

Sherburne and Northern Wright Special Education Cooperative
Joint Powers Agreement

July 2015

Revised April 2021

I. PARTIES

THIS JOINT POWERS AGREEMENT ("Agreement") is made and entered into this 21st day of April 2021 by and between the School Boards of the following Independent School Districts of the State of Minnesota:

ISD #726 Becker
ISD #727 Big Lake
ISD #882 Monticello

Additional Independent School Districts may enter into and become parties to the Agreement in accordance with the provisions of this Agreement.

The parties of this Agreement hereafter are referred to as "Participating Boards".

II. PURPOSE

The Participating Boards hereby create and join together in an educational cooperative pursuant to Minn. Stat. 471.59 and other applicable statutes for the purpose of providing quality special education services for students in the Participating Boards' district.

This Agreement amends and supersedes all previous agreement between the Participating Boards, including, but not limited to the original Agreement of December 4, 2014, and is effective beginning July 1, 2021.

The name of the educational cooperative provided for by this Agreement is SHERBURNE AND NORTHERN WRIGHT SPECIAL EDUCATION COOPERATIVE ("SNWSEC") which has been designated by the Commissioner of the Minnesota Department of Education as School District 6090-52.

The Participating Boards desire a maximum degree of long-range cooperation and administrative planning in order to provide special education services.

The Participating Boards are committed to make these services readily available to all students who receive special education services in SNWSEC.

The Participating Boards are committed to providing services through sharing information, eliminating the duplication of services, and coordinating efforts

The Participating Boards mutually agree that sharing resources, where feasible, and training efforts may result in improved coordination and services.

The Participating Boards understand that certain roles in serving children and youth are required by law and that these laws shall serve as the foundation for defining the roles and responsibilities of each party.

The Participating Boards agree that all obligations as stated or implied in this Agreement shall be interpreted in light of and consistently with governing state and federal laws.

The Participating Boards recognize such services can be appropriately financed, supported, and managed through a multi-organization joint venture.

III. GOVERNANCE OF SPECIAL EDUCATION JOINT POWERS COOPERATIVE

The SNWSEC will consist of three school districts: Becker, Big Lake, and Monticello. The SNWSEC will have a full time, licensed Director of Special Education. As provided by Minn. Stat.

section 125A.53, no individual shall have a right to employment as a director based on seniority or order of employment by SNWSEC.

A. Control and Management

The control and management of the SNWSEC is vested in a Governing Board which shall consist of one representative from each Participating Board. The members of the Governing Board will be appointed by the respective Participating Boards. In the absence of a regular member of the SNWSEC Governing Board, the absent member's Participating Board may appoint an alternate member to act as a delegate for that Participating Board, and that delegate will have full voting rights. Each Participating Board shall be entitled to one vote on the Governing Board. Each January, a Participating Board shall select a representative to serve as a member of the Governing Board. Each member of the Governing Board appointed by a member district will remain a member until their term expires on their Participating Board, the member resigns from the Governing Board or until replaced by their respective Participating Board.

B. Officers

The elected officers of the Governing Board shall be a Chairperson, a Vice-Chairperson and a Clerk ("Officers"). The election of the Officers is by majority vote of the members of the Governing Board at its first meeting of each fiscal year. A term of an Officer is for one year and such term shall expire at the meeting at which the new Officer is elected. At any meeting at which a quorum is not present, the delegates in attendance have the power to set the time and place for the next meeting. A quorum shall consist of a majority of all the voting members of the Governing Board. Officers shall have the parliamentary duties usually ascribed to such offices as well as those specifically assigned:

1. The Chairperson conducts the meetings, executes undertakings offered as directed by the Governing Board and is the official representative of the Governing Board in all matters relating to SNWSEC.
2. The Vice-Chairperson acts in the absence of the Chairperson and has all the powers of the Chairperson during the latter's absence.
3. The Clerk shall be responsible for ordering and signing of all contracts, at the direction of the Governing Board.

C. Director of Special Education.

The Director of Special Education of SNWSEC shall serve as an *ex officio* non-voting member of the Governing Board as well as the Secretary of the Governing Board.

D. Duties of the Governing Board

The Governing Board, in addition to the authority found elsewhere in the Agreement, is empowered generally to act in the interest of the Participating Boards as a group, within the purposes of this Agreement. The Governing Board shall have all powers granted by statute or otherwise which are necessary or expedient to accomplish the purpose of this Agreement, including, but not limited to the following:

1. Resolutions or other documentation of designation shall be filed with the Secretary of the Governing Board;
2. Meetings of the Governing Board shall be held in compliance with the Open Meeting Law, Minn. Stat. Chap. 13D.
3. The Governing Board may adopt bylaws and/or policies to govern its operation. Such bylaws and/or policies must be consistent with this Agreement and applicable law.
4. The books and records of the Governing Board, including minutes and the original fully executed Agreement are subject to the provisions of the Minnesota Government Data Practices Act, Minn. Stat. Chap. 13.
5. Establishing and maintaining a schedule of time and place of its meetings and give

notice of regular and special meetings as required under the Minnesota Open Meeting law.

IV. POWERS OF THE GOVERNING BOARD

In addition to general powers and not in limitation thereof, the Governing Board is authorized to exercise such authority and powers common to the Parties as is necessary and proper to fulfill its purposes and perform its duties. Such authority shall include the specific powers enumerated in this Agreement or on any applicable bylaws and/or polices enacted by the Governing Board.

A. Specific Powers of the Governing Board

1. To administer the affairs of SNWSEC;
2. To hire, assign duties to, evaluate, and terminate the employment of the SNWSEC Director of Special Education;
3. To adopt an annual budget and approve all disbursements of funds;
4. To acquire and dispose of real and personal property;
5. To sue and be sued;
6. To make amendments to the Agreement;
7. To procure all required insurance and such other insurance deemed necessary to indemnify the Governing Board for actions of the Governing Board arising out of this Agreement; To approve the borrowing or entering into any loans on behalf of SNWSEC;
8. To hire, supervise, assign, and terminate SNWSEC employees through the member district serving as SNWSEC's fiscal agent;
9. To contract for services;
10. To do what is reasonably necessary to achieve the purpose of this Agreement.

V. SUPERINTENDENT ADVISORY COUNCIL

The SNWSEC will have a Superintendent Advisory Council ("Council") which will consist of the superintendents from all Participating Boards. The Council will meet, at a minimum, prior to each meeting of the Governing Board at a time and place determined by the Council. The Council will establish and maintain a schedule of time and place of its meetings and give notice of regular and special meetings as required under the Minnesota Open Meeting Law, Minn. Stat. Chap. 13D.

A majority of the members of the Council shall constitute a quorum for the purpose of conducting business. A quorum once established at a meeting shall not thereafter be lost at that meeting by the withdrawal of members. At any meeting at which a quorum is not present, the members in attendance shall have the power to set the time and place for the next meeting.

A. Superintendent Advisory Council Responsibilities

The Council shall act as the administering council of SNWSEC and in addition to such other authority as may be granted to it in this agreement, shall be generally empowered to:

1. Administer the affairs of SNWSEC under direction of the Governing Board;
2. Review, revise, and recommend an annual budget to the Governing Board prior to June 30 of each year and approve all disbursements of funds within the approved budget or otherwise approved by the Governing Board;
3. Make recommendations to the Governing Board in the matter of policy, programs and such other matters as would enhance the function of SNWSEC;
4. Have all the functions essential and necessary to the administration of SNWSEC; including the recruitment, supervision, assignment of all personnel, and the recommendation to the Governing Board for employment and termination of licensed personnel and non-licensed personnel;

5. Be responsible for the management of the fiscal affairs related to the operation of SNWSEC and in such capacity shall authorize the payment of all bills and payroll checks, within the approved budget or otherwise approved by the Governing Board, and receive all monies on behalf of SNWSEC;
6. Make application for, receive, and administer federal and State aids, grants, and reimbursements for programs carried out by SNWSEC and for which SNWSEC is entitled
7. Bill each of the Participating Boards regularly for its proportionate share of the costs of operations of SNWSEC.

VI. FUNDING

The costs of the operation of SNWSEC shall be borne by the Participating Boards. The Participating Boards' federal special education funds shall flow to SNWSEC from the Minnesota Department of Education. In addition, Participating Boards shall receive invoices on a monthly basis for their share of non-federal costs. Monthly invoices submitted to the Participating Boards will be based on estimates. A final reconciled invoice will be issued to each Participating Board after the close of the fiscal year (June 30).

Each Participating Board is responsible for its own costs incurred in due process proceedings, including, but not limited to, complaints, mediation, and due process hearings.

The SNWSEC will contract with a Participating Board to oversee and administer the SNWSEC's financial services related to the operation of SNWSEC. The Participating Board contracted to provide financial services for SNWSEC will neither experience financial gain or loss as a result of providing the SNWSEC with financial services. The financial services provided with the Participating Board with whom SNWSEC may that may include, but is not limited to:

1. Maintenance of records, disbursement of funds, and acceptance of receipts in accordance with the budget as approved by the Board
2. Applying for, receiving and administering state and federal aids, grants, and reimbursements for programs and services carried out by SNWSEC
3. Making payments to and requiring payment from Participating Boards as necessary and appropriate under the law and as directed by the By-Laws or Policies of SNWSEC
4. Paying all invoices, issuing all payroll checks and receiving all funds and invoicing Participating Boards for the proportionate share of the costs of operations of SNWSEC
5. Preparing and submitting necessary reports to the state and other agencies and filing all claims for reimbursement and state and federal aids to which SNWSEC is entitled
6. Establishing and maintaining financial records from which an annual report may be derived
7. If requested, providing an annual audit report to each of the Participating Boards.

Nothing herein shall prevent any Participating Board from applying separately for any benefits to which it may itself be entitled. The SNWSEC reserves the right to not contract with a Participating Board for financial services and instead to hire sufficient staff or contract with appropriate vendors to provide financial services as the Board sees fit.

VII. ADDITION OF PARTICIPATING BOARDS

Any school district, not a Participating Board, may become a Participating Board member upon application to the Governing Board. Unanimous consent of the then Participating Boards is required to admit a new Participating Board. Such consent shall be shown by action approved by a two-thirds majority vote of each then Participating Board. Upon admission as a Participating Board of SNWSEC, the applying school district, by action of its School Board, shall agree to be

bound by the terms of this Agreement.

Upon admission to SNWSEC, a school district shall also agree to pay to SNWSEC a prorated cost for the real and personal property owned by SNWSEC, as of July 1st of the year the new Participating Board is admitted. The cost of this real and personal property shall be determined by records maintained by SNWSEC, to the extent such records exist. Before any new Participating Board is admitted into SNWSEC, the total cost and fiscal responsibility of the school district requesting membership shall be presented in writing to that school district.

Charter Schools established pursuant to Minn. Stat. Chap. 124E may be admitted as an "Associate" member of SNWSEC. By statute Charter Schools cannot be equal members of SNWSEC and a separate contract shall be in force between SNWSEC and any Charter School(s) admitted as an Associate Member.

VIII. Withdrawal

All Participating Boards of SNWSEC are bound by the terms of this Agreement while it is a member of SNWSEC. Any Participating Boards may withdraw from this Agreement by providing all other Participating Boards written notice of intention to withdraw prior to February 1st of the fiscal year prior to the fiscal year withdrawal will occur with withdrawal. For example, written notice of withdrawal must be provided to the Governing Board prior to February 1, 2021 with withdrawal effective on June 30, 2022.

Upon withdrawal from SNWSEC the withdrawing Participating Board shall forfeit all rights to all real and tangible property owned by SNWSEC.

A Participating Board withdrawing from SNWSEC must pay a withdrawal fee in an amount necessary to cover capital lease or sublease obligations incurred by SNWSEC while the withdrawing Participating Board was a member of SNWSEC that are not fully satisfied or repaid at the time of withdrawal. The withdrawing Participating Board's withdrawal fee will be the sum total of its allocated shares of outstanding capital leases and subleases. For purposes of this section, a "capital lease or sublease" is an agreement by which SNWSEC is obligated to pay lease payments that include costs incurred by the lessor to construct or renovate space for SNWSEC.

IX. TERMINATION

This Agreement may be terminated at any time by unanimous consent of the then Participating Boards. Such consent shall be shown by action approved by a majority vote of each then Participating Board. upon termination of this Agreement, all assets of SNWSEC, after payment of all outstanding debts and obligations, shall be distributed to the Participating Boards, who have not given notices of withdrawal, on a pro-rata basis as determined by the total district enrollment using each Participating Board's prior year December Child Count.

A. Effects of Termination.

1. Termination shall not discharge any liability incurred by the Board or by the Parties during the term of the Agreement.
2. Financial obligations shall continue until discharged by law, this Agreement or any other agreement.
3. Property acquired by SNWSEC shall be distributed based on the recommendation of the Superintendent Advisory Council. Surplus funds of the SNWSEC shall be returned to the Participating Boards (insert how the financial assets of the JPE will be divided).

X. AMENDMENT

This Agreement may be amended only by a two-thirds majority vote of the Governing Board. Notice of any proposed amendment must be provided to the school board of all each Participating Boards at least 30 days prior to the effective date of the proposed amendment. Proposed amendments shall include a written document setting forth the specific language of the modifications and shall be signed by all Governing Board members proposing the amendment.

All Participating Boards shall be bound by the provisions of any amendment duly adopted regardless of whether or not a Participating Board approves of the amendment.

XI. INDEMNIFICATION AND HOLD HARMLESS

A. Applicability. The SNWSEC shall be considered a separate and distinct public entity to which the Participating Boards have transferred all responsibility and control for actions taken pursuant to this Agreement. SNWSEC shall comply with all laws and rules that govern a public entity in the State of Minnesota and shall be entitled to the protections of M.S. 466.

B. Indemnification and Hold Harmless. The SNWSEC shall fully defend, indemnify and hold harmless the Participating Boards against all claims, losses, liability, suits, judgments, costs and expenses by reason of the action or inaction of the Board and/or employees and/or the agents of the SNWSEC. This Agreement to indemnify and hold harmless does not constitute a waiver by any participant of limitations on liability provided under Minnesota Statutes, Section 466.04.

To the full extent permitted by law, actions by the Participating Boards pursuant to this Agreement are intended to be and shall be construed as a "cooperative activity" and it is the intent of the Participating Boards that they shall be deemed a "single governmental unit" for the purpose of liability, as set forth in Minnesota Statutes, Section 471.59, subd. 1a(a); provided further that for purposes of that statute, each Participating Board to this Agreement expressly declines responsibility for the acts or omissions of the other Participating Boards.

The Participating Boards of this Agreement are not liable for the acts or omissions of the other participants to this Agreement except to the extent to which they have agreed in writing to be responsible for acts or omissions of the other Participating Boards.

XII. COUNTERPARTS

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. Counterparts shall be filed with the Secretary of the Governing Board who maintain them at the primary office of SNWSEC.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by the persons authorized to act for their respective parties on the date(s) shown below:

SIGNATURES OF PARTIES TO THIS AGREEMENT

Chairperson, Becker School Board

Date

Clerk, Becker School Board

Date

Chairperson, Big Lake School Board

Date

Clerk, Big Lake School Board

Date

Chairperson, Monticello School Board

Date

Clerk, Monticello School Board

Date
