

**2023 JOINT POWERS AGREEMENT FOR THE  
METRO SOUTH ADULT BASIC EDUCATION CONSORTIUM**

**PREAMBLE**

THIS AGREEMENT IS MADE and entered by and between the school districts named herein, hereafter collectively referred to as “members,” and individually as “member,” which are signatories to this Agreement.

This Agreement is made pursuant to Minnesota Statutes Section 471.59, which provides that two or more governmental units may by agreement jointly exercise any power common to the contracting members, and Minnesota Statutes Section 124D.521, which sets forth the requirements for adult basic education consortia. Each of the members to this Agreement has been duly authorized to enter into the Agreement by its respective School Board.

It is the intention of the members to jointly cooperate to provide Adult Basic Education (“ABE”) services for its residents 17 years of age and older who are not currently enrolled in public school regular day classes.

In consideration of the mutual promises and agreements contained herein and subject to the provisions of Minnesota Statutes Section 471.59 and all other applicable statutes, rules, and regulations, the following members:

Independent School District No. 271, Bloomington (ISD 271)  
Independent School District No. 272, Eden Prairie (ISD 272)  
Independent School District No. 273, Edina (ISD 273)  
Independent School District No. 280, Richfield (ISD 280)

hereto agree as follows:

**RECITALS**

**WHEREAS**, the members agree to maintain a joint powers entity entitled Metro South Adult Basic Education Consortium (“Consortium”) to provide adult education and literacy education. Base funding for the Consortium will be provided by the State of Minnesota to the duly assigned fiscal agent on behalf of the operation of the program; and

**WHEREAS**, the members seek to provide Adult Basic Education (“ABE”) opportunities to its residents 17 years of age and older who are not currently enrolled in public school regular day classes; and

**WHEREAS**, the members understand that programs funded through the WorkForce Investment Act and Minnesota Statutes Section 124D.51, Education Program for Adults, need to be part of a cooperative ABE delivery system established by written agreement among two or more school districts; and

**WHEREAS**, the members certify that the Consortium will carry out tasks and responsibilities in compliance with all applicable State and Federal laws and regulations, as well as the promises and agreements contained herein; and

**WHEREAS**, the purposes of the laws are to enable all adults to acquire basic skills necessary to function in society and also enable adults who so desire to continue their education to at least the level of completion of secondary school.

**NOW THEREFORE**, in consideration of the mutual promises and agreements set forth, the members agree as follows:

## **AGREEMENT**

### **1. JOINT POWERS.**

The members are jointly empowered to act on behalf of the several members and to take such actions as may be necessary from time to time to fulfill the purpose of this Agreement. The name of the entity formed by this Joint Powers Agreement shall be the Metro South Adult Basic Education Consortium. The Consortium shall have all the powers, duties, authorities, and responsibilities pertaining to the provision of ABE Services of the School Boards of each individual member that are herein designated and assigned to the Consortium.

### **2. PURPOSE.**

The purpose of the Consortium is to enable the members to provide cooperative and collaborative efforts for ABE services, which include: Adult Basic Education, General Education Development, English as a Second Language, Family Literacy Programming, and Workforce Education.

### **3. ORGANIZATION AND GOVERNANCE.**

The activities contemplated by this Agreement shall be overseen by the Consortium Board. The Consortium Board, hereinafter termed “the Board,” shall be in existence for the duration of this Agreement.

#### **A. Voting Representation.**

The Board shall consist of one voting member from each member District to this Agreement.

Members of the Board shall not be deemed to be employees of the Consortium and will not be compensated by the Consortium for serving on the Board. For all purposes, including workers' compensation, each member of the Board shall be considered to be an employee of the member District that made their appointment.

#### **B. Voting and Quorum.**

Each Board member shall be entitled to one vote on Board matters.

A quorum shall consist of all Board members. Board action shall be determined by a majority of the votes cast at a meeting of the Board. All votes of the Board shall be recorded and become matter of public record.

#### **C. Meetings.**

The Board shall meet at least two times annually at the call of the fiscal agent. Board members will agree to the date and time for regular and special meetings.

Two or more members may request a special meeting of the Board by submitting a written notice to all Board members.

### **4. BOARD DUTIES AND RESPONSIBILITIES.**

The Board shall have and exercise all powers that may be necessary and convenient to enable it to perform and carry out the responsibilities conferred on it or contemplated by this Agreement, or which may hereafter be imposed on it by law or contract.

Such powers shall include the power to accept and disburse funds and to apply for state and federal funds necessary for the purposes set forth herein. The Board shall not have the authority to levy taxes.

The Board, on behalf of each individual member, shall assume the following responsibilities:

- A. The Board, with the input and assistance of the fiscal agent, shall consider and approve all budgets and evaluate the programs and services provided by the Consortium.

- B. The Board shall review this Agreement on an annual basis and, if necessary, amend this Agreement in accordance with paragraph 11.
- C. The Board shall review contracts and/or leases at the request of the fiscal agent as needed to help fulfill the purpose of this Agreement.

**5. FINANCIAL PARTICIPATION.**

The members agree that the Board shall have the authority to utilize funds received in the name of the Consortium for the purposes outlined herein. The members further agree that they shall share in any Consortium deficit as approved by a majority vote of the Board. Each member shall share in any deficit in proportion to the respective enrollment of each district in the current fiscal year.

**6. MEMBER OBLIGATIONS.**

Each member shall be obligated to:

- A. Submit appropriate financial data required by the State to qualify for program approval.
- B. Contribute to the ABE efforts of the Consortium. For example, member Districts may provide the following:
  - 1) Administrative leadership and support;
  - 2) Outreach and marketing through Community Education catalogs;
  - 3) Referral of students to the program; and
  - 4) Liaison support of local schools, social service agencies and employers.
- C. Agree to abide by any requirements set forth in the annual adult basic education program application, including the state adult basic education assurances which are hereby incorporated into this Agreement by reference.
- D. Direct all revenue intended for ABE Services, whether it be State, Federal, or local funding, to the fiscal agent on behalf of the Consortium.

**7. FISCAL AGENT.**

ISD 271 shall serve as the fiscal agent for the Consortium. The Board, by a majority vote, may designate any other member to act as fiscal agent for the Consortium,

provided the designated fiscal agent accepts the responsibilities. The fiscal agent shall perform the following duties and responsibilities:

- A. The fiscal agent is responsible for fiscal management of the Consortium. The fiscal agent shall develop a program budget and submit the same to the Board for approval. The fiscal agent shall monitor the program budget and ensure proper recordkeeping of all receipts and expenditures of the Consortium.
- B. The fiscal agent shall develop formulas, pertaining to both revenues and expenditures, for the distribution of Consortium funds. Such formulas shall be submitted to the Board for approval.
- C. The fiscal agent is responsible for the organizational structure and staffing and supervision in order to implement programs. The fiscal agent shall employ Consortium-wide ABE staff working on behalf of the Consortium.
- D. The fiscal agent shall develop operational guidelines and procedures. Such guidelines and procedures shall be presented to the Board.
- E. The fiscal agent shall collect data from members as necessary to perform the purposes of this Agreement.
- F. The fiscal agent shall submit application materials on behalf of the Consortium for State, Federal, and other grants.
- G. The fiscal agent shall submit all required State and Federal performance reports and fiscal reports.
- H. The fiscal agent shall file this Agreement with the Minnesota Department of Education as required by Minnesota Statutes Section 124D.521.
- I. The fiscal agent shall provide necessary assurances to State and Federal authorities.
- J. The fiscal agent shall keep all records on behalf of the Consortium.
- K. The fiscal agent is responsible for program planning and development. The fiscal agent will report to the Board on program planning and development at each Board meeting.
- L. The fiscal agent shall perform all obligations and duties as set forth in Minnesota Statutes Section 124D.521, as amended.

## **8. INSURANCE.**

The members agree that they will at all times, during the term of this Agreement or any extension thereof, at their own expense, maintain and keep in force comprehensive general public liability insurance against claims for personal injury, death, or property damage arising in connection with this Agreement in the limits set forth in Minnesota Statutes Section 466.04, as amended. The members further agree that they will name the Consortium as an additional insured on said insurance policies and submit certificates of said insurance to the fiscal agent.

The members agree that they will carry workers' compensation insurance as required by law, and that they will submit certificates of said insurance to the fiscal agent.

In the event that the procured liability coverage does not cover a particular act or omission, each individual member shall not be individually liable unless required by law, but any such liability shall be apportioned amongst the members based upon their percent of enrollment relative to the other members of the Consortium in the 12 months preceding the act or omission.

Activities by the Consortium are intended to be and shall be construed as a "cooperative activity" and the Consortium shall be deemed a "single government unit" for purposes of liability, as set forth in Minnesota Statutes Section 471.59, subd. 1a(b). To the fullest extent permitted by law, each member of the Consortium agrees to defend and indemnify the other members, their school board members, employees, and volunteers, from and against all claims, damages, losses, and expenses, including attorney fees, arising out of or resulting from the activities under this Agreement.

Under no circumstances, however, shall a party be required to pay, on behalf of itself or other parties, any amounts in excess of the limits on liability established in Minnesota Statutes Chapter 466 applicable to any one party. The limits of liability for some or all of the parties may not be added together to determine the maximum amount of liability for any party. Nothing in this Agreement shall constitute a waiver of the rights, benefits, immunities, and privileges that each party is entitled to under federal law or state law.

## **9. TERM OF AGREEMENT AND TERMINATION.**

This term of this Agreement shall run from the date of authorization of the School Boards of each respective member to June 30, 2024, unless it is terminated prior to June 30, 2024 as a result of the Consortium being:

- A. Terminated by the mutual consent of the members;
- B. Suspended or superseded by a subsequent agreement between the members;
- or
- C. Terminated by operation of law.

If the Agreement is terminated, all assets acquired as a result of the joint exercise of powers pursuant to this Agreement remaining after the date of termination and after payment of any outstanding debts or expenses, shall be returned to those members in good standing on the date of termination in proportion to the respective contributions made by the member.

## **10. WITHDRAWAL**

Upon adoption of a resolution of its School Board, an individual member may withdraw from participation in the Consortium by providing eleven (11) months written notice. Written notice must also be submitted to Commissioner of the Minnesota Department of Education.

A withdrawing member shall not be entitled to the return of any contributions previously paid, and shall remain jointly liable for all indebtedness made on behalf of the Consortium during the period in which the withdrawing member was a member of the Consortium. The members shall engage in negotiations over the terms of such indebtedness, including the possibility of a settlement and release of liability for withdrawing members.

## **11. AMENDMENTS.**

Proposed amendments must be submitted to the Board for review and approval. Prior to a meeting of the Board at which an amendment of this Agreement will be considered, each Board member shall be given ten (10) days prior written notice of the meeting and the proposed amendment. In order to be approved, amendments must receive a majority vote of those Board members present at a duly qualified meeting at which the vote is taken.

Should an amendment receive the requisite approval from the Board as provided in this section, the amendment shall be submitted to each member School Board represented on the Board. The amendment shall not be enacted unless adopted by the School Board of each member represented on the Board.

## **12. EFFECTIVE DATE.**

The members agree that this Agreement shall become effective upon authorization of the School Boards of each respective member, and shall be enforced from and after that date until terminated in accordance with paragraph 9.

## **13. AUTHORIZATION.**

IN WITNESS WHEREOF, the undersigned member, pursuant to an authorizing resolution of its respective School Board, has caused this Agreement to be signed on the date on the following page.

\_\_\_\_\_  
Chair, Bloomington ISD 271

\_\_\_\_\_  
Clerk, Bloomington ISD 271

\_\_\_\_\_  
Date

\_\_\_\_\_  
Chair, Eden Prairie ISD 272

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Clerk, Eden Prairie ISD 272

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Date

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Chair, Edina ISD 273

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Clerk, Edina ISD 273

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Date

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Chair, Richfield ISD 280

\_\_\_\_\_  
Clerk, Richfield ISD 280

\_\_\_\_\_  
Date