

Intergovernmental Agreement

Date: November 15, 2011

Parties: Apache County School Superintendent
Cochise County School Superintendent
Coconino County School Superintendent
Gila County School Superintendent
Graham County School Superintendent
Greenlee County School Superintendent
La Paz County School Superintendent
Maricopa County School Superintendent
Mohave County School Superintendent
Navajo County School Superintendent
Pima County School Superintendent
Pinal County School Superintendent
Santa Cruz County School Superintendent
Yavapai County School Superintendent
Yuma County School Superintendent

In this Intergovernmental Agreement, the parties may be referred to collectively as the “Superintendents.”

Statutory Authority:

1. The Superintendents through their respective county education service agencies are public agencies of the state of Arizona. *See* Ariz. Rev. Stat. Ann. § 15-301(C) (Supp. 2010); § 11-951 (2001).

2. By statute, the Superintendents may enter into an intergovernmental agreement to (a) procure materials or services, (b) jointly exercise powers common to the Superintendents, and (c) take joint or cooperative action. *See* Ariz. Rev. Stat. Ann. §§ 11-952 (Supp. 2010); 15-342(13) (Supp. 2010).

3. Under the statutes, the Superintendents join together and by this Intergovernmental Agreement form an association, called the Arizona Association of County School Superintendents (“AACSS”). The Association’s purposes are set forth below.

Agreements:

The Superintendents agree to jointly and cooperatively accomplish common purposes, exercise powers, and take concerted action in accordance with this Intergovernmental Agreement’s terms and conditions.

1. Purpose. The Superintendents form the Arizona Association of County School Superintendents and enter into this Intergovernmental Agreement for these purposes.

1.1 The Association shall: (1) promote the public’s interest in improving and advancing education in Arizona; (2) continuously strive to enhance teaching and learning and to upgrade curriculum content; (3) serve as a liaison to civic and governmental agencies on educational issues; (4) work to improve educational administration; and (5) enhance delivery of educational services for the benefit of public schools and Arizona residents.

1.2 The Association sponsors and will continue to sponsor charitable and merit-recognition activities, including the elementary-school-book-distribution program, the teacher-of-the-year awards, the spelling bee, and other joint educational activities and programs.

1.3 Through the Association, the Superintendents may procure on an as-needed, when-needed basis books, school supplies, other materials, and services.

1.4 Through the Association, the Superintendents will undertake all other joint and cooperative action that may be necessary and proper to accomplish these purposes and other objectives as required or desired by the Superintendents. In accordance with this IGA, the Association may adopt by-laws to govern itself.

2. Duration.

2.1 This Intergovernmental Agreement’s term is ten years.

2.2 The Superintendents may extend the Agreement for succeeding terms of ten years each. By April 1 of the year in which the Intergovernmental Agreement term (primary or renewal) would expire, each Superintendent that intends to extend the Agreement for an additional ten-year term must notify all participating Superintendents of that Superintendent's intent to extend.

2.3 If less than nine Superintendents give written notice of intent to extend the Intergovernmental Agreement for an additional ten-year term, then this Agreement shall expire on June 30 of the tenth year of the then-current term.

2.4 Each Superintendent may terminate his or her participation in this Intergovernmental Agreement without notice if another Superintendent fails to comply with the Agreement's terms or conditions.

3. Financing and Budget.

3.1 Each year, the Association may purchase materials and services for the Association on an as-needed, when-needed basis. Each purchase will be executed based on the Association's needs and budget.

3.2 By the date of the Association's annual meeting, the Association shall establish a proposed annual budget, which must be approved at the meeting by 60% of Superintendents.

3.3 Annually, conditioned on the affirmative vote of 60% of Superintendents, the Association may establish and collect dues and special assessments to finance the Association's activities and programs. If a Superintendent fails to pay dues and special assessments by the deadline specified, the Association by vote of 60% of its members may terminate the Superintendent's membership in the Association and the Superintendent's rights under this Agreement.

3.4 In accordance with its by-laws, the Association shall elect a treasurer for a one-year term. The treasurer shall ensure that: (1) Association dues and special assessments are collected and held in trust; (2) the Association maintains financial records in accordance with generally accepted accounting principles; (3) the records are produced for annual audits if required by a state or federal agency with jurisdiction; and (4) annual financial statements and reports are prepared to the Superintendents' reasonable satisfaction.

3.5 The Association shall inspect, accept, and pay vendors for all materials and services promptly after the materials and services are delivered.

3.6 The Association shall not finance purchases or operations by borrowing money.

4. Officers.

4.1 In accordance with its by-laws, the Association shall annually elect a president, vice-president, secretary, and treasurer for a one-year term of service.

4.2 The president, vice-president, and secretary may be re-elected each year for additional one-year terms. Unless the by-laws otherwise provide, there is no limit on the number of terms that these officers may serve.

5. Termination.

5.1 This Intergovernmental Agreement will terminate upon the expiration of any ten-year term if the Agreement is not renewed in accordance with section 2.

5.2 Notwithstanding the fixed ten-year term, each Superintendent may withdraw from this Intergovernmental Agreement on June 30 of any year by providing written notice to the other Superintendents no later than April 1 of the same year.

5.3 In accordance with paragraph 3.3, the Association may terminate for cause a Superintendent's membership in the Association and the Superintendent's rights under this Agreement for failure to pay dues or special assessments by the deadline specified. Before terminating a Superintendent for cause, the Association shall give the Superintendent 10 days' written notice to cure the defaults. If the Superintendent fails to cure within 10 days from the date the Superintendent receives notice, the Superintendent's membership in the Association and all of the Superintendent's rights under this Agreement will terminate without further notice.

5.4 If the Intergovernmental Agreement is terminated, any materials, services, or other property then in the possession or control of the Association or which a third party possesses or controls but is under a duty to deliver or render to the Association, shall be distributed to each Superintendent as his or her individual interest in the materials and services may appear on the date the Agreement is terminated, subject to payment of any outstanding balance due and owing to the vendor.

6. Administration and Procurement. The Association shall comply with the following procedures when ordering materials and services.

6.1 The Superintendents appoint the Association's treasurer and the treasurer's Education Service Agency to serve as the Association's fiscal agent and procurement officer. The Agency shall conduct all procurements in accordance with state law and the procurement rules and regulations applicable to the treasurer and the treasurer's Education Service Agency.

6.2 The Agency shall award all contracts and arrange for the materials and services purchased to be delivered to the Association. The Association will arrange for delivery of materials and services to the appropriate facilities no later than the delivery date estimated by the Agency. The vendor contracts must allocate to the vendors all risk of loss of or damage to the materials until they are delivered to, inspected, and accepted by the Association. If materials are damaged or nonconforming to the contract, the Association may reject the materials and arrange for them to be returned to the vendor. The Agency shall direct the vendor to promptly deliver non-damaged, conforming materials to the Association.

6.3 Promptly after delivery and acceptance of conforming materials or services, the Association shall arrange to pay for them in the ordinary course.

6.4 The request for proposals or invitation for bids utilized by the Agency to procure materials and services under this Intergovernmental Agreement must provide that when the Association accepts the materials or services, all manufacturer and seller warranties and guarantees, if any, run to and directly and expressly benefit the Association. If any materials or services delivered to and paid for by the Association are defective and breach an express or implied warranty, the Agency shall assist the Association in revoking acceptance of the materials, if necessary, or otherwise preparing a warranty claim for repairs or replacement of the materials.

6.5 The Association is responsible to exercise all of its rights and remedies against any manufacturer, seller, or other contractor for defective or nonconforming materials or services procured by the Agency. If the Association is unable to secure performance from a manufacturer, seller, or other contractor of defective or nonconforming materials or services, no Superintendent must exercise his or her own rights and remedies against the manufacturer, seller, or other contractor.

7. Alternative Dispute Resolution. The Superintendents may submit any dispute among them arising out of or relating to this Intergovernmental Agreement to alternative dispute resolution if they mutually agree.

8. Indemnification. To the fullest extent permitted by law, each Superintendent shall indemnify and hold harmless the others and their respective agencies, officers, directors, members, consultants, agents, and employees from and against all claims for bodily injury and property damage, including reasonable attorneys' fees, costs, and expenses that may arise from the Superintendent's performance of or failure to perform this Intergovernmental Agreement, but only to the extent caused by the negligent acts or omissions of the Superintendent, his or her agents, or employees.

9. Insurance. On their respective agencies, the Superintendents shall maintain the insurance coverages on the terms and conditions and in the limits offered by the Arizona School Risk Retention Trust.

10. Waivers of Subrogation.

10.1 The Superintendents waive all rights against each other and any of their agents and employees, each of the other, for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to this Intergovernmental Agreement or other applicable property insurance, except the rights they have to proceeds of the insurance held by any Superintendent as fiduciary. A waiver of subrogation is effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

10.2 A loss insured under any Superintendent's property insurance must be adjusted by that Superintendent as fiduciary and made payable to the Superintendent as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause.

11. Miscellaneous Provisions.

11.1 Governing Law. This Intergovernmental Agreement's interpretation and performance are governed by Arizona law.

11.2 No Waiver. No action or failure to act by any Superintendent constitutes a waiver of any right or duty under this Intergovernmental Agreement, nor does the action or failure to act constitute approval of or acquiescence in a breach of the Agreement, unless all of the Superintendents memorialize the waiver or approval in writing and sign it.

11.3 Entire Agreement. This Intergovernmental Agreement represents the entire, integrated agreement between the Superintendents. The Agreement supersedes all prior negotiations, representations, or agreements, whether written or oral. The Agreement may be amended only by written instrument signed by each Superintendent.

11.4 Third Parties. Nothing in this Intergovernmental Agreement creates a contractual relationship with or a cause of action in favor of a third party against any Superintendent, the treasurer, the Superintendents' Education Service Agencies, or the Association. This Agreement is not intended to benefit any third party.

11.5 Binding Effect. Each Superintendent respectively binds himself or herself, his or her successors, assigns, and legal representatives each to the other and to the other's successors, assigns, and legal representatives with respect to this Intergovernmental Agreement's covenants, terms, and conditions.

11.6 Notices. All notices under this Intergovernmental Agreement must be in writing and sent to the appropriate person. Notices will be deemed properly given if sent by (1) personal delivery, (2) facsimile transmission, (3) first-class United States mail, postage prepaid, or (4) certified U.S. mail, postage prepaid, return receipt requested, addressed as follows:

Apache County School Superintendent

Attn: _____

Cochise County School Superintendent

Attn: _____

Coconino County School Superintendent

Attn: _____

Gila County School Superintendent

Attn: _____

Graham County School Superintendent

Attn: _____

Greenlee County School Superintendent

Attn: _____

La Paz County School Superintendent

Attn: _____

Maricopa County School Superintendent

Attn: _____

Mohave County School Superintendent

Attn: _____

Navajo County School Superintendent

Attn: _____

Pima County School Superintendent

Attn: _____

Pinal County School Superintendent

Attn: _____

Santa Cruz County School Superintendent

Attn: _____

Yavapai County School Superintendent

Attn: _____

Yuma County School Superintendent

Attn: _____

Each party may by notice to the others specify a different address for purposes of subsequent notices. Notice is effective on the date of actual receipt or three days after the date of mailing, whichever is earlier.

11.7 Compliance with Law. Each Superintendent shall comply with all applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities in performing this Intergovernmental Agreement, including but not limited to environmental laws.

11.8 Severability. If any provision(s) of this Intergovernmental Agreement is/are invalid, illegal, or unenforceable for any reason, all other Agreement provisions shall nevertheless remain in full force and effect. If any provision(s) is/are inapplicable to any person or circumstance, the same provision(s) shall nevertheless remain applicable to all other persons and circumstances.

11.9 Counsel's Review and Approval. The Superintendents' respective attorneys shall review and approve this Intergovernmental Agreement.

This Intergovernmental Agreement is effective on the date approved by the last Superintendent.

Dated _____, 2011

Apache County School Superintendent

By_____

Approval of Attorney for Apache County School Superintendent

I am the attorney for the Apache County School Superintendent. I have reviewed this Intergovernmental Agreement and have determined that: (1) the agreement is in proper form; and (2) it is within the Apache County School Superintendent’s powers and authority granted under the laws of the state of Arizona.

Attorney for Apache County
School Superintendent

Date

Dated _____, 2011

Cochise County School Superintendent

By_____

Approval of Attorney for Cochise County School Superintendent

I am the attorney for the Cochise County School Superintendent. I have reviewed this Intergovernmental Agreement and have determined that: (1) the agreement is in proper form; and (2) it is within the Cochise County School Superintendent’s powers and authority granted under the laws of the state of Arizona.

Attorney for Cochise County
School Superintendent

Date

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Dated _____, 2011

Coconino County School Superintendent

By_____

Approval of Attorney for Coconino County School Superintendent

I am the attorney for the Coconino County School Superintendent. I have reviewed this Intergovernmental Agreement and have determined that: (1) the agreement is in proper form; and (2) it is within the Coconino County School Superintendent’s powers and authority granted under the laws of the state of Arizona.

Attorney for Coconino County
School Superintendent

Date

Dated _____, 2011

Gila County School Superintendent

By_____

Approval of Attorney for Gila County School Superintendent

I am the attorney for the Gila County School Superintendent. I have reviewed this Intergovernmental Agreement and have determined that: (1) the agreement is in proper form; and (2) it is within the Gila County School Superintendent’s powers and authority granted under the laws of the state of Arizona.

Attorney for Gila County
School Superintendent

Date

Dated _____, 2011

Graham County School Superintendent

By_____

Approval of Attorney for Graham County School Superintendent

I am the attorney for the Graham County School Superintendent. I have reviewed this Intergovernmental Agreement and have determined that: (1) the agreement is in proper form; and (2) it is within the Graham County School Superintendent’s powers and authority granted under the laws of the state of Arizona.

Attorney for Graham County
School Superintendent

Date

Dated _____, 2011

Greenlee County School Superintendent

By_____

Approval of Attorney for Greenlee County School Superintendent

I am the attorney for the Greenlee County School Superintendent. I have reviewed this Intergovernmental Agreement and have determined that: (1) the agreement is in proper form; and (2) it is within the Greenlee County School Superintendent’s powers and authority granted under the laws of the state of Arizona.

Attorney for Greenlee County
School Superintendent

Date

Dated _____, 2011

La Paz County School Superintendent

By_____

Approval of Attorney for La Paz County School Superintendent

I am the attorney for the La Paz County School Superintendent. I have reviewed this Intergovernmental Agreement and have determined that: (1) the agreement is in proper form; and (2) it is within the La Paz County School Superintendent’s powers and authority granted under the laws of the state of Arizona.

Attorney for La Paz County
School Superintendent

Date

Dated _____, 2011

Maricopa County School Superintendent

By_____

Approval of Attorney for Maricopa County School Superintendent

I am the attorney for the Maricopa County School Superintendent. I have reviewed this Intergovernmental Agreement and have determined that: (1) the agreement is in proper form; and (2) it is within the Maricopa County School Superintendent’s powers and authority granted under the laws of the state of Arizona.

Attorney for Maricopa County
School Superintendent

Date

Dated _____, 2011

Mohave County School Superintendent

By_____

Approval of Attorney for Mohave County School Superintendent

I am the attorney for the Mohave County School Superintendent. I have reviewed this Intergovernmental Agreement and have determined that: (1) the agreement is in proper form; and (2) it is within the Mohave County School Superintendent’s powers and authority granted under the laws of the state of Arizona.

Attorney for Mohave County
School Superintendent

Date

Dated _____, 2011

Navajo County School Superintendent

By_____

Approval of Attorney for Navajo County School Superintendent

I am the attorney for the Navajo County School Superintendent. I have reviewed this Intergovernmental Agreement and have determined that: (1) the agreement is in proper form; and (2) it is within the Navajo County School Superintendent’s powers and authority granted under the laws of the state of Arizona.

Attorney for Navajo County
School Superintendent

Date

Dated _____, 2011

Pima County School Superintendent

By_____

Approval of Attorney for Pima County School Superintendent

I am the attorney for the Pima County School Superintendent. I have reviewed this Intergovernmental Agreement and have determined that: (1) the agreement is in proper form; and (2) it is within the Pima County School Superintendent’s powers and authority granted under the laws of the state of Arizona.

Attorney for Pima County
School Superintendent

Date

Dated _____, 2011

Pinal County School Superintendent

By_____

Approval of Attorney for Pinal County School Superintendent

I am the attorney for the Pinal County School Superintendent. I have reviewed this Intergovernmental Agreement and have determined that: (1) the agreement is in proper form; and (2) it is within the Pinal County School Superintendent’s powers and authority granted under the laws of the state of Arizona.

Attorney for Pinal County
School Superintendent

Date

Dated _____, 2011

Santa Cruz County School Superintendent

By_____

Approval of Attorney for Santa Cruz County School Superintendent

I am the attorney for the Santa Cruz County School Superintendent. I have reviewed this Intergovernmental Agreement and have determined that: (1) the agreement is in proper form; and (2) it is within the Santa Cruz County School Superintendent’s powers and authority granted under the laws of the state of Arizona.

Attorney for Santa Cruz County
School Superintendent

Date

Dated _____, 2011

Yavapai County School Superintendent

By_____

Approval of Attorney for Yavapai County School Superintendent

I am the attorney for the Yavapai County School Superintendent. I have reviewed this Intergovernmental Agreement and have determined that: (1) the agreement is in proper form; and (2) it is within the Yavapai County School Superintendent’s powers and authority granted under the laws of the state of Arizona.

Attorney for Yavapai County
School Superintendent

Date

Dated _____, 2011

Yuma County School Superintendent

By _____

Approval of Attorney for Yuma County School Superintendent

I am the attorney for the Yuma County School Superintendent. I have reviewed this Intergovernmental Agreement and have determined that: (1) the agreement is in proper form; and (2) it is within the Yuma County School Superintendent's powers and authority granted under the laws of the state of Arizona.

Attorney for Yuma County
School Superintendent

Date