 - a. Executive Director
 - b. Executive Committee
 - c. Treasurer's Report
3. Project and Committee Reports
4. Other as necessary

Support Materials

In addition to the agenda, the Executive Director shall prepare such supplementary reports, summaries or other support materials which aid the Board in the conduct of its meeting or as required by the items to be addressed on the agenda. A copy of such materials will be available for public inspection at the meeting.

Display of Meeting Material

When space and technology permit and at the request of the Board, reports and other written material to be discussed may be conveniently displayed.

Adopted On: October 9, 2014

Reviewed On: November 20, 2019

Updated ON: March 3, 2022

1019. Minutes

Minutes of each meeting will be approved with corrections as necessary at the next regular meeting of the ESUCC. Minutes, along with all reports or documents cited in the minutes, become the official record of the proceedings of the Board. A concise summary of the minutes and the list of claims will be published as required by law. A copy of all minutes will be maintained and available for public inspection in the office of the Executive Director.

It will be the duty of the Executive Director to make arrangements for the taking of minutes for Board meetings.

It will be that designee's duty to make sure they record the following actions of the meeting:

- Kind of meeting, "regular," "adjourned," "special," or otherwise stated
- Name of the organization or assembly
- Date, time and geographic location of meeting
- Time of Call to order
- Roll Call
- Changes to agenda (if any)
- Whether the minutes of the previous meeting were read and approved, or approved as corrected, and the date of the meeting if other than a regular business meeting
- All action taken by the ESUCC Board, including the wording of all motions, and the roll call vote on each motion
- The wording of the motion, time of entrance, and time of exit from any executive session of the Board
- Time of adjournment

The minutes will be permanently kept on file with ESUCC Executive Director.

Adopted On: October 9, 2014

Reviewed On: November 20, 2019

1020. Annual Organizational Meeting

An organizational meeting of the ESUCC shall be held in July or August each year for the purpose of seating any new members and electing officers.

The following procedures are for election of officers and other business to take place at the annual organizational meeting of the Board:

1. After new members recite the oath of office, the Board will elect from its members a President, Vice President-Elect, Secretary, and Treasurer, all of whom will assume office at the organizational meeting.
2. The Board's legal counsel or other designee will act as chair for the election of a President.
3. The President will assume the chair immediately upon his or her election.

Adopted On: October 9, 2014

Reviewed On: November 20, 2019

1021. Meeting Conduct & Quorum

A majority of the Board shall constitute a quorum at any meeting of the Board. Action by the Board regarding the business of the ESUCC may be taken only when a quorum is in attendance.

The adjournment of a meeting may be executed without a quorum. An affirmative vote of a majority of the votes cast shall be sufficient to pass a motion, or take action, unless law or Board policy specifically requires a vote of a greater number. It is the responsibility of each Board member to attend Board meetings and notify the Board Secretary or Executive Director when they are unable to attend.

Adopted On: October 9, 2014

Reviewed On: November 20, 2019

1022. Voting

Board members present shall vote on decisions requiring Board action based on the following:

1. All motions must be voted on with a roll call vote.
2. Each member present must vote on all matters unless excused by the chair or required to abstain because of possible conflict of interest.
3. Voting by proxy is not allowed.

Adopted On: October 9, 2014

Reviewed On: November 20, 2019

1023. Budget Hearing

The ESUCC shall each year conduct a public hearing on its proposed budget statement.

Adopted On: October 9, 2014

Reviewed On: November 20, 2019

1024. Relationship with Attorney

The ESU Coordinating Council (ESUCC) Board shall choose an attorney in dealing with legal issues.

The Executive Director and the board president shall have the authority to contact the board's attorney on behalf of the ESUCC Board. Members of the staff may have access to the Board's legal counsel only at the specific direction of the Administrator. Individual board members other than the president may not contact the attorney on behalf of the board without the approval of the Executive Director, board president or a majority of the board. Any board member who contacts the school attorney without board approval may be personally responsible for any legal fees incurred as a result of the unapproved contact.

The Executive Director will, to the extent permitted by law, keep the board informed of matters in which the attorney is involved.

Adopted on: November 20, 2019

Reviewed on:

1025. Legislative and Governmental Relations

The board may contract with an outside entity that will assist member ESUs in strategically planning legislative initiatives that support the mission of the ESUCC and its member service units.

Adopted on: November 20, 2019

Reviewed On:

Article 2

Public Relations

2001. Relation With Other State Government

The ESUCC intends that its positions on proposed legislation be effectively communicated to the Nebraska Legislature. The Board may also direct the Executive Director to prepare legislation for introduction on its behalf.

The Executive Director is primarily responsible for relations with the Nebraska Legislature and will be designated to serve as the registered lobbyist for the ESUCC. The Council may, but is not required to, retain the services of other specialists in governmental relations to assist the ESUCC in achieving its mission.

Adopted On: October 9, 2014

Reviewed On: January 14, 2020

2002. Relation With Private Schools

The ESUCC recognizes the need for and the worth of cooperative relationships with other schools, colleges and educational organizations, including private and parochial schools. It encourages members of the ESUCC to work with their counterparts in such organizations on educational matters within the framework established by the statutes, state regulations and Board policy.

Adopted On: October 9, 2014

Reviewed On: January 14, 2020

2003. Concept of Administration

The ESUCC system is responsible for the direction, coordination and management of staff in their efforts to reach educational goals adopted by the ESUCC within the guidelines established by Board policy, law and employee agreements.

To demonstrate leadership, to resolve the inevitable problems, and to overcome obstacles which will arise both inside the ESUCC and in its relations with the community, the Board expects the administration to specialize in

1. decision making and communication;
2. planning, organizing, implementing and evaluating; and

3. coordinating and guiding the various centers of authority and responsibility within the ESUCC and the community so as to enable people to do things together for education that they might not be able to do separately.

Adopted On: October 9, 2014

Reviewed On: January 14, 2020

2004. ESUCC Executive Director

The administration of the ESUCC in all of its aspects, except as otherwise provided by law, is delegated to the Executive Director who shall carry out the executive and administrative functions in accordance with the policies adopted by the ESUCC. The execution of all decisions made by the Board concerning the internal operation of the ESUCC shall be delegated to the Executive Director.

The Executive Director is primarily responsible for relations with our Legislative and Government Relations specialist and the Nebraska Legislature.

Adopted On: October 9, 2014

Reviewed On: January 14, 2020

2005. Distance Education Director

The Board will appoint a distance education director or contract with an ESU to provide such services under the direction of the Board.

The general duties of the Distance Education Director shall be contained in the job description maintained by ESUCC.

Adopted On: October 9, 2014

Reviewed On: January 14, 2020

2006. Project Directors

The ESUCC shall have Project Directors organized and structured in such a way as to provide effective and efficient implementation of ESUCC policies, administrative rules and regulations. Project Directors may be appointed by the ESUCC or may be employed via contracting with ESUs.

Adopted On: October 9, 2014

Reviewed On: January 14, 2020

2007. ESUCC Staff

Every administrative position and all other staff positions shall have a written job description developed by the Executive Director, or at the direction of the Executive Director, in coordination with anyone the Executive Director deems appropriate. The Executive Director is responsible for maintaining updated job descriptions for all ESUCC staff members.

Adopted On: October 9, 2014
Reviewed On: January 14, 2020

2008. Staff Member Conflict of Interest

Any employee who meets the conditions set forth in this policy shall be deemed to have a business or financial conflict of interest.

1. Definitions. For the purposes of this policy:
 - a. Business with which an employee is associated shall include the following:
 - i. A business in which the employee or a member of his or her immediate family is a partner, a limited liability company, or serves as a director or an officer.
 - ii. A business in which the employee or a member of his or her immediate family is a stockholder in a closed corporation with stock worth one thousand dollars or more, or the employee or his or her immediate family owns more than a five percent equity interest or is a stockholder of publicly traded stock worth more than ten thousand dollars or more at fair market value, or which represents more than ten percent equity interest. This shall not apply to publicly traded stock under a trading account if the employee reports the name and address of the company and stockbroker.
 - iii. A business association shall be defined to include an individual as a partner, limited liability company member, director or officer, or a business in which the individual or member of the immediate family is a stockholder.
 - b. Immediate family member or member of the immediate family shall mean a child residing in an individual's household, a spouse of an individual, or an individual claimed by that individual or that individual's spouse as a dependent for federal income tax purposes
2. Contracts with the ESUCC.
 - a. No employee or member of his or her immediate family shall enter into a contract valued at two thousand dollars or more, in any one year, with the ESUCC unless the contract is awarded through an open and public process that (1) includes prior public notice and (2) allows the public to inspect during the ESUCC's regular business hours the proposals considered and the contract awarded.
 - b. The existence of any conflict of interest in any contract in which the employee has an interest and in which the ESUCC is a party, or the failure to make public the employee's interest known, may render a contract null and void.
 - c. The prohibition of a conflict of interest or requirement for public notice shall apply when the employee, or his or her immediate family has a business association with the business involved in the contract or will receive a direct pecuniary fee or commission as a result of the contract.
3. Employing Members of the Immediate Family.
 - a. An employee may employ or recommend or supervise the employment of an immediate family member if:

- i. The employee does not abuse his or her position.
 - 1. Abuse of official position shall include, but not be limited to, employing an immediate family member:
 - 2. who is not qualified for and able to perform the duties of the position;
 - 3. for any unreasonably high salary;
 - 4. who is not required to perform the duties of the position.
 - ii. The employee makes a reasonable solicitation and consideration of applications for employment.
 - iii. The employee makes a full disclosure on the record to the governing body of the ESUCC and to the secretary of the Council.
 - iv. The Council approves the employment or supervisory position.
 - b. The employee shall not terminate the employment of another employee so as to make funds or a position available for the purpose of hiring an immediate family member
- 4. Gifts, Loans, Contributions, Rewards, or Promises of Future Employment
 - a. No employee shall offer or give to the following persons anything of value, including a gift, loan, contribution, reward, or promise of future employment, based upon an agreement that a vote, official action, or judgment would be influenced thereby:
 - i. a public official, public employee, or candidate.
 - ii. a member of the immediate family of an individual listed in Subparagraph 'a' above.
 - iii. a business with which an individual listed in Subparagraph (1) or (2) above is associated.
 - b. No employee shall solicit or accept anything of value, including a gift, loan, contribution, reward, or promise of future employment based on an agreement that the vote, official action, or judgment of the employee would thereby be influenced.
 - c. An employee shall not use or authorize the use of his or her public employment or any confidential information received through the public employment to obtain financial gain, other than compensation provided by law, for himself or herself or a member of his or her immediate family, or a business with which he or she is associated.
 - d. An employee shall not use or authorize the use of personnel, resources, property, or funds under that person's official care and control other than in accordance with prescribed constitutional, statutory, and regulatory procedures or use such items for personal financial gain, other than compensation provided by law.
- 5. Conflict of Interest Relating to Campaigning or Political Issues
 - a. Except as provided below, an employee shall not authorize the use of ESUCC personnel, property, resources, or funds for the purpose of campaigning for or against the nomination or election of a candidate or the qualification, passage, or defeat of a ballot question.
 - b. This does not prohibit an employee from discussing and voting upon a resolution supporting or opposing a ballot question.
 - c. This does not prohibit an employee under the direct supervision of a public official from responding to specific inquiries by the press or the public as to the board's opinion

regarding a ballot question or from providing information in response to a request for information.

- d. An employee may present his or her personal opinion regarding a ballot question or respond to a request for information related to a ballot question; but in so doing, the person should clearly state that the information being presented is his or her personal opinion and is not to be considered as the official position or opinion of the ESUCC. However, this shall not be done during a time that the individual is engaged in his or her official duties.
6. Conflict. To the extent that there is a conflict between this policy and the Nebraska Political Accountability and Disclosure Act (“Act”), the Act shall control.

Adopted On: October 9, 2014
Revised on: September 7, 2018
Reviewed On: January 14, 2020

2009. Line of Responsibility

The main operational line of the organization for the ESUCC shall be developed by the Executive Director and approved by the ESUCC Board.

The ESUCC hereby identifies the Executive Director as its primary designee and vests him/her with the power to take action on the ESUCC’s behalf whenever necessary. The Executive Director may, in turn, delegate portions of that responsibility to other individuals as he/she deems appropriate.

Adopted On: October 9, 2014
Reviewed On: January 14, 2020

2010. Control and Communications System

The Executive Director is directed to establish and maintain a system for preserving and making accessible the policies adopted by the ESUCC and the administrative rules and regulations needed to put them into effect. An updated copy of all such policies, rules, and regulations shall be kept current in the office of the Executive Director and also maintained digitally.

Adopted On: October 9, 2014
Reviewed On: January 14, 2020

2011. Executive Director Evaluation Policy

The Educational Service Unit Coordinating Council recognizes the importance of evaluation for the purpose of improving job performance and for meeting job performance goals. The Executive Director Evaluation promotes focused professional activity and professional growth, which, in turn, improves competency leading to improved outcomes. Therefore, the Executive Director will be appraised using the written evaluation plan and procedures approved by the ESU Coordinating Council.

The ESU Coordinating Council will conduct an evaluation of the job performance of the Executive Director according to applicable law. The ESU Coordinating Council will follow timelines and procedures set by the ESUCC Executive Committee.

The Executive Director will provide a self-evaluation.

Specific annual goals or initiative areas will be reviewed as part of the annual Executive Director's evaluation.

The ESUCC Executive Committee will develop a written summary of Coordinating Council's-submitted evaluations, including any strengths, deficiencies, and growth opportunities of the Executive Director, and place it in the Executive Director's personnel file to be incorporated into the next cycle of evaluations.

Approved On: October 2, 2019

Reviewed on: January 14, 2020

2012. Budget Document

The ESUCC Executive Director is responsible for assembling the annual budget document. The budget shall be prepared on printed forms as provided by the Nebraska Department of Education and the auditor of public accounts. The Board shall adopt the budget after the public hearing, and the Executive Director shall ensure that it is submitted to the proper authorities in accordance with Nebraska statute.

Adopted On: October 9, 2014

Reviewed On: January 14, 2020

2013. Public Review of Budget

At a legally constituted meeting, the Board shall hold a public hearing on the budget statement subsequent to publication.

Notice shall include the place and time of the public hearing and a summary of the proposed budget statement. Distribution of the information will be made through posting at the office of the Executive Director, meeting host site, and ESUCC website.

Short forms or summaries of the budget document will be available to the public from the time of the official notice of the hearing until and including the hearing itself.

The proposed annual budget statement shall be presented to the public with recommended expenditures, anticipated receipts and a summary of significant changes from the previous budget. The public shall be given an opportunity to comment on the proposed budget.

Adopted On: October 9, 2014

Reviewed On: January 14, 2020

2014. Budget Administration

The ESUCC annual budget, as adopted, shall become the spending plan for the ESUCC. The Executive Director, ESU No. 17 Administrator, or designee is authorized to commit expenditures as approved by ESUCC policies, regulations and procedures and in accordance with the budget document. The Executive Director and/or ESU No. 17 Administrator are authorized to sign documents in the exercise of the necessary course of business activities.

Adopted On: October 9, 2014

Reviewed On: January 14, 2020

2015. Grants

Project/Program administrators are responsible for establishing and maintaining financial records to ensure all grant requirements and ESUCC business practices are followed. The project/program administrator is responsible for carrying out the program in accordance with the guidelines accompanying the special grant as well as all program reports.

Adopted On: October 9, 2014

Reviewed On: January 14, 2020

2016. Project/Program Contracts

Project/Program administrators are responsible for establishing and maintaining financial records to ensure all contract requirements and ESUCC business practices are followed.

Adopted On: October 9, 2014

Reviewed On: January 14, 2020

Article 3

Services and Operations

3001. Master Services Agreement

The ESUCC will determine annually the various services and rates that ESUs will be charged through the Master Service Agreement.

In its current organizational form, the ESUCC uses a master services agreement to document each ESU's participation in the cooperative projects of the ESUCC. The ESUCC Board has direct control over each project, with ESU 17 providing staffing services for ESUCC through a staffing services agreement.

Adopted On: October 9, 2014

Reviewed On: February 6, 2020

3002. Funds Management

The Board is responsible for the control of all funds of the ESUCC. Funds available to the Executive Director shall be carefully monitored by the Treasurer and the President to ensure that they are expended for the purposes for which they were appropriated and that the ESUCC receives an appropriate return for its expenditures. All receipts shall be accounted for and reported monthly to the Executive Director. Monthly financial reports shall be provided to and reviewed by the Board.

Any checks and other monetary instruments issued by ESUCC which remain outstanding after issuance shall be reviewed and assessed under the Nebraska Uniform Disposition of Unclaimed Property Act. The Executive Director will make a reasonable effort to resolve outstanding checks even if they are not subject to the Act.

Adopted On: October 9, 2014

Reviewed On: February 6, 2020

3003. Financial Report

It is the responsibility of the treasurer, with the assistance of the Executive Director, to gather relevant data and present to the board monthly.

Adopted On: October 9, 2014

Reviewed On: February 6, 2020

3004. Depository

The Business Manager of the ESUCC shall deposit funds in depositories designated from time to time by the ESUCC Board.

Adopted On: October 9, 2014
Reviewed On: February 6, 2020

3005. Annual Financial Report

The Executive Director shall ensure that the Nebraska Department of Education annual financial report and all other financial reports are filed according to state law.

Adopted On: October 9, 2014
Reviewed On: February 6, 2020

3006. Periodic Audit

The ESUCC shall retain a certified public accountant to perform an annual audit of all financial records which are maintained directly or indirectly in the administration or management of the ESUCC and its projects.

The ESUCC shall cause the original copy of each audit to be filed in the office of the Auditor of Public Accounts. The ESUCC shall also provide copies of audits to members of the Board.

Adopted On: October 9, 2014
Reviewed On: February 6, 2020

3007. Purchasing

Purchase orders will be written solely under the direction of the Executive Director. The process and procedure of purchasing professional services for the ESUCC will be determined in the sole discretion of the Board or as delegated to the Executive Director.

1. Contract Signing Authority

The Executive Director is authorized to sign documents in the exercise of the necessary course of business activities to the full extent authorized by law.

2. Soliciting Prices

It shall be the general policy of the ESUCC to ask for bids or quotes on large orders of supplies and equipment, new construction, or repair and renovation, if such estimated amount shall exceed \$10,000, or as otherwise required by statute. When in the judgment of the ESUCC Board there is no apparent benefit in obtaining bids or quotes, the Board may waive the requirement as permitted by law. The bidding requirement shall not be waived for capital construction. Bids will be awarded to the lowest responsible bidder.

The ESUCC reserves the right to reject any or all bids. The Executive Director or his designee shall prepare a notice to be submitted to companies for bids on items of supplies and equipment.

It shall also be the general policy of the ESUCC to review the needs for bids, quotations or prices periodically on all outside services or contracts.

3. Performance Guarantees

Vendors shall meet the specifications requested by the ESUCC which may include but are not limited to:

- a. Functional requirements and performance guarantees;
- b. Warranty; and
- c. Required service.

Vendors not satisfactorily meeting requirements as established by the ESUCC may be removed from the vendor list indefinitely or for a period of time to be recommended by the Business Manager and approved by the Executive Director. Nothing in any ESUCC policy shall be construed to guarantee any contract with any vendor.

4. Requisitions

The Executive Director, in conjunction with any staff member the Executive Director deems appropriate, shall develop procedures and instructions by which staff will request goods and services.

Adopted On: October 9, 2014

Reviewed On: February 6, 2020

3008. Fiscal Management for Purchasing and Procurement Using Federal Funds

1. Applicability of Policy

- a. This policy applies only to non-construction related purchases undertaken with federal funds which are subject to the federal Uniform Grant Guidance (UGG) and other applicable federal law, including but not limited to the Education Department and General Administration Regulations (EDGAR) and the United States Department of Agriculture (USDA) regulations governing school food service programs. In the event this policy conflicts or is otherwise inconsistent with mandatory provisions of the UGG, EDGAR or other applicable federal law, the mandatory provisions of the laws shall control.
- b. All other non-construction purchases will be governed by the Board's general purchasing policy, which can be found earlier in this subsection. In the event of a conflict between state and federal law, the more stringent requirement shall apply.
- c. This procurement policy shall govern all purchasing activities that relate to any aspect of the National School Lunch and Breakfast Programs. The ESUCC's goal is to fully implement all required procurement rules, regulations and policies set forth in 2 CFR 200, 7 CFR parts 210, 3016 and 3019, and by the Nebraska Department of Education.

2. Procurement System

The ESUCC maintains the following purchasing procedures.

a. Responsibilities for Purchasing

The authority to make purchases shall be governed by the ESUCC's purchasing policy, which can be found elsewhere in this section. Except as otherwise provided in the ESUCC's purchasing policy, the acquisition of services, equipment, and supplies shall be centralized in the administration office under the supervision of the Executive Director of schools, who shall be responsible for developing and administering the purchasing program of the school ESUCC. Purchases or commitments of ESUCC funds that are not authorized by this policy will be the responsibility of the person making the commitment.

b. Methods of Purchasing

The type of purchase procedures required depends on the cost of the item(s) being purchased.

i. Purchases up to \$10,000 (Micro-Purchases)

Micro-purchase means a purchase of supplies or services using simplified acquisition procedures, the annual aggregate amount of which does not exceed \$3,500. Micro-purchases may be made or awarded without soliciting competitive quotations, to the extent ESUCC staff determine that the cost of the purchase is reasonable. For purposes of this policy "reasonable" means the purchase is comparable to market prices for the geographic area.

To the extent practicable, the ESUCC distributes micro-purchases equitably among qualified suppliers. The ESUCC will follow its standard policy on purchasing, which can be found earlier in this subsection.

ii. Purchases between \$10,000 and \$250,000 (Small Purchase Procedures)

Small purchases are purchases that, in the aggregate amount, is more than \$3,500 and less than \$150,000 annually. For small purchases, price or rate quotes shall be obtained in advance from a reasonable number of qualified sources as detailed in the ESUCC's standard policies on purchasing and on bid letting and contracts, which can be found earlier in this subsection.

iii. Purchases Over \$250,000

1. Sealed Bids (Formal Advertising)

For purchases over \$150,000, the ESUCC will generally follow the bidding process outlined in the board's policy on Bidding for Construction, Remodeling, Repair or Site Improvement.

2. Contract/Price Analysis

The ESUCC performs a cost or price analysis in connection with every procurement action in excess of \$150,000, including contract modifications. The ESUCC will make an independent estimate of costs prior to receiving bids or proposals.

3. Noncompetitive Proposals (Sole Sourcing)

4. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

The item is available only from a single source;
The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
The federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the ESUCC; or
After solicitation of a number of sources, competition is determined inadequate.

Noncompetitive proposals may only be solicited with the approval of the Executive Director or the board. Sufficient and appropriate documentation that justifies the sole sourcing decision must be maintained by the Executive Director or designee.

A cost or price analysis will be performed for noncompetitive proposals when the price exceeds \$150,000.

- c. Use of Purchase (Debit & Credit) Cards
ESUCC use of purchase cards is subject to the policy on purchase cards which can be found elsewhere in this subsection.
- d. Federal Procurement System Standards
The ESUCC's procurement transactions will be conducted in a manner providing full and open competition consistent with 2 C.F.R. §200.319.
The ESUCC will maintain and follow general procurement standards consistent with 2 C.F.R. §200.318.
- e. Debarment and Suspension
The ESUCC awards contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

The ESUCC may not subcontract with or award subgrants to any person or company who is debarred or suspended. For all contracts over \$25,000 the ESUCC verifies that the vendor with whom the ESUCC intends to do business with is not excluded or disqualified. 2 C.F.R. Part 200, Appendix II(1) and 2 C.F.R. §§ 180.220 and 180.300.

The ESUCC will verify debarment or suspension by revising the excluded parties list on SAM.gov, collecting a certification through the bidding process, and/or by including a debarment and suspension provision in the bid and contract documents. The Executive Director or his/her designee shall be responsible for such verification.

- f. Settlements of Issues Arising Out of Procurements
The ESUCC alone is responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues

arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the ESUCC of any contractual responsibilities under its contracts. Violations of law will be referred to the local, state, or federal authority having proper jurisdiction.

3. Conflict of Interest and Code of Conduct

- a. Board and staff member conflicts of interest are governed by the ESUCC conflict of interest policies.
- b. Purchases covered by this policy are subject to the following additional provisions.
 - i. Employees, officers, and agents engaged in the selection, award, and/or administration of ESUCC contracts which are prohibited from engaging in such actions if a real or apparent conflict of interest is present.
 - ii. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.
 - iii. The board may determine at its discretion that a financial interest is not substantial enough to give rise to a conflict of interest.
- c. Favors and Gifts
The officers, employees, and agents of the ESUCC may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts, with the limited exception of unsolicited items of nominal value.
- d. Enforcement
Disciplinary Actions will be applied for violations of such standards by officers, employees, or agents of the ESUCC at the board's discretion.
- e. Property Management Systems
 - i. Property Classifications
Equipment means tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the ESUCC for financial statement purposes, or \$5,000.

Supplies means all tangible personal property other than those described in §200.33 Equipment. A computing device is a supply if the acquisition cost is less than the lesser of the capitalization level established by the ESUCC for financial statement purposes or \$5,000, regardless of the length of its useful life. 2 C.F.R. §200.94.

Computing Devices means machines used to acquire, store, analyze, process, and publish data and other information electronically, including accessories (or "peripherals") for printing, transmitting and receiving, or storing electronic information. 2 C.F.R. §200.20.

Capital Assets means tangible or intangible assets used in operations having a useful life of more than one year which are capitalized in accordance with GAAP. Capital assets include:

Land, buildings (facilities), equipment, and intellectual property (including software) whether acquired by purchase, construction, manufacture, lease-purchase, exchange, or through capital leases; and

Additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations or alterations to capital assets that materially increase their value or useful life (not ordinary repairs and maintenance). 2 C.F.R. §200.12.

ii. Inventory Procedure

Newly purchased property shall be received and inspected by the staff member who ordered it to ensure that it matches the purchase order, invoice, or contract and that it is in acceptable condition.

Equipment, Computing Devices, and Capital Assets must be tagged with an identification number, manufacturer, model, name of individual who tagged the item, and date tagged).

iii. Inventory Records

For equipment, computing devices, and capital assets purchased with federal funds, the following information is maintained in the property management system:

Serial number;

ESUCC identification number;

Manufacturer;

Model;

Date tagged and individual who tagged it;

Source of funding for the property;

Who holds title;

Acquisition date and cost of the property;

Percentage of federal participation in the project costs for the federal award under which the property was acquired;

Location, use and condition of the property; and

Any ultimate disposition data including the date of disposal and sale price of the property.

The inventory list shall be adjusted by the Executive Director of schools or his/her designee for property that is sold, lost, stolen, cannot be repaired, or that cannot be located.

iv. Physical Inventory

A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.

The Executive Director or his/her designee will ensure that the physical inventory is performed. The physical inventory will generally occur during the months of June or July, but may be conducted during other time periods with the approval of the Executive Director.

- v. Maintenance
In accordance with 2 C.F.R. 313(d)(4), the ESUCC maintains adequate maintenance procedures to ensure that property is kept in good condition.
- vi. Lost or Stolen Items
The ESUCC maintains a control system that ensures adequate safeguards are in place to prevent loss, damage, or theft of the property.
- vii. Use of Equipment
Equipment must be used in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by the federal award, and the ESUCC will not encumber the property for any non-federal program use without prior approval of the federal awarding agency and the pass-through entity.
- viii. Disposal of Equipment
When it is determined that original or replacement equipment acquired under a federal award is no longer needed for the original project or program or for other activities currently or previously supported by a federal awarding agency, the Executive Director or his/her designee will contact the awarding agency (or pass-through for a state-administered grant) for disposition instructions. If the item has a current FMV of \$5,000 or less, it may be retained, sold, or otherwise disposed of with no further obligation to the federal awarding agency.
- ix. Other Contract Matters.
 - 1. Required Terms
The non-Federal entity's contracts must contain the applicable provisions required by section 200.326 and described in Appendix II to Part 200—Contract Provisions for non-Federal Entity Contracts Under Federal Awards.
 - 2. Contracting with Certain Vendors
Pursuant to the standards contained in 2 C.F.R. § 200.321, the ESUCC will take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible consistent with state law.

To the maximum extent practicable, the school food program shall purchase domestic commodities or products produced in US or processed in US substantially using agricultural commodities produced in US.

- 3. Record Keeping

a. Record Retention

The ESUCC maintains all records that fully show (1) the amount of funds under the grant or subgrant; (2) how the subgrantee uses those funds; (3) the total cost of each project; (4) the share of the total cost of each project provided from other sources; (5) other records to facilitate an effective audit; and (6) other records to show compliance with federal program requirements. 34 C.F.R. §§ 76.730-.731 and §§ 75.730-.731. The ESUCC also maintains records of significant project experiences and results. 34 C.F.R. § 75.732. These records and accounts must be retained and made available for programmatic or financial audit.

The U.S. Department of Education is authorized to recover any federal funds misspent within 5 years before the receipt of a program determination letter. 34 C.F.R. § 81.31(c). Schedule 10 (Local School Districts) and Schedule 24 (Local Agencies General Records) of the Nebraska Records Management Division as approved by the Nebraska Secretary of State/State Records Administrator requires the District to maintain records regarding federal awards for a minimum of six (6) years. Consequently, the District shall retain records for a minimum of six (6) years from the date on which the final Financial Status Report is submitted, unless otherwise notified in writing to extend the retention period by the awarding agency, cognizant agency for audit, oversight agency for audit, or cognizant agency for indirect costs. However, if any litigation, claim, or audit is started before the expiration of the record retention period, the records will be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken. 2 C.F.R. § 200.333.

Records will be destroyed in compliance with Schedule 10, Schedule 24, and State law. This includes the completion of a Records Disposition Report.

b. Maintenance of Procurement Records

The District must maintain records sufficient to detail the history of all procurements. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, the basis for the contract price (including a cost or price analysis), and verification that the contractor is not suspended or debarred.

Retention of procurement records shall be in accordance with applicable law and Board policy.

4. Privacy

The District has protections in place to ensure that the personal information of both students and employees is protected. These include the use of passwords that are changed on a regular basis; staff training on the requirements of the Family Educational Rights and Privacy Act (FERPA) and State confidentiality requirements; and training on identifying whether an individual requesting access to records has the right to the documentation.

Adopted on: September 7, 2018

Revised on: February 6, 2020

Reviewed on: _____

3009. Electronic Signatures, Records, and Document Retention

Electronic Records with Electronic Signatures

Electronic records with electronic signatures that are created or received by ESUCC shall be appropriately attributed to the individual(s) responsible for their creation and/or authorization or approval. ESUCC shall utilize available technology to implement reliable methods for generating and managing electronic records containing electronic signatures.

Any electronic record containing an electronic signature filed with or issued by ESUCC may be given full force and effect of a paper communication if the following conditions are satisfied:

1. The communication is an electronic filing or recording and ESUCC agrees to accept or send such communication electronically; and
2. If a non-electronic signature is required on the record or communication by any statute, rule, or other applicable law or by the Nebraska Department of Education or other state agency, the signature must conform to the requirements set forth in this policy governing the use of electronic signatures.

Electronic Signatures

An electronic signature may be used if the law requires a signature unless there is a specific statute, regulation, or policy that requires records to be signed in non-electronic form. The issuance and/or acceptance of an electronic signature by ESUCC may be permitted in accordance with the provisions of this policy and all applicable state and federal law. If permitted, such electronic signature shall have the full force and effect of a manual signature only if the electronic signature satisfies all of the following requirements:

1. The electronic signature identifies the individual signing the document by his/her name and title;
2. The identity of the individual signing with an electronic signature is capable of being validated through the use of an audit trail;

3. The electronic signature and the document to which it is affixed cannot be altered once the electronic signature has been affixed; and
4. The electronic signature conforms to all other provisions of this policy.

Acceptance, Use, and Issuance of Electronic Records with Electronic Signatures

ESUCC shall maintain an electronic recordkeeping system that can receive, store, and reproduce electronic records with electronic signatures relating to communications and transactions in their original form. Such system should include security procedures whereby the ESUCC can:

1. Verify the attribution of a signature to a specific individual;
2. Detect changes or errors in the information contained in a record submitted electronically;
3. Protect and prevent access, alteration, manipulation or use by an unauthorized person; and
4. Provide for nonrepudiation through strong and substantial evidence that will make it difficult for the signer to claim that the electronic representation is not valid.

ESUCC shall ensure that all electronic records and signatures are capable of being accurately reproduced for later reference and retained until such time as all legally mandated retention requirements are satisfied.

ESUCC shall maintain a secure hard copy log of the PIN/password or actual signature of any individual authorized to provide an electronic signature in connection with ESUCC business.

ESUCC may receive and accept as original, electronic records with electronic signatures so long as the communication, on its face, appears to be authentic.

Adopted on: February 6, 2020

3010. ESUPDO and Affiliate Groups

The ESU Professional Development Organization (“ESUPDO”) provides statewide training for ESU employees statewide. ESUPDO consists of ~~five~~ four affiliate groups comprised of ESU employees across the seventeen ESUs.

These groups are:

- Staff Development Affiliate (SDA)
- Teaching and Learning Through Technology (TLT)
- Network Operations Committee (NOC)
- ESU Special Populations Directors (ESPD)

Adopted On: October 9, 2014

Reviewed On: February 6, 2020

3011. Distance Education Project

The Distance Education project works to build, improve and maintain the state's distance education network. As part of its statutory responsibilities, ESUCC is charged with the following tasks related to distance education:

1. Providing public access to lists of qualified distance education courses;
2. Collecting and providing school schedules for participating educational entities;
3. Facilitation of scheduling for qualified distance education courses;
4. Brokering of qualified distance education courses to be purchased by educational entities;
5. Assessment of distance education needs and evaluation of distance education services;
6. Compliance with technical standards as set forth by the Nebraska Information Technology Commission and academic standards as set forth by the State Department of Education related to distance education;
7. Establishment of a system for scheduling courses brokered by the council and for choosing receiving educational entities when the demand for a course exceeds the capacity as determined by either the technology available or the course provider;
8. Administration of learning management systems, either through the staff of the council or by delegation to an appropriate educational entity with the funding for such systems provided by participating educational entities; and
9. Coordination with educational service units and postsecondary educational institutions to provide assistance for instructional design for both two-way interactive video distance education courses and the offering of graduate credit courses in distance education.

The Educational Service Unit Coordinating Council shall only provide assistance in brokering or scheduling courses to educational entities that have access to Network Nebraska.

The ESUCC Board contracts with ESU 17 to provide staffing for Distance Education, whose staffing includes a Distance Education Director. The Distance Education Director is the immediate supervisor of all other staff assigned to Distance Education and is charged with general operation of all programs of the Distance Education project. The Distance Education Director reports to the Executive Director and, ultimately, to the Board.

Adopted On: October 9, 2014

Reviewed On: February 6, 2020

3012. Instructional Materials (IMat) Project

The Instructional Materials (IMat) project provides statewide coordination for the purchase of instructional materials. As technology moves forward so does the IMat project. Currently, videos are available in physical formats including VHS, DVD, and CD. Additionally, media materials are being digitized and made available as "media on demand" through Discovery Education "Power Media Plus". This digital format is opening up media materials, once difficult to obtain, to schools across the state. Additionally, the project works to match media to specific standards and is making media searchable for the most appropriate classroom use.

The ESUCC Board contracts with ESU 17 to provide staffing for IMat. Staff assigned to the IMat project report directly to the Executive Director.

Adopted On: October 9, 2014

Reviewed On: February 6, 2020

3013. Cooperative Purchasing Project

General. Nebraska ESU Cooperative Purchasing provides cooperating purchasing services to Educational Service Units and their member schools throughout the state of Nebraska.

ESUCC Cooperative Purchasing is authorized to coordinate purchases for public school districts, nonpublic school systems, other ESUs, and other public agencies, including any county, city, village, school district, or agency of the state government, any drainage district, sanitary and improvement district, or other municipal corporation or political subdivision of the State of Nebraska.

Staffing and Supervision. The Coop Director is the immediate supervisor of all other staff assigned to the Coop and is charged with general operation of all Coop programs. The Coop Director reports to the Executive Director and, ultimately, to the Board. A full time Programs Assistant to the Coop Director and a portion of time from the ESUCC Business Manager who both report to the Coop Director while performing tasks for the ESUCC Coop project.

Institutions and entities that participate in the cooperative purchasing program exercise all rights guaranteed to them as a "Buyer" under the Nebraska Uniform Commercial Code and any other rights and protections guaranteed by state and federal law. Participating institutions and entities are responsible for making their own purchases of goods and services through the procurement system. This includes placing orders; paying; accepting or rejecting; storing; and using goods and services purchased through the procurement system. Participating institutions and entities districts are responsible for accepting conforming goods and services and rejecting non-conforming goods and services as permitted by law.

Adopted On: October 9, 2014

Reviewed On: February 6, 2020

3014. Special Education Projects Project

The ESUCC's SPED Project administers the software for the creation and management of special education forms and records. The SPED project also provides certain special education services and training for special education teachers and other staff members employed by educational institutions within the State of Nebraska.

The two projects under Special Education Projects are:

- Student Records Systems (SRS)
- Project PARA

Student Records System (SRS) is an online special education record keeping system. SRS's goal is to create electronic versions of all special education documents required by Rule 51, including IEP, MDT, IFSP and all required notices. The SRS is a highly secured system that organizes and stores documents and provides easy access to files from anywhere via the internet. SRS training is provided across the state for district staff and college and university staff.

Project PARA is a web-based method for school districts to provide introductory training for their paraeducators. The Project assists schools in meeting the paraeducator training requirements of No Child Left Behind, Rule 11 and IDEA. Project PARA is a collaborative effort between the University of Nebraska, the Nebraska Department of Education and ESUCC.

The ESUCC Board contracts with ESU 17 to provide staffing for the SPED Project. Staff members assigned to the SPED Project report directly to the Executive Director.

Adopted On: October 9, 2014

Reviewed On: February 6, 2020

Article 4

Human Resources

4001. Purpose

In order to support the ESUCC and its mission to work toward statewide coordination to provide the most cost-effective services for the students, teachers, and school districts in each ESU. The Executive Director, in consultation with the Board, will interview and recommend individuals for employment by ESU 17 for assignment to ESUCC projects. ESU 17 provides staffing services to ESUCC pursuant to contract and will serve as ESUCC's Human Resources Division.

ESU No. 17 provides leadership and coordination for the following functions:

1. Personnel;
2. Employee Benefits;
3. Risk Management; and
4. Employee Relations.

Adopted On: October 9, 2014

Reviewed On: March 4, 2020

4002. Employee Classifications

The ESUCC and ESU No. 17 classify employees into two general categories:

1. Certificated employees are employees performing duties requiring a certificate issued or license accepted by the Commissioner of Education.
2. Classified employees are employees with regular work assignments whose job classifications do not require a certificate issued by the Commissioner of Education. Classified employees are at-will employees, unless otherwise designated.

Adopted On: October 9, 2014

Reviewed On: March 4, 2020

4003. Job Descriptions

Job descriptions for the various employment positions are developed and maintained by the Executive Director and ESU No. 17.

Employees must maintain all licensure or certification required by the position as a condition of continued employment. The employee must immediately report the loss or suspension of licensure or certification to their immediate supervisor and the appropriate staff member in Human Resources.

Adopted On: October 9, 2014

Reviewed On: March 4, 2020

4004. Selection and Assignment of Employees

The process for the selection and assignment of staff is the responsibility of the ESUCC and ESU No. 17. It shall be the duty of the Executive Director and ESU No. 17 Administrator or designee to assure that all persons meet the qualifications established by law and the ESUCC for the position.

The selection procedure is uniformly applied to every candidate. There shall be no discrimination against any employee or applicant for employment by reason of race, color, national origin, religion, marital status, sex, age, disability.

Adopted On: October 9, 2014

Reviewed On: March 4, 2020

4005. Employment of Family Members

A member of the Board or an employee with supervisory responsibilities may employ, recommend, or supervise the employment of an immediate family member only if:

1. He or she does not abuse his or her official position. Abuse of an official position includes, but is not limited to, employing an immediate family member:
 - a. Who is not the most qualified for and able to perform the duties of the position;
 - b. For an unreasonably high salary; or
 - c. Who is not required to perform the duties of the position.
2. He or she makes a full disclosure to the Board by issuing a written disclosure to the Executive Director and Secretary of the Board; and
3. The Board approves the employment or supervisory position.

No immediate family member of a Board member or of an employee with supervisory responsibilities shall be employed by the ESUCC, or by ESU No. 17 for work contracted with ESUCC:

1. Without first having made a reasonable solicitation and consideration of applications for such employment;
2. Who is not qualified for and able to perform the duties of the position;
3. For an unreasonably high salary; and
4. Who is not required to perform the duties of the position.

Neither the Board nor an employee with supervisory responsibilities shall terminate the employment of an employee so as to make funds or a position available for the purpose of hiring an immediate family member.

This policy shall not apply to an immediate family member of a member of the Board or an employee with supervisory responsibilities who was previously employed in a position with the ESUCC prior to the

election or appointment of the Board member or of the supervisory employee. Prior to or as soon as reasonably possible after the official date a Board member takes office or an employee assumes supervisory responsibilities, such Board member or employee shall make a full disclosure of any immediate family member employed in a position subject to this policy.

Adopted On: October 9, 2014

Reviewed On: March 4, 2020

4006 - At-Will Employees

The ESUCC contracts with ESU 17 for staffing services. The relationship between any ESUCC staff member and the ESUCC is at-will. The ESUCC can ask to have a staff member removed from an ESUCC project at any time, with or without cause, and with or without notice to the affected employee.

No employee or representative of the ESUCC has the power or authority to offer a staff member an employment contract for a specified period of time, to modify the nature of the staff member's relationship with ESUCC or ESU 17, or to make any agreements that are contrary to the policies of ESUCC or ESU 17.

Adopted On: October 9, 2014

Reviewed On: March 4, 2020

4007. Personnel Records

ESUCC staff members should consult the policies and employment handbooks of ESU 17 regarding access to and maintenance of personnel records.

Adopted On: October 9, 2014

Reviewed On: March 4, 2020

4008. Separation of Employment

The Executive Director and/or ESU No. 17 Administrator or designee will process all retirements, resignations, cancellations, contract amendments, non-renewals and terminations of employment. The ESUCC Executive Director and/or ESU No. 17 Administrator will make recommendations for appropriate action to the ESU No. 17 Board, if needed.

Adopted On: October 9, 2014

Reviewed On: March 4, 2020

4009. Resignation/Termination

1. Resignation

Staff members who wish to resign from the ESUCC must submit a letter of resignation to the Executive Director and ESU No. 17 Administrator.

a. Resignation of Certificated Employees

The ESUCC and ESU No. 17 may refuse to accept the resignation of a certificated employee, including a resignation given mid-year and a resignation given for the following school year or after execution of a contract or renewal letter.

b. Resignation of Classified

Classified employees are at-will employees. Classified employees are expected to give two weeks' notice to the Executive Director and/or ESU No. 17 Administrator prior to resignation.

2. Termination from Assignment to ESUCC Projects

The Board and/or the Executive Director may terminate a staff member's assignment to ESUCC projects upon providing notice to ESU 17 pursuant to those parties' staffing services agreement. Staff members who are removed from ESUCC projects have no right to prior notice from the ESUCC or its Executive Director and are not entitled to a hearing before the Board or any form of due process related to their removal.

3. Termination of Employment

Any supervisor considering recommending employment termination shall consult with the Executive Director and ESU No. 17 Administrator or designee on procedural matters.

Adopted On: October 9, 2014

Reviewed On: March 4, 2020

4010. Compensation

Compensation of ESUCC employees may be established by the Board, Executive Director and/or ESU No. 17 Administrator pursuant to the staffing services agreement between ESUCC and ESU No. 17.

The length of the workday shall be considered as eight hours, or as otherwise assigned. The regular workweek will run from 12:00 AM Sunday through 11:59 PM Saturday.

ESUCC staff members who are "non-exempt" under the Fair Labor Standards Act and who work more than 40 hours in a workweek will be paid at the rate of time-and-one-half (1½) times their regular rate of pay for all overtime hours, or will be provided compensatory time. All overtime must be approved in advance by the Executive Director. Scheduled holidays, vacation days, time off for jury duty, and time off for sickness, emergencies or other personal reasons will not be considered hours worked for overtime purposes.

The ESUCC may grant compensatory time in lieu of overtime pay at a rate of one and one-half (1½) hours off for each hour of overtime the staff member worked. Staff members may accrue a maximum of 240 hours of compensatory time, which represents 160 hours of actual overtime worked. When a staff member has accrued 240 hours of compensatory time, the ESUCC shall pay him/her at the rate of one and one-half (1½) times his/her regular rate of pay for each additional hour of overtime. A staff member who asks to use compensatory time may be permitted to use it within a reasonable period after the request if its use does not unduly disrupt the operations of the ESUCC and its projects.

Upon termination of employment, an employee shall be paid for unused compensatory time at a rate of compensation not less than: (1) the average regular hourly rate paid to the employee during the last three years of his/her employment, or (2) the final regular hourly rate paid to the employee, whichever is higher. Compensatory time is paid at the higher of these regular rate computations and not at one and one-half the regular rate of pay.

Adopted On: October 9, 2014

Reviewed On: March 4, 2020

4011. Reimbursements

The ESUCC Board or its Executive Director may require a staff member to attend relevant professional meetings, training, and other such events as the Board deems appropriate. The Board may reimburse the staff member for his/her actual expenses incurred in attending such meetings as permitted by law and approved by the Board.

To receive reimbursement for travel or business related expenditures, ESUCC staff members must submit all forms required by the Executive Director or as established by policy and procedure. Requests for reimbursement shall be made as soon as reasonably possible after they are incurred, but the board may refuse to reimburse a staff member, as permitted by law, for expenses which were accrued more than ~~six~~ ~~(6)~~ three (3) months after submission for reimbursement. To the extent an individual staff member's contract states otherwise, the contract will control.

Payment for all expenditures outside of payroll will be issued per board approval and payment timeline. on the first and third Wednesday of every month unless payment falls on a holiday in which event the payments will be issued the next working day of ESU No. 17. Travel reimbursement will be based on the IRS's mileage reimbursement allowance. An itemized receipt, meaning a receipt with totals for each reimbursable item and not just a receipt showing the total expenditure, must accompany all other reimbursements. No reimbursements will be issued for above the IRS per diem amount unless authorized by the ESUCC Executive Director.

Adopted On: October 9, 2014

Reviewed On: March 4, 2020

4012. Employee Benefits Compensation

The costs of the various employee benefits are borne by the ESUCC and/or ESU No.17, the employee, or jointly as determined by the applicable agreement.

ESU No. 17 serves as the official ESUCC representative with the insurance carriers and other benefit programs for employees employed pursuant to the staffing services agreement.

ESUCC employees may be entitled to the following benefit options based on their position within ESUCC and pursuant to the staffing services agreement:

1. Health

2. Dental
3. Disability
4. Vision
5. Accident
6. Flexible Benefit Plan
7. Retirement, so long as the employee meets the requirements of the Nebraska School Employees Retirement System
8. Early retirement incentives as may be established by ESU No. 17 or the Board applicable to the particular employee

Adopted On: October 9, 2014

Reviewed On: March 4, 2020

4013. Leave Time

Employees must follow the ESU No. 17 handbook on acceptable leave procedures. Employees employed directly by the ESUCC are permitted leave time as decided by the Board.

The type and number of leave days for which an employee is eligible are denoted in each employee's yearly contract.

Adopted On: October 9, 2014

Reviewed On: March 4, 2020

4014. Workers' Compensation

Employees are required to report any work-related injury and/or work-related medical condition to the Executive Director and ESU No. 17 Administrator immediately and complete all appropriate paperwork.

Adopted On: October 9, 2014

Reviewed On: March 4, 2020

4015. Tort Claims

Tort claims must be filed with and received by the ESUCC Executive Director.

Adopted On: October 9, 2014

Reviewed On: March 4, 2020

4016. Outside Employment / Non-ESUCC Employment

Employees shall not perform duties unrelated to ESUCC employment during their regularly assigned schedule and duties. In addition, employees shall not engage in employment which conflicts with their duties for the ESUCC. Any ESUCC employee who takes similar employment outside of ESUCC must notify the Executive Director in writing and receive permission from the Executive Director before accepting such outside employment.

Employees who suffer a non-ESUCC work-related injury are required to notify the Executive Director of ESUCC and Administrator of ESU 17 of the injury.

Adopted On: October 9, 2014

Reviewed On: March 4, 2020

4017. Anti-Discrimination and Harassment

The ESUCC is committed to providing a workplace and learning environment free of discrimination and harassment for employees. Accordingly, discrimination or harassment is prohibited. In addition, the ESUCC will endeavor to protect employees from reported discrimination or harassment in the workplace by other non-employees. Discrimination or harassment based on a person's race, color, religion, national origin, sex, disability, age, marital status, veteran status is specifically prohibited.

Adopted On: October 9, 2014

Reviewed On: March 4, 2020

4018. Staff Social Media Use

Social media is an important tool for communicating, keeping up-to-date with current developments in education, and for conducting research to enhance management, teaching, and learning skills. The ESUCC also uses social media accounts to provide information to ESUCC stakeholders. This policy is intended to ensure (1) appropriate use of social media by staff and (2) appropriate control of social media accounts belonging to or affiliated with the ESUCC. Staff should also refer to the ESUCC's policy on Staff Computer and Internet Usage.

1. Personal Versus ESUCC-Affiliated Social Media Use

a. Personal Social Media Use

The ESUCC will not require staff members or applicants for employment to provide the ESUCC with their username and password to personal social media accounts.

The ESUCC will not require staff to add anyone to the list of contacts associated with the staff member's personal social media accounts or require a staff member to change the settings on his or her personal social media accounts so that others can or cannot view their accounts.

Staff members whose personal social media use interferes with the orderly operation of the ESUCC or who use social media in ways that are not protected by the First Amendment may be subject to discipline by the ESUCC.

Staff members who wish to begin using or to continue using the ESUCC name, programs, logos, or likeness as part of any social media profile must notify the Executive Director of the use, and must secure the Executive Director's permission to do so.

b. ESUCC-Affiliated Social Media Use

Any social media account which purports to be “the official” account of the ESUCC or any of its projects or affiliates (e.g., @ESUCCcoop) will be considered to be an account that is used exclusively for the ESUCC’s business purpose. Staff members may not use “official” accounts for personal use.

Adopted On: September 7, 2018

Reviewed On: March 4, 2020

4019. De Minimis Use of Public Resources.

Incidental or De Minimis Use of Public Resources

The ESUCC prohibits its members and employees from using public resources for personal or political purposes as prohibited in the Nebraska Political Accountability and Disclosure Act (“Act”). However, the board recognizes that incidental or de minimis uses of public resources are sometimes necessary and within reason. The purpose of this policy is to comply with the Act and to authorize certain uses of public resources as permitted by the Act.

The following uses of public resources are permitted as incidental or de minimis:

- Limited communication with family members or other non-district employees for personal purposes, such as emails or text messages with a spouse using district hardware, software, internet, accounts, or other public resources so long as this communication does not distract from or interfere with employees performing their official duties, with interference determined in the sole and unfettered discretion of an employee’s supervising administrator;
- Traveling to or from the person’s home when the primary purpose serves the interests of the district. If an employee is unsure whether the primary purpose serves the interests of the district, the employee should obtain the approval of his or her supervising administrator, who is authorized to make that determination under this policy;
- Making a limited number of copies of personal documents when the person cannot make alternative arrangements;
- Using personal social media accounts or accessing appropriate websites which are consistent with the district’s digital citizenship curriculum while off duty;
- Using district-owned computer programs, such as Word, Excel, Adobe, and others for personal purposes while off duty;
- Any other uses contained in the collective bargaining agreement or individual contract of the employee;
- Other uses by employees authorized by the Executive Director or the Executive Director’s designee. The board intends to allow the Executive Director to authorize such uses on a case-by-case basis to the maximum extent permitted by the Act; and

- Other uses by the Executive Director or Council members authorized by the ESUCC president. The ESUCC intends to allow the Council president to authorize such uses on a case-by-case basis to the maximum extent permitted by the Act

All uses pursuant to this policy must be (1) consistent with other ESUCC policies, (2) consistent with the provisions of Title 92, Nebraska Administrative Code, Chapter 27 (Nebraska Department of Education “Rule 27”), and (3) reported as compensation in accordance with the Internal Revenue Code of 1986, as amended, and taxes, if any, are paid. It is the responsibility of each board member or employee to account for their own tax liability, and the district will not indemnify or account for any personal use of public resources by the Council member or employee.

All of the provisions of Rule 27 will apply to non-certificated staff for the purposes of this policy. In addition, employees may not use the ESUCC’s internet, computers, or other technology to access obscene or pornographic material, sext, or engage in any illegal activities.

Adopted On: September 7, 2018

Reviewed On: March 4, 2020

Article 5

Equity/Legal Compliance

5001. Password Security

ESUCC Password Security Policy

All users with related systems, networks, related networks and data are responsible for taking the appropriate steps, as outlined below, to select and secure their passwords.

1. Purpose

The purpose of this procedure is to communicate the standards for strong passwords, the protection of those passwords and the frequency of change.

2. Scope

The scope of this procedure includes all personnel who have or are responsible for an account (or any form of access that requires a password) on any system that ESUCC supports, has access to the ESUCC network, or stores any non-public ESUCC information. All users, including full-time, part-time, interns and/or other staff, must follow all ESUCC password procedures.

3. Procedure

Password Creation

- All user-level and system-level passwords must conform to the Password Construction Guidelines (See below.)
- Users should not use the same password for ESUCC accounts as for other non-ESUCC access (for example: individual's Amazon password, personal Internet Service Provider (ISP) account, and so on.)

Password Change

- All passwords for ESUCC user accounts must be changed every year. A user may reach out to ESUCC to have a password changed at any time if they need to.

Password Protection

- Passwords must not be shared with anyone. All passwords are to be treated as sensitive, confidential ESUCC information.
- Passwords must not be inserted into email messages or other forms of electronic communication.
- Do not reveal a password on questionnaires or security forms.

- Do not hint at the format of a password (for example: “my family name”.)
- Do not share ESUCC passwords with anyone (supervisor, peer, direct report, or ESUCC staff) under any circumstance.
- Do not write passwords down and store them anywhere in your office. Do not store passwords in a file on a computer system or mobile device (phone, tablet) without encryption.
- Try not to use the “Remember Password” for sites containing confidential information.
- Any user suspecting that his/her password may have been compromised must report the incident to their immediate ESUCC supervisor and change all passwords immediately.
- Enable and use multi-factor authentication methods wherever possible.

Password Construction Guidelines

ESUCC requires a strong password that meets the following criteria:

- It must be a minimum of ten (10) characters
- It must contain two (2) or more of the following types of characters:
 - Uppercase letter
 - Lowercase letter
 - Numeral
 - Non-alphanumeric characters (% ! & # \$ etc)
- It cannot contain a user’s logon name
- It cannot contain any portion of the user’s full name
- Longer passwords are preferred over shorter ones wherever possible.
- Multiple words or a phrase with other characters mixed in are very effective to generate long yet memorable passwords. For example, “calibration5142alarm” is easier to use in practice than a more random one such as “R7o9*g2o\$Uye!Yb”, and the first, longer one is more difficult to crack. (Do not use these example passwords on any system!)

4. Enforcement

These procedures are for the protection of the individual user and the ESUCC. Violation of these procedures can be reported to the appropriate supervisor at the ESUCC.

If a ESUCC password has been revealed to other individuals or otherwise posted in a publicly viewable setting, the password will be set to change at the next login.

Staff will receive communication from ESUCC regarding the incident with an explanation of the password security policy. The staff member will also be informed of best practices regarding passwords.

If the issue occurs again the staff member’s ESUCC account will be locked pending a meeting with their supervisor and the ESUCC Technology Director to review the best practices regarding password security.

Adopted On: February 4, 2021

Reviewed On: January 12, 2021

5002. Intellectual Property, Copyrights, and Licenses for Works Created for ESUCC

ESUCC assigns its employees and/or collaborates with ESUs for the creation of works for the benefit of ESUCC. These works include but are not limited to educational programs, software programs, presentations, and many other print and digital resources. To the extent these works are created by ESUCC employees, in whole or in part, they are works for hire and all legally applicable copyright and intellectual property rights are the sole and exclusive property of ESUCC. The board of each ESU has authorized and given unrestricted license to ESUCC for the full use and replication rights associated with any work created by employees of any Nebraska ESU for the benefit of ESUCC which are not works for hire belonging solely to ESUCC, those works, including the right to license the works for use by other entities consistent with the following paragraph and the authority granted to ESUCC by law.

These rights and protections apply for any uses of the works, including uses consistent with and in addition to the purpose for which they were created. The rights and protections extend to uses in Nebraska and any other state or country. The ESUCC's employees, agents, and representatives have no authority and cannot authorize the use of these works by any other person or entity. Any person or entity in Nebraska or outside of Nebraska wishing to implement, replicate, or in any other way use any of these works can only do so by affirmative vote of the ESUCC board and pursuant to written permission from the ESUCC.

Adopted On: February 4, 2021

Reviewed on: January 12, 2021

5003. Personally Identifiable Student Data Items Maintained for School Services

1. Personally Identifiable Student Data - Personally identifiable student data generated by ESU Coordinating Council (ESUCC) for students referred and/or services provided on behalf of contracting school districts will be considered confidential and determined to be the property of the resident school district will be released only when appropriate release of information forms with required signature(s) are received. This policy covers both paper and electronic data collected and released.
- 2.
3. Notification to Schools - Each school district shall be notified as to the nature and types of student data being collected and maintained in ESUCC files.
- 4.
5. Permission to Request and Release - ESUCC shall obtain from the parent/guardian or other authorized representatives, written permission for ESUCC to request and release confidential information from other sources.
- 6.
7. Disposition of Student Records - Five years after the special education data is no longer needed to provide educational services, ESUCC shall return to the school district of residence of the student, all data items which have been received or generated by ESUCC or destroyed upon written request of the school district.

Adopted On: February 4, 2021
Reviewed On: January 12, 2021

5004. Personally Identifiable Student Records (FERPA)

The Family Educational Rights and Privacy Act (FERPA) is a Federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education.

Personally identifiable student educational records generated by ESU Coordinating Council (ESUCC) employees for students referred and/or services provided on behalf of contracting school districts will be considered confidential and determined to be the property of the resident school district. Educational records will only be released when appropriate release of information forms with required signature(s) are received and approved by your department director. This covers both paper and electronic records collected and released.

Adopted On: February 4, 2021
Reviewed On: January 12, 2021

5005. Non-Discrimination

A. Policy of Non-Discrimination

ESUCC does not discriminate on the basis of sex, disability, race, color, religion, veteran status, national or ethnic origin, age, marital status, pregnancy, childbirth or related medical condition, gender identity or sexual orientation, or any other protected status in its programs and activities and provides equal access to designated youth groups. Reasonable accommodations will be provided to employees with disabilities and to those who are pregnant, have given birth, or have a related medical condition, as required by law. Complaints or concerns involving discrimination should be addressed to:

ESUCC Executive Director, 6949 S. 110th Street, LaVista, NE 68128 (402) 597-4843.

Complaints or concerns involving discrimination or needs for accommodation or access should be addressed to the appropriate Coordinator.

For further information about anti-discrimination laws and regulations, or to file a complaint of discrimination with the Office of Civil Rights in the U.S. Department of Education (OCR), please contact the the Assistant Secretary for Civil Rights of the United States Department of Education at One Petticoat Lane, 1010 Walnut Street, 3rd Floor, Suite 320, Kansas City, Missouri 64106, (816) 268-0550 (voice), Fax (816) 268-0599, (800) 877-8339 (telecommunications device for the deaf), or ocr.kansascity@ed.gov.

ESUCC is committed to offering employment and educational opportunities to its employees and students in a climate free of discrimination. Accordingly, unlawful discrimination, harassment and retaliation of any kind by ESUCC employees, including co-workers, non-employees (such as volunteers), third parties,

and others is strictly prohibited and will not be tolerated.

B. Harassment

Harassment is a form of discrimination and includes verbal, non-verbal, written, graphic, or physical conduct relating to any protected status that is sufficiently serious to deny, interferes with, or limits a person's ability to participate in or benefit from an educational or work program or activity, including, but not limited to:

1. Conduct that is sufficiently severe or pervasive to create an intimidating, hostile, or abusive educational or work environment, or
2. Requiring an individual to endure the offensive conduct as a condition of continued employment or educational programs or activities, including the receipt of aids, benefits, and services.

Educational programs and activities include all academic, educational, extracurricular, athletic, and other programs of the ESUCC, whether those programs take place in an ESU facility, in an ESUCC vehicle, at a class or training program sponsored by the ESUCC at another location, or elsewhere.

Discriminatory harassment because of any protected status may include, but is not limited to:

1. Name-calling,
2. Teasing or taunting,
3. Insults, slurs, or derogatory names or remarks,
4. Demeaning jokes,
5. Inappropriate gestures,
6. Graffiti or inappropriate written or electronic material,
7. Visual displays, such as cartoons, posters, or electronic images,
8. Threats or intimidating or hostile conduct,
9. Physical acts of aggression, assault, or violence, or
10. Criminal offenses.

If ESUCC knows or reasonably should know about possible harassment, including violence, ESUCC will conduct a prompt, adequate, reliable, thorough, and impartial investigation to determine whether unlawful harassment occurred and take appropriate interim measures, if necessary. If ESUCC determines that unlawful harassment occurred, ESUCC will take prompt and effective action to eliminate the harassment, prevent its recurrence, and remedy its effects, if appropriate. If harassment or violence that occurs off ESUCC property creates a hostile environment at ESUCC, ESUCC will follow this policy and grievance procedure, within the scope of its authority.

All ESUCC employees are expected to take prompt and appropriate actions to report and prevent discrimination, harassment, and retaliation by others. Employees who witness or become aware of possible discrimination, including harassment and retaliation, must immediately report the conduct to his or her supervisor or the compliance coordinator designated to handle complaints of discrimination.

C. Anti-retaliation

ESUCC prohibits retaliation, intimidation, threats, coercion, or discrimination against any person for opposing discrimination, including harassment, or for participating in ESUCC's discrimination complaint process or making a complaint, testifying, assisting, or participating in any manner, in an investigation, proceeding, or hearing. Retaliation is a form of discrimination.

ESUCC will take immediate steps to stop retaliation and prevent its recurrence against the alleged victim and any person associated with the alleged victim. These steps will include, but are not limited to, notifying students, employees, and others, that they are protected from retaliation, ensuring that they know how to report future complaints, and initiating follow-up contact with the complainant to determine if any additional acts of discrimination, harassment, or retaliation have occurred. If retaliation occurs, ESUCC will take prompt and strong responsive action, and those found in violation of this policy may be subject to discipline up to expulsion or termination, if applicable.

D. General Grievance (or Complaint) Procedures

Employees, students or others should initially report all instances of discrimination, harassment or retaliation to their immediate supervisor or to the Compliance Coordinator designated to handle complaints of discrimination. If the employee or other person is uncomfortable in presenting the problem to the supervisor or if the supervisor or other person is the problem, the employee or any other person may report the alleged discrimination, harassment or retaliation ("discrimination") to the Compliance Coordinator.

If the Compliance Coordinator is the person alleged to have committed the discriminatory act, then the complaint should be submitted to an Administrator for assignment. A discrimination complaint form is attached to this grievance procedure and is available in the office of each ESUCC building, on the ESUCC website, and from the Compliance Coordinator.

Under no circumstances will a person filing a complaint or grievance involving discrimination be retaliated against for filing the complaint or grievance.

1. *Level 1 (Investigation and Findings)*

The Compliance Coordinator will review and evaluate each grievance, complaint, or report to determine if such grievance, complaint or report alleges sexual harassment under Title IX. If such a grievance, complaint or report alleges sexual harassment under Title IX, then the Compliance Coordinator will follow the Title IX Grievance Procedures (outlined below). For all other grievances, complaints or reports, the Compliance Coordinator will follow these General Grievance Procedures. Once ESUCC receives a grievance, complaint or report alleging discrimination, harassment, or retaliation, or becomes aware of possible discriminatory conduct, ESUCC will conduct a prompt, adequate, reliable, thorough, and impartial investigation to determine whether unlawful harassment occurred. If necessary, ESUCC will take immediate, interim action or measures to protect the alleged victim and prevent further potential discrimination, harassment, or retaliation during the pending investigation. The alleged victim will be notified of his or her options to avoid contact with the alleged harasser, such as changing a class or prohibiting the alleged harasser from having any contact with the alleged victim pending the result of ESUCC's investigation. ESUCC will minimize any burden on the alleged victim when taking interim measures to protect the alleged victim.

ESUCC will promptly investigate all complaints of discrimination, even if an outside entity or law enforcement agency is investigating a complaint involving the same facts and allegations. ESUCC will not wait for the conclusion or outcome of a criminal investigation or proceeding to begin an investigation required by this grievance procedure.

ESUCC will aim to complete its investigation within a reasonably prompt time frame after receiving a complaint or report..

ESUCC's investigation will include, but is not limited to:

- a. An evaluation of all relevant information and documentation relating to the alleged discriminatory conduct.
- b. For allegations involving harassment, some of the factors ESU will consider include: 1) the nature of the conduct and whether the conduct was unwelcome, 2) the surrounding circumstances, expectations, and relationships, 3) the degree to which the conduct affected one or more students' education, 4) the type, frequency, and duration of the conduct, 5) the identity of and relationship between the alleged harasser and the suspect or suspects of the harassment, 6) the number of individuals involved, 7) the age (and sex, if applicable) of the alleged harasser and the alleged victim(s) of the harassment, 8) the location of the incidents and the context in which they occurred, 9) the totality of the circumstances, and 10) other relevant evidence.
- c. A review of the evidence using a "preponderance of the evidence" standard (based on the evidence, is it more likely than not that discrimination, harassment, or retaliation occurred?)

The Compliance Coordinator (or designated investigator) will complete an investigative report, which will include:

- a. A summary of the facts,
- b. Findings regarding whether discrimination, harassment or other inappropriate conduct occurred, and
- c. If a finding is made that discrimination, harassment or other inappropriate conduct occurred, the recommended remedy or remedies necessary to eliminate discrimination, harassment or other inappropriate conduct.

If someone other than the Compliance Coordinator conducted the investigation, the Compliance Coordinator will review, approve, and sign the investigative report. ESUCC will ensure that prompt, appropriate, and effective remedies are provided if a finding of discrimination, harassment, or retaliation is made. ESUCC will maintain relevant documentation obtained during the investigation and documentation supportive of the findings and any subsequent determinations, including the investigative report, witness statements, interview summaries, and any transcripts or audio recordings, pertaining to the investigative and appeal proceedings.

ESUCC will send concurrently to the parties written notification of the decision (findings and any remedy) regarding the complaint within one (1) working day after the investigation is completed as

permitted by state and federal law.

2. *Level 2 (Appeal to the Administrator)*

If a party is not satisfied with the findings or remedies (or both) set forth in the decision, he or she may file an appeal in writing with the Administrator within five (5) working days after receiving the decision. The Administrator will review the appeal and the investigative documentation and decision, conduct additional investigation, if necessary, and issue a written determination about the appeal within ten (10) working days after receiving the appeal. The party who filed the appeal will be sent the Administrator's determination at the time it is issued, and a copy will be sent to the Compliance Coordinator. [If the Administrator is the subject of the complaint, the party will file the appeal directly with the Board.]

3. *Level 3 (Appeal to the Board)*

If the party is not satisfied with the Administrator's determination, he or she may file an appeal in writing with the Board within five (5) working days after receiving the Administrator's determination. The Board will review the appeal, the Administrator's determination, the investigative documentation and decision, The Board will issue a written determination about the appeal within thirty (30) days. The party who filed the appeal will be sent the Board's determination at the time it is issued, and a copy will be sent to the Compliance Coordinator. The Board's determination, and any actions will be final on behalf of ESUCC.

E. Confidentiality

The identity of the complainant will be kept confidential to the extent required by state and federal law. ESUCC will notify the complainant of the anti-retaliation provisions of applicable laws and that ESUCC will take steps to prevent retaliation and will take prompt and strong responsive actions if retaliation occurs.

If a complainant requests confidentiality or asks that the complaint not be pursued, ESUCC will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or the request not to pursue an investigation, as long as doing so does not prevent ESUCC from responding effectively to the harassment and preventing harassment of other students. If a complainant insists that his or her name or other identifiable information not be disclosed to the alleged perpetrator, ESUCC will inform the complainant that its ability to respond may be limited. Even if ESUCC cannot take disciplinary action against the alleged harasser, ESUCC will pursue other steps to limit the effects of the alleged harassment and prevent its recurrence, if warranted.

F. Title IX Grievance (or Complaint) Procedures for Sexual Harassment

It is the policy of the ESUCC that no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any of the ESUCC's programs or activities. The ESUCC is required by Title IX (20 U.S.C. § 1681) and 34 C.F.R. part 106 to not discriminate in such a manner.

1. **Title IX Coordinator**

1.1. **Designation.** The ESUCC designates and authorizes the Executive Director as its Title IX Coordinator. The ESUCC will notify applicants for admission and employment, students, parents or legal guardians of students, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the ESUCC, of the name or title, office address, electronic mail address, and telephone number of the Title IX Coordinator. Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment). This report may be made by any means, including but not limited to, in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time (including during non-business hours).

2. **Definitions.** As used in this policy, the following terms are defined as follows:

2.1. **Actual knowledge** means notice of sexual harassment or allegations of sexual harassment to any ESUCC employee. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only ESUCC employee with actual knowledge is the respondent (as that term is defined below). "Notice" as used in this paragraph includes, but is not limited to, a report of sexual harassment to the Title IX Coordinator as described in subsection 1.1 above.

2.2. **Complainant** means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

2.3. **Formal complaint** means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the ESUCC investigate the allegation of sexual harassment. The only ESUCC official who is authorized to initiate the Grievance Process for Formal Complaints of Sexual Harassment against a respondent is the Title IX Coordinator (by signing a formal complaint). At the time of filing a formal complaint with the ESUCC, a complainant must be participating in or attempting to participate in the ESUCC's education program or activity. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information required to be listed for the Title IX Coordinator under subsection 1.1 above, and by any additional method designated by the ESUCC. As used in this paragraph, the phrase "document filed by a complainant" means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the ESUCC) that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint. Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or otherwise a party under this policy or under 34 C.F.R. part 106, and will comply with the requirements of this policy and 34 C.F.R. part 106, including subsections 5.1.3–5.1.4 and 34 C.F.R. § 106.45(b)(1)(iii).

2.4. **Respondent** means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

2.5. **Consent** for purposes of this policy means the willingness in fact for conduct to occur. An individual may, as a result of age, incapacity, disability, lack of information, or other

circumstances be incapable of providing consent to some or all sexual conduct or activity. Neither verbal nor physical resistance is required to establish that an individual did not consent. ESUCC officials will consider the totality of the circumstances in determining whether there was consent for any specific conduct. Consent may be revoked or withdrawn at any time.

2.6. **Sexual harassment** means conduct on the basis of sex that satisfies one or more of the following:

- 2.6.1. An employee of the ESUCC conditioning the provision of an aid, benefit, or service of the ESUCC on an individual's participation in unwelcome sexual conduct;
- 2.6.2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the ESUCC's education program or activity;
- 2.6.3. **Sexual assault**, as defined in 20 U.S.C. § 1092(f)(6)(A)(v), which means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation:

- 2.6.3.1. **Sex Offenses, Forcible**—Any sexual act directed against another person, without the consent of the victim including instances where the victim is incapable of giving consent.

- 2.6.3.1.1. **Rape**—(Except Statutory Rape) The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

- 2.6.3.1.2. **Sodomy**—Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity

- 2.6.3.1.3. **Sexual Assault With An Object**—To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity

- 2.6.3.1.4. **Fondling**—The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity

2.6.3.2. **Sex Offenses, Non-forcible**—(Except Prostitution Offenses) Unlawful, non-forcible sexual intercourse.

2.6.3.2.1. **Incest**—Non-Forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law

2.6.3.2.2. **Statutory Rape**—Non-Forcible sexual intercourse with a person who is under the statutory age of consent

2.6.4. **Dating violence**, as defined in 34 U.S.C. § 12291(a)(10), which means violence committed by a person—

2.6.4.1. who is or has been in a social relationship of a romantic or intimate nature with the victim; and

2.6.4.2. where the existence of such a relationship shall be determined based on a consideration of the following factors:

2.6.4.2.1. The length of the relationship.

2.6.4.2.2. The type of relationship.

2.6.4.2.3. The frequency of interaction between the persons involved in the relationship.

2.6.5. **Domestic violence**, as defined in 34 U.S.C. § 12291(a)(8), which includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

2.6.6. **Stalking**, as defined in 34 U.S.C. § 12291(a)(30), which means engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

2.6.6.1. fear for his or her safety or the safety of others; or

2.6.6.2. suffer substantial emotional distress.

2.7. **Supportive measures** means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has

been filed. Such measures are designed to restore or preserve equal access to the ESUCC's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the ESUCC's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The ESUCC will maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the ESUCC to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

3. Discrimination Not Involving Sexual Harassment.

3.1. General Prohibition. Except as provided elsewhere in Title IX, 34 C.F.R. part 106, or this policy, no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by the ESUCC.

3.2. Specific Prohibitions. Except as provided elsewhere in Title IX, 34 C.F.R. part 106, or this policy, in providing any aid, benefit, or service to a student, the ESUCC will not on the basis of sex:

- 3.2.1. Treat one person differently from another in determining whether such person satisfies any requirement or condition for the provision of such aid, benefit, or service;
- 3.2.2. Provide different aid, benefits, or services or provide aid, benefits, or services in a different manner;
- 3.2.3. Deny any person any such aid, benefit, or service;
- 3.2.4. Subject any person to separate or different rules of behavior, sanctions, or other treatment;
- 3.2.5. Apply any rule concerning the domicile or residence of a person or applicant;
- 3.2.6. Aid or perpetuate discrimination against any person by providing significant assistance to any agency, organization, or person which discriminates on the basis of sex in providing any aid, benefit or service to employees;
- 3.2.7. Otherwise limit any person in the enjoyment of any right, privilege, advantage, or opportunity.

3.3. Complaint Procedure. All complaints regarding any alleged discrimination on the basis of sex, including without limitation violations of this policy, 34 C.F.R. part 106, Title IX, Title VII, or other state or federal law—when the alleged discrimination does not arise from or relate to

an allegation of sexual harassment as defined in subsection 2.6 above—shall be addressed pursuant to the ESUCC’s general complaint procedure described above.

4. Response to Sexual Harassment

4.1. Reporting Sexual Harassment. Any person who witnesses an act of unlawful sexual harassment is encouraged to report it to the ESUCC’s Title IX Coordinator. No person will be retaliated against based on any report of suspected sexual harassment or retaliation. Any ESUCC employee who receives a report of sexual harassment or has actual knowledge of sexual harassment must convey that information to the Title IX Coordinator as soon as reasonably practicable, but in no case later than the end of the following school day.

4.2. General Response to Sexual Harassment. When the ESUCC has actual knowledge of sexual harassment in its education program or activity against a person in the United States, the ESUCC will respond promptly in a manner that is not deliberately indifferent. The ESUCC will be deemed to be deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances. For the purposes of this policy “education program or activity” includes locations, events, or circumstances over which the ESUCC exercised substantial control over both the respondent and the context in which the sexual harassment occurs. The ESUCC’s response will treat complainants and respondents equitably by offering supportive measures as defined in subsection 2.7 above to a complainant, and by following the grievance process described in section 5 below before the imposition of any disciplinary sanctions or other actions that are not supportive measures, against a respondent. The Title IX Coordinator will promptly contact the complainant to discuss the availability of supportive measures, consider the complainant’s wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.

4.3. Emergency Removal. Nothing in this policy precludes the ESUCC from removing a respondent from the ESUCC’s education program or activity on an emergency basis, provided that the ESUCC undertakes an individualized safety and risk analysis, and determines that an immediate threat to the physical health or safety of any employee or other individual arising from the allegations of sexual harassment justifies removal. In the event that the ESUCC so removes a respondent on an emergency basis, then the ESUCC will provide the respondent with notice and an opportunity to challenge the decision immediately following the removal. This provision may not be construed to modify any rights under the Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act.

4.4. Administrative Leave. Nothing in this policy precludes the ESUCC from placing a non-student employee respondent on administrative leave during the pendency of a grievance process that complies with section 5 below. This provision may not be construed to modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act.

4.5. General Response Not Conditioned on Formal Complaint. With or without a formal complaint, the ESUCC will comply with the obligations and procedures described in this section 4.

5. Grievance Process for Formal Complaints of Sexual Harassment.

5.1. General Requirements.

- 5.1.1. **Equitable Treatment.** The ESUCC will treat complainants and respondents equitably by providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent, and by following the grievance process described in this section 5 before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent. Remedies will be designed to restore or preserve equal access to the ESUCC's education program or activity. Remedies may include the same individualized services described in subsection 2.7 as "supportive measures"; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent.
- 5.1.2. **Objective Evaluation.** This grievance process requires an objective evaluation of all relevant evidence—including both inculpatory and exculpatory evidence. Credibility determinations may not be based on a person's status as a complainant, respondent, or witness.
- 5.1.3. **Absence of Conflicts of Interest or Bias.** The ESUCC will require that any individual designated by a recipient as a Title IX Coordinator, investigator, decision-maker, or any person designated by a recipient to facilitate an informal resolution process, not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.
- 5.1.4. **Training.** The ESUCC will ensure that all individuals or entities described in this Training section 5.1.4 receive training as provided below. Any materials used to train these individuals will not rely on sex stereotypes and will promote impartial investigations and adjudications of formal complaints of sexual harassment.
 - 5.1.4.1. **All ESUCC Employees and Board Members.** All ESUCC employees and board members will be trained on how to identify and report sexual harassment.
 - 5.1.4.2. **Title IX Coordinators, Investigators, Decision-Makers, or Informal Resolution Facilitators.** The ESUCC will ensure that Title IX Coordinators, investigators, decision-makers, or any person designated by the ESUCC to facilitate an informal resolution process receive training on:
 - 5.1.4.2.1. The definition of sexual harassment in subsection 2.6;
 - 5.1.4.2.2. The scope of the ESUCC's education program or activity;

5.1.4.2.3. How to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable; and

5.1.4.2.4. How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

5.1.4.3. **Decision-Makers.** The ESUCC will ensure that decision-makers receive training on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, as set forth in subsection 5.6.

5.1.4.4. **Investigators.** The ESUCC will also ensure that investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence, as set forth in subsection 5.5.8.

5.1.5. **Presumption.** It is presumed that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

5.1.6. **Reasonably Prompt Time Frames.** This grievance process shall include reasonably prompt time frames for conclusion of the grievance process, including reasonably prompt time frames for filing and resolving appeals and informal resolution processes if the ESUCC offers informal resolution processes. The process shall also allow for the temporary delay of the grievance process or the limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

5.1.7. **Range of Possible Sanctions and Remedies.** Following a determination of responsibility, the ESUCC may impose disciplinary sanctions and remedies in conformance with this and the ESUCC's discipline policies, and other state and federal laws. Depending upon the circumstances, these policies provide for disciplinary sanctions and remedies up to and including expulsion or termination.

5.1.8. **Range of Supportive Measures.** The range of supportive measures available to complainants and respondents include those listed in subsection 2.7.

5.1.9. **Respect for Privileged Information.** The ESUCC will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

5.2. **Notice of Allegations.**

5.2.1. **Initial Notice.** Upon receipt of a formal complaint, the ESUCC will provide the following written notice to the parties who are known:

5.2.1.1. A copy of this policy.

5.2.1.2. Notice of the allegations of sexual harassment potentially constituting sexual harassment as defined in subsection 2.6, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known. The written notice will include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process. The written notice will inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, under subsection 5.5.5, and may inspect and review evidence under subsection 5.5.5. The written notice will inform the parties of any provision in the ESUCC's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

5.2.2. **Supplemental Notice.** If, in the course of an investigation, the ESUCC decides to investigate allegations about the complainant or respondent that are not included in the Initial Notice described above, the ESUCC will provide notice of the additional allegations to the parties whose identities are known.

5.3. **Dismissal of Formal Complaint.**

5.3.1. The ESUCC will investigate the allegations in a formal complaint.

5.3.2. **Mandatory Dismissals.** The ESUCC **must** dismiss a formal complaint if the conduct alleged in the formal complaint:

5.3.2.1. Would not constitute sexual harassment as defined in subsection 2.6 even if proved;

5.3.2.2. Did not occur in the ESUCC's education program or activity; or

5.3.2.3. Did not occur against a person in the United States.

5.3.3. **Discretionary Dismissals.** The ESUCC **may** dismiss the formal complaint or any allegations therein, if at any time during the investigation or hearing:

5.3.3.1. The complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;

- 5.3.3.2. The respondent is no longer enrolled in or employed by the ESUCC; or
- 5.3.3.3. Specific circumstances prevent the ESUCC from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

5.3.4. Upon a dismissal required or permitted pursuant to subsections 5.3.2 or 5.3.3 above, the ESUCC will promptly send written notice of the dismissal and an explanation of that action simultaneously to the parties.

5.3.5. Dismissal of a formal complaint under this policy does not preclude the ESUCC from taking action under another provision of the ESUCC's code of conduct or pursuant to another ESUCC policy.

5.4. **Consolidation of Formal Complaints.** The ESUCC may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances. Where a grievance process involves more than one complainant or more than one respondent, references in this policy to the singular "party," "complainant," or "respondent" include the plural, as applicable.

5.5. **Investigation of Formal Complaint.** When investigating a formal complaint and throughout the grievance process, the ESUCC will:

- 5.5.1. Designate and authorize one or more persons (which need not be ESUCC employees) as investigator(s) to conduct the ESUCC's investigation of a formal complaint;
- 5.5.2. Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the ESUCC and not on the parties provided that the ESUCC cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the ESUCC obtains that party's voluntary, written consent to do so for a grievance process under this section;
- 5.5.3. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence;
- 5.5.4. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence;
- 5.5.5. Provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for

either the complainant or respondent in any meeting or grievance proceeding; however, the ESUCC may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties;

- 5.5.6. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate;
- 5.5.7. Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the ESUCC does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. Prior to completion of the investigative report, the ESUCC will send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties will have at least 10 calendar days to submit a written response, which the investigator will consider prior to completion of the investigative report; and
- 5.5.8. Create an investigative report that fairly summarizes relevant evidence and, at least 10 calendar days prior to the time of determination regarding responsibility, send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

5.6. **Exchange of Written Questions.** After the ESUCC has sent the investigative report to the parties pursuant to subsection 5.5.8, but before reaching a determination regarding responsibility, the decision-maker(s) will afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. The decision-maker(s) will explain to the party proposing the questions any decision to exclude a question as not relevant.

5.7. **Determination Regarding Responsibility**

- 5.7.1. **Decision-Maker(s).** The decision-maker(s) cannot be the same person as the Title IX Coordinator or the investigator(s).
- 5.7.2. **Written Determination.** The decision-maker(s) will issue a written determination regarding responsibility. To reach this determination, the

decision-maker(s) will apply the preponderance of the evidence standard. The written determination will include:

- 5.7.2.1. Identification of the allegations potentially constituting sexual harassment as defined in subsection 2.6;
 - 5.7.2.2. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
 - 5.7.2.3. Findings of fact supporting the determination;
 - 5.7.2.4. Conclusions regarding the application of the ESUCC's code of conduct to the facts;
 - 5.7.2.5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the ESUCC imposes on the respondent, and whether remedies designed to restore or preserve equal access to the ESUCC's education program or activity will be provided by the ESUCC to the complainant; and
 - 5.7.2.6. The ESUCC's procedures and permissible bases for the complainant and respondent to appeal.
- 5.7.3. The ESUCC will provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that the ESUCC provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.
- 5.7.4. The Title IX Coordinator is responsible for effective implementation of any remedies.

5.8. **Appeals.** The ESUCC will offer both parties the opportunity to appeal from a determination regarding responsibility, and from the ESUCC's dismissal of a formal complaint or any allegations therein, on the grounds identified below.

- 5.8.1. **Time for Appeal.** Appeals may only be initiated by submitting a written Notice of Appeal to the Title IX Coordinator within five (5) calendar days of the date of the respective written determination of responsibility or dismissal from which the appeal is taken. The Notice of Appeal must include (a) the name of the party or parties making the appeal, (b) the determination, dismissal, or portion thereof being appealed, and (c) a concise statement of the specific grounds (from subsection 5.8.2 below) upon which the appeal is based. A party's failure to timely submit a Notice of Appeal will be deemed a waiver of the party's right to appeal under this policy, 34 C.F.R. part, 106, and Title IX.

5.8.2. **Grounds for Appeal.** Appeals from a determination regarding responsibility, and from the ESUCC's dismissal of a formal complaint or any allegations therein, are limited to the following grounds:

- 5.8.2.1. Procedural irregularity that affected the outcome of the matter;
- 5.8.2.2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- 5.8.2.3. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

5.8.3. As to all appeals, the ESUCC will:

- 5.8.3.1. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
- 5.8.3.2. Ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;
- 5.8.3.3. Ensure that the decision-maker(s) for the appeal complies with the standards set forth in subsections 5.1.3–5.1.4.
- 5.8.3.4. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
- 5.8.3.5. Issue a written decision describing the result of the appeal and the rationale for the result; and
- 5.8.3.6. Provide the written decision simultaneously to both parties.

5.9. **Informal Resolution.** The ESUCC will not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with this section. Similarly, the ESUCC will not require the parties to participate in an informal resolution process under this section and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility the ESUCC may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the ESUCC:

- 5.9.1. Provides to the parties a written notice disclosing:

- 5.9.1.1. The allegations;
- 5.9.1.2. The requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations;
- 5.9.1.3. That at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint; and
- 5.9.1.4. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
- 5.9.2. Obtains the parties' voluntary, written consent to the informal resolution process; and
- 5.9.3. Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed someone.

5.10. Recordkeeping.

- 5.10.1. The ESUCC will maintain for a period of seven years records of:
 - 5.10.1.1. Each sexual harassment investigation including any determination regarding responsibility, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the ESUCC's education program or activity;
 - 5.10.1.2. Any appeal and the result therefrom;
 - 5.10.1.3. Any informal resolution and the result therefrom; and
 - 5.10.1.4. All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. The ESUCC will make these training materials publicly available on its website, or if the ESUCC does not maintain a website then the ESUCC will make these materials available upon request for inspection by members of the public.
- 5.10.2. For each response required under section 4, the ESUCC will create, and maintain for a period of seven years, records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. In each instance, the ESUCC will document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the ESUCC's education program or activity. If the ESUCC does not provide a complainant with

supportive measures, then the ESUCC will document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the ESUCC in the future from providing additional explanations or detailing additional measures taken.

6. Executive Director Authorized to Contract. The board authorizes the Executive Director to contract for, designate, and appoint individuals to serve in the roles of the ESUCC's investigator(s), decision-maker(s), informal resolution facilitator(s), or appellate decision-maker(s) as contemplated by this policy.

7. Certain Different Treatment on the Basis of Sex Permitted. Nothing herein shall be construed to prohibit the ESUCC from treating persons differently on the basis of sex as permitted by Title IX or 34 C.F.R. part 106. For example, and without limiting the foregoing, the ESUCC may provide separate toilet on the basis of sex, but such facilities provided for an employee of one sex shall be comparable to such facilities provided for persons of the other sex.

8. Retaliation Prohibited. Neither the ESUCC nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, 34 C.F.R. part 106, or this policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy. The ESUCC will keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by the FERPA statute, 20 U.S.C. § 1232g, or FERPA regulations, 34 C.F.R. part 99, or as required by law, or to carry out the purposes of 34 C.F.R. part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder. Complaints alleging retaliation may be filed according to shall be addressed pursuant to Board Policy 2006 (Complaint Procedure).

8.1. Specific Circumstances.

8.1.1. The exercise of rights protected under the First Amendment does not constitute retaliation prohibited by this section.

8.1.2. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this part does not constitute retaliation prohibited under this section, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

9. Notification of Policy. The ESUCC will notify applicants for admission and employment, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the ESUCC of the existence of this policy. The requirement to not discriminate, as stated in Title IX and 34 C.F.R. part 106, in the ESUCC's education program(s) or activities extends to admission and employment, and inquiries about the application of Title IX and 34 C.F.R. part 106 to the ESUCC may be referred to the ESUCC's Title IX Coordinator, the Assistant Secretary for Civil Rights of the United States Department of Education, or both.

10. Publication of Policy. The ESUCC will prominently display on its website, if any, and in each handbook that it makes available to applicants for admission and employment, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the ESUCC, the name or title, office address, electronic mail address, and telephone number of the employee or employees designated as the Title IX Coordinator(s).

11. Application Outside the United States. The requirements of this policy apply only to sex discrimination occurring against a person in the United States.

12. Scope of Policy. Nothing herein shall be construed to be more demanding or more constraining upon the ESUCC than the requirements of Title IX (20 U.S.C. § 1681) and 34 C.F.R. part 106. To the extent that the ESUCC is in compliance with Title IX and 34 C.F.R. part 106, then all of the ESUCC's obligations under this policy shall be deemed to be fulfilled and discharged.

Legal Reference: Title VI, 42 U.S.C. § 2000d, Title VII, 42 U.S.C. § 2000e, Title IX; 20 U.S.C. § 1681, and the Nebraska Fair Employment Practices Act, Neb. Rev. Stat. §48-1101 et seq.

Age Discrimination in Employment Act (ADEA), the Older Workers Benefit Protection Act (OWBPA), 29 U.S.C. §621 et seq., and the Nebraska Age Discrimination in Employment Act, Neb. Rev. Stat. §48-1001 et seq.; Americans with Disabilities Act (ADA), 42 U.S.C. § 12101 et seq. Section 504 of the Rehabilitation Act of 1973 (Section 504) Pregnancy Discrimination Act, 42 U.S.C. § 2000e(k) Uniform Service Employment and Reemployment Rights Act (USERRA), 38 U.S.C. § 4301 et seq. Neb. Rev. Stat. § 79-2,115, et seq

Adopted On: February 4, 2021

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