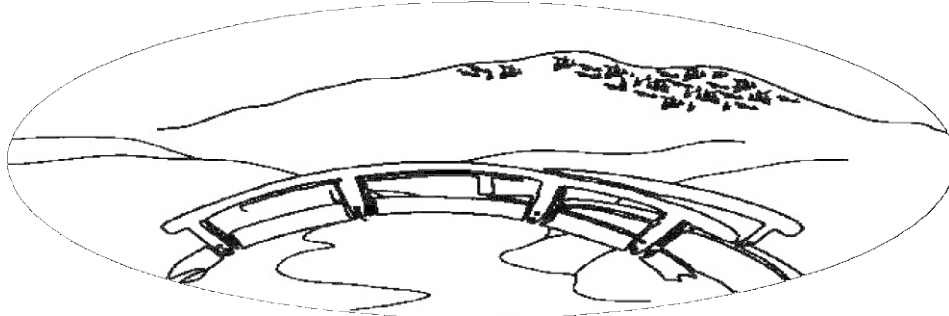


PRICKLY PEAR COOPERATIVE



Optimizing Resources Unlocking Potential

*Unlock each child's potential
Support the whole child
Build the foundation for their lifelong success*

INTERLOCAL AGREEMENT

Approved on

March 13, 2013

INTERLOCAL AGREEMENT FOR THE ESTABLISHMENT OF AN EDUCATIONAL COOPERATIVE

THIS AGREEMENT, made and entered into this day of February 6, 1996, between and among the following participating school districts:

DISTRICT NO.	DISTRICT	COUNTY
1	Townsend	Broadwater
9	East Helena	Lewis & Clark
4	Trinity	Lewis & Clark
13	Wolf Creek	Lewis & Clark
27	Montana City	Jefferson
1	Clancy	Jefferson
1-7	Boulder	Jefferson
1	Jefferson High School	Jefferson
5	Basin	Jefferson
16-31	Cardwell	Jefferson
2-4-47	Whitehall	Jefferson
8	White Sulphur Springs	Meagher

PURPOSE: The participating school districts establish this cooperative for the purpose of providing special education and related services to the members of this cooperative.

WHEREAS, the participating districts desire to offer services to persons requiring special education, (said persons defined in section 20-7-401, MCA) and to students with identified disabilities residing within said districts; and

WHEREAS, the participating districts desire to provide these special education services in compliance with all applicable state; and federal laws and regulations; and

WHEREAS, Sections 20-7-451 through 20-7-456, MCA, provide that school districts may contract with one another to establish a cooperative to perform special education administrative services, activities, and other educational undertakings that the school district entering into this agreement is authorized by law to perform; and

NOW, THEREFORE, the parties hereto, hereby establish this Special Education Cooperative [hereinafter referred to as the Cooperative] pursuant to the following mutual covenants and promises:

COOPERATIVE'S POWERS, DUTIES, AND RESPONSIBILITIES

- I. The Cooperative may assist in the development and maintenance of special education and related services in all participating school districts who are parties to this agreement.
- II. The Cooperative shall assist member districts in developing and maintaining a pre-referral process to ensure compliance with state and federal law.
- III. The Cooperative shall partner in the comprehensive evaluation of referred children who are suspected of being children with disabilities, as defined above, when such an evaluation is not available in said district.
- IV. The Cooperative shall partner with personnel in member districts to identify children with disabilities for the purposes of delivering educational services.
- V. The Cooperative shall assist in the development of an individualized education program for each child requiring the services provided through the Cooperative.
- VI. The Cooperative may assist in providing instructional, related and support services to a student in a participating school district as required by state and federal law, district policy and the individual education program when services are not available in the district.
- VII. The Cooperative shall advise the Districts on decisions pertaining to compliance with state and federal law including Free Appropriate Education in the Least Restrictive Environment.
- VIII. The Cooperative shall at least annually perform the Child Find activities required of the participating districts by state and federal statute.
- IX. The Cooperative shall assist each District to ensure due process for all children with disabilities, including the appointment of surrogate parent if necessary.
- X. The Cooperative shall provide the above-mentioned services to all students eligible to receive such services in a manner that ensures compliance with state and federal law and the applicable participating district policies, as requested.
- XI. Nothing in this agreement shall be construed as transferring or conferring the responsibility of providing special education or related services for a special education student from his or her resident participating school district to another participating school district within the Cooperative or the Cooperative itself or to alter the financial responsibility of the resident school district as provided in Section 20- 7-420, MCA.

COOPERATIVE POWERS

The cooperative shall have the following powers:

- I. To sue and be sued, complain, and defend, in its Cooperative name.
- II. To purchase, take, receive, lease, take by gifts, devise or bequest, or otherwise acquire, hold, own, improve, use, and otherwise deal in and with real or personal property, or any interest therein, wherever situated.
- III. To sell, convey, mortgage, pledge, lease, exchange, transfer, and otherwise dispose of all or any part of its property and assets.
- IV. To make contracts and incur liabilities, borrow money at such rates of interest as the Cooperative determines reasonable.
- V. To conduct its affairs, carry on its operations, and have offices in this state.
- VI. To make and alter, by resolution of the Management Board, by-laws governing the calling and conducting of meetings and internal operating procedures. Policy proposals shall have (2) readings. The Management Board shall adopt proposed policy only at the second or subsequent reading. The requirement to have two readings may be suspended by a unanimous vote of the Board. Policies shall be approved with a simple majority of the Management Board. All policy adoptions shall be incorporated into the official minutes of the Management Board.
- VII. To contract with any non-Cooperative member district or agency during the duration of this Cooperative to provide educational services. Any such contract entered into shall comply with the terms and conditions stated herein and shall be for compensation deemed reasonable by the Cooperative's Management Board.
- VIII. To employ and dismiss employees of the Cooperative as provided by law.
- IX. The Board of Trustees of a participating District may elect to retain the Cooperative for the provision of any educational service as allowed by law.

COOPERATIVE ORGANIZATION

- I. **Cooperative's Name:** The name of this special education cooperative shall be the Prickly Pear Cooperative.
- II. **Duration of Cooperative Agreement:** This Cooperative shall commence on July 1. The duration of this Cooperative is perpetual.
- III. The Management Board shall consist of ten (10) members. The Board of Trustees of each participating District that employs a district superintendent shall appoint one authorized representative. These members shall each have one vote.

The County Superintendents or a designated representative in lieu of the superintendent, from Jefferson and Lewis and Clark counties shall each serve on the Management Board and have a vote. A county superintendent shall be removed from the Board when the county they serve ceases to operate elementary schools in accordance with Section 20-6-209, MCA.

Thus the Management Board shall be constituted as follows and have the following votes:

Member	Vote
Boulder	1
Clancy	1
East Helena	1
Jefferson High School	1
Montana City	1
Townsend	1
Whitehall	1
White Sulphur Springs	1
Jefferson Co. Superintendent (representing Basin and Cardwell)	1
Lewis and Clark Co. Superintendent (representing Trinity and Wolf Creek)	1
TOTAL	10

A quorum shall be a minimum of five (5) voting members. Any motion made will require a majority vote of members present to pass.

- IV. The Management Board members shall be appointed by their respective boards of trustees to a one-year term beginning July 1. Notification of appointed representatives will be sent to the Prickly Pear Cooperative prior to June 30. The Management Board shall elect a Chairperson and Vice Chairperson. The Chairperson's and Vice-Chairperson's terms shall commence July 1 and terminate June 30. The Cooperative Management Board shall meet on a monthly or as needed basis to conduct cooperative business. The Management Board meetings shall be open to the public and in compliance with Montana's open meeting laws.

- V. Unless otherwise provided herein, the Management Board shall have all management authority regarding employment and contracting of Cooperative certified, non-certified, and licensed personnel, expenditures of Cooperative funds, provision of special education services and other education services, and implementation of Cooperative's policy.
- VI. The Management Board of the Cooperative shall recruit and employ a Director. The Management Board by majority vote may delegate to the Director any or all of the powers granted to it in this agreement. Such delegation may be revoked upon a majority vote of the Board.
- VII. The Management Board may employ sufficient qualified personnel to provide the services required by the participating school districts and agreed upon by the Management Board.
- VIII. The Management Board shall: set policy, comprehensively view the performance of the Cooperative at least annually; and report such review to the Board of Trustees of each participating school district; set and approve the fiscal budget of the Cooperative.
- IX. The Management Board shall have the power to make contracts for the Cooperative. No such contract entered by the Cooperative shall bind the Cooperative for a term in excess of one year.

EMPLOYMENT RELATIONSHIPS

- I. The Prickly Pear Cooperative shall retain all rights, duties, and obligations of an employer as provided in Section 20-3-324, MCA, and other applicable law, regarding the certified, non-certified, and licensed employees employed or contracted.
- II. The Prickly Pear Cooperative shall provide all certified, non-certified, and licensed employees identified in paragraph I above with appropriate notice regarding their employment status including, where appropriate, notice of non-renewal of an employment contract with the Prickly Pear Cooperative as provided in Title 20, Chapter 4, Part 2, and Title 20, Chapter 7, MCA, and other applicable laws, on or before the termination of their contract.
- III. Commencing on July 1, 1991, and for all years remaining in the duration of this Cooperative, all certified, non-certified, and licensed employees shall be employed or contracted by the Cooperative as determined by the Management Board. The Cooperative's Management Board shall retain all rights, duties, and obligations of an employer during the remainder of the duration of the Cooperative Agreement. Teachers may acquire tenure status with the Cooperative as provided by law [MCA 20-7-456]. MCA 20-4-203 through 20-4-207 will be followed in accordance with law and this Agreement. All support staff will have a 90 day probationary period.
- IV. Commencing on July 1, 1990, and for all years remaining in the duration of this cooperative agreement, the participating member school districts may, at their discretion, employ, retain, and manage their own special education staff to provide special

education services to resident pupils or contract with the Cooperative to provide these special education services to the pupils at the discretion of the Management Board.

- V. Nothing in this agreement shall prohibit the Management Board of the Cooperative to employ or contract with certified, non-certified, or licensed individuals upon execution and approval of this agreement.

FINANCIAL ADMINISTRATION

- I. Commencing on December 5, 1995, and for the duration of this cooperative agreement, the Prickly Pear Cooperative shall be the public agency vested with the financial administration of the Interlocal Cooperative Agreement, as provided in Section 20-9-701, et. seq., MCA.
- II. The Prickly Pear Cooperative shall establish a non-budgeted Interlocal Cooperative Fund for the purpose of the financial administration of the Interlocal Cooperative Agreement. All revenues received, including federal, state, local, or other types of grant payments in direct support of this agreement and the financial support provided by cooperating agencies, shall be deposited in such fund. All financial support of the agreement contributed by a member district may be transferred to the Interlocal Cooperative Fund from any fund maintained by such district by resolution of the Board of Trustees and by district warrant. The Cooperative is empowered to apply for all applicable Federal, Special Education, State Allocation and other additional grants as approved by the management board, on behalf of the member districts. Any such transfer to the Interlocal Cooperative Fund shall be used to finance those expenditures under the agreement which are comparable to those that are permitted by law to be made out of the fund from which the transfer was made and are within the final budget for the fund from which the transfer was made. Any transfer of federal funds will be made within guidelines of the law.
- III. The Management Board shall authorize the expenditure of special education monies received by the Cooperative for special education services only as provided by state and federal laws. The Management Board may authorize the expenditure of such other non-special education funds for other educational services as are determined by the Management Board and allowed by state and federal laws.
- IV. The Management Board may appoint a secretary and/or clerk for the Cooperative. In addition to such other duties assigned by the Management Board, the clerk shall be responsible to maintain budget books and co-sign warrants. The clerk/secretary shall take minutes at Board meetings and perform secretarial duties for the Director.
- V. Upon approval by a quorum of the Management Board present, all warrants issued by the Cooperative shall have two signatures: Clerk and Board Chairperson of the Prickly Pear Cooperative Management Board.
- VI. A financial audit by an independent Auditor shall be ordered and conducted each year on the Cooperative fiscal affairs to assure proper expenditure procedures. Such report should be furnished to each participating school Board of Trustees and the County Superintendent. The auditor will be selected through a bid process at a minimum of a biennial term.

- VII. All expenditures in support of the Interlocal Cooperative Agreement shall be made from the Interlocal Cooperative Fund established by the Cooperative.
- VIII. The Management Board shall have the sole power to expend funds from the Interlocal Cooperative Fund, unless otherwise provided by contract or applicable law.
- IX. The participating districts will be responsible for any and all financial obligations incurred by the Cooperative and its Management Board in the completion of their accepted duties.
- X. A preliminary budget for the Cooperative shall be adopted prior to July 1 and approved by the Management Board for each fiscal year beginning July 1. The budget shall reflect federal, state, and local dollars. If local funds or other sources are needed to maintain appropriate levels of service and/or maintain the fiscal effort requirement to receive federal funds, the Management Board will decide distribution of these sources.
- XI. A contingency fund may be established by the Cooperative Management Board.
- XII. Counties will be billed for retirement benefits based on their percentage of FTE services received for the current fiscal year. Payments must be made to the Cooperative on at least a quarterly basis at a rate sufficient to meet their prorated annual amount.
- XIII. All districts in the Cooperative will return unexpended special education funds (ie. Special Education Block Grants, their match, etc.) to the Cooperative at the end of the current fiscal year to assist the various districts when unanticipated financial needs arise.

TERMINATION OF MEMBERSHIP IN THE COOPERATIVE

Each district which is a party to this agreement shall remain a member of the Cooperative for a minimum of three (3) years. Following said three (3) year period, a district may withdraw from the Cooperative by giving notice in writing to the Cooperative on or before October 1 of the year immediately preceding the expiration date of the Member's contract term. In the absence of said notice, a district's membership shall extend for a period of an additional three (3) fiscal years. The Cooperative shall provide each member notice in May of each year of the contract term of the withdrawal procedures. Each district's commitment to membership in the Cooperative is effective with the signature on this Membership Agreement. 20-7-457, 10-16-3901, MCA.

ADDITION OF A DISTRICT TO COOPERATIVE

The Cooperative shall allow the addition of a district within the geographic boundaries of the Cooperative in accordance with State statute. Any non-participating school district within the geographic boundary of the Cooperative will be notified annually no later than October 1 of an opportunity to join the Prickly Pear Cooperative for the ensuing three (3) State fiscal years. Any non-participating district within the boundaries of the Prickly Pear Cooperative may become a cooperative member by giving notice of their interest in joining the cooperative. Non-participating districts who wish to join must respond within sixty (60) days of the date of mailing of the opportunity to participate. Such addition may be acted on no later than the March meeting of the Governing Board. Notice of application to add a district shall be given to all members at least ten (10) days prior to the March meeting of the Management Board.

TERMINATION OF THE COOPERATIVE

The Cooperative may be terminated by an affirmative vote of five of the participating school district members of the Management Board. Such vote shall be at the December meeting of said Management Board. Any member of the Management Board may propose termination of the Cooperative. Notice of intention to propose termination shall be sent to each member proposing termination at least ten (10) days prior to the December meeting of the Board.

If the Management Board should terminate the Cooperative, the termination shall be effective at the end of the fiscal year in which termination occurs. During the period from the termination of the Cooperative until the end of the fiscal year, the Cooperative shall wind-up its affairs. All property in the possession of the Cooperative and owned by any member district shall be returned as soon as reasonably possible to the owner-district. Any property owned by the Cooperative shall be distributed to respective districts as determined by the Management Board. All property or monies in the possession of the Cooperative, including any monies generated from the Cooperative-owned property liquidation, shall be distributed to respective member districts as determined by the Management Board.

SEVERABILITY CLAUSE

If any provision of this agreement is found to be void, illegal, or unenforceable, the remaining provisions shall remain in full force and effect.

REVIEW BY THE MONTANA OFFICE OF PUBLIC INSTRUCTION

In accordance with Section 20-7-454, MCA, the Superintendent of Public Instruction has final approval authority and this agreement will not be effective until final approval is received and the agreement is filed with the County Clerk and Recorder of the counties involved and with the Secretary of State.

IN WITNESS WHEREOF, the parties hereto have hereunder set their hands and affixed their seals the day and year above written.

*Board/InterLocal/March09
Amended 2/18/2003
Amended 3/13/2013*