



Exhibit A - Proposed Consent Decree

Commission further alleges that HSA-Austin also discriminated against Nicole M. Tuchscherer by failing to renew her employment/teaching contract and thus terminating her employment because she opposed a practice made unlawful by the Equal Pay Act.

The United States alleges in its complaint that HSA-Austin violated Title VII when it subjected Nicole M. Tuchscherer to retaliation by failing to renew her employment contract because she opposed discrimination in compensation on the basis of sex and national origin. HSA-Austin denies all allegations of unlawful conduct contained in these complaints.

The EEOC, United States and HSA-Austin (collectively, the "Parties") wish to settle this action, without the necessity of further litigation and expense, pursuant to the terms delineated in this Decree.

NOW, THEREFORE, in consideration of the mutual promises and agreements between the Parties, as set forth herein, the sufficiency of which is hereby acknowledged, the Parties request and the Court agrees to ORDER, ADJUDGE AND DECREE as follows:

1. The Parties agree that this Court has jurisdiction over the subject matter of the claims and causes of action asserted by the EEOC and United States against HSA-Austin, venue is proper, and all administrative prerequisites to the filing of the Plaintiffs' complaints have been met. The Parties acknowledge the jurisdiction of this Court over the Parties to this case for the purpose of entering this Decree and, if necessary, enforcing this Decree.

2. The Parties agree that this Decree resolves issues raised in the EEOC's Amended Complaint and the United States' Complaint. Through execution of this Decree, both the EEOC and the United States waive further litigation of the claims raised in this civil action concerning Nicole M. Tuchscherer. While the execution of this Consent Decree resolves the claims and causes of action pertaining to Nicole M. Tuchscherer, as detailed in Plaintiffs' complaints, it

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does not preclude the EEOC or the United States from prosecuting other sex discrimination and/or national origin discrimination claims against HSA-Austin. Both the EEOC and the United States each expressly reserve their rights to investigate, process and, if warranted, commence litigation based upon any other charges or matters including those alleging sex discrimination and/or national origin discrimination which may currently be pending or in the future may be filed against HSA-Austin.

3. During the term of this Decree, HSA-Austin, its officers, agents, servants, employees, and all persons in active concert or participation with them are enjoined from violating the Equal Pay Act, Title VII, and/or discriminating against an employee or an applicant for employment on the basis of sex at any of the schools currently in the Harmony Austin Cluster (and any additional schools that become a part of the Harmony Austin Cluster during the term of this Consent Decree). This injunction includes, but is not limited to, a prohibition against discrimination in compensation on the basis of sex. It is a violation of the EPA to pay wages to employees of one sex at rates less than the rates at which employees of the opposite sex are paid for substantially equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions, unless such difference is due to reasons other than sex as defined by the EPA.

4. During the term of this Decree, HSA-Austin, its officers, agents, servants, employees, and all persons in active concert or participation are enjoined from retaliating against an employee or an applicant for employment at any of the schools currently in the Harmony Austin Cluster (and any additional schools that become a part of the Harmony Austin Cluster during the term of this Consent Decree) for engaging in activity protected by the Equal Pay Act and/or Title VII.

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5. HSA-Austin, in settlement of this dispute, shall pay the total sum of \$125,000.00

to Nicole M. Tuchscherer, as follows:

- (a) Within fifteen (15) days from the entry of the Consent Decree, HSA-Austin shall pay Nicole M. Tuchscherer \$75,000.00, representing compensatory damages under Title VII and the Civil Rights Act of 1991, 42 U.S.C. §1981 *et seq.*; and
- (b) Within six (6) months after the entry of the Consent Decree or July 15, 2014, whichever is later, HSA-Austin shall pay Nicole M. Tuchscherer \$50,000.00 to be apportioned in two checks as follows:
  - (i) One check in the amount of \$25,000.00, representing compensatory damages under Title VII and the Civil Rights Act of 1991; and
  - (ii) One check in the amount of \$25,000.00, representing back wages under Title VII and the EPA, from which Nicole M. Tuchscherer's share of all appropriate income taxes and other statutory withholdings will be deducted. HSA-Austin shall separately pay its portion of any Social Security tax and other applicable employer-side federal, state or local taxes, costs, or expenses, including required contributions to retirement accounts, due on the back wages, and shall not deduct its portion of such taxes, costs, or expenses from the amount paid to Nicole M. Tuchscherer.

6. Payment to Nicole M. Tuchscherer shall be delivered by certified mail to 11 East Separation Canyon Trail, Flagstaff, Arizona 86001. Within 10 days of HSA-Austin making each payment required under this paragraph, HSA-Austin shall provide copies of the settlement checks and any accompanying transmittal documents to the EEOC to the attention of Judith G. Taylor, Supervisory Trial Attorney, 5410 Fredericksburg Rd., Suite 200, San Antonio, Texas 78229 and, via overnight delivery service, to Valerie Meyer, Senior Trial Attorney, U.S. Department of Justice, Civil Rights Division, Employment Litigation Section, 601 D Street, NW, Patrick Henry Building, Room 4916, Washington, D.C., 20579.

7. At the time of payment, HSA-Austin shall provide Nicole M. Tuchscherer with a document reflecting the amount paid and any amounts withheld from the monetary settlement. Within the time required by law, HSA-Austin shall issue to Nicole M. Tuchscherer all

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appropriate Internal Revenue Service ("IRS") tax forms reflecting the amounts paid to Nicole M. Tuchscherer and the amounts withheld by HSA-Austin, including issuing to Nicole M. Tuchscherer a W-2 wage and tax statement for the amounts attributable to back wages.

8. Within thirty (30) days of the entry of this Consent Decree, HSA-Austin will add the two (2) reference letters written on behalf of Nicole M. Tuchscherer dated July 8, 2008 and May 28, 2010, to Nicole M. Tuchscherer's official personnel file. HSA-Austin will provide to Nicole Tuchscherer a telephone number and contact name for a human resources department representative who will confirm to any prospective employer for Nicole Tuchscherer her dates of employment, will confirm the name of the principal(s) assigned to Harmony Science Academy-Austin during Nicole M. Tuchscherer's teaching tenure, and will state that, while the representative does not have personal knowledge of the statements made in one or both of these letters, each letter is a part of her official personnel file made and retained by HSA-Austin. Within forty-five (45) days of the entry of this Consent Decree, HSA-Austin will notify the EEOC and the United States that it has complied with this provision.

9. Within sixty (60) days of the entry of this Decree, HSA-Austin shall develop written policies concerning wage discrimination and unlawful retaliation to conform with the law to the extent such policies do not currently exist. These written policies will include all of the following:

- (a) A statement that wage discrimination on the basis of sex is prohibited and will not be tolerated and that HSA-Austin will comply with the mandates of the Equal Pay Act and Title VII;
- (b) A statement that retaliation against those who oppose discrimination or otherwise engage in protected activity is prohibited and will not be tolerated, and that HSA-Austin will comply with the anti-retaliation mandates of the Equal Pay Act and Title VII;
- (c) Notice to all employees that they may complain about discrimination, including wage discrimination, pursuant to the terms of the Grievance Policy;

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- (d) An assurance that HSA-Austin will promptly and fairly investigate allegations of sex-based wage discrimination and, if unlawful action has occurred, that appropriate corrective action will be taken;
- (e) A description of the consequences, up to and including termination, that will be imposed upon violators of the policy; and
- (f) An assurance of non-retaliation for persons who report what they believe to be wage discrimination and for any witnesses involved in the investigation, and an assurance that HSA-Austin will promptly investigate any allegation of retaliation.

10. HSA-Austin shall distribute this anti-discrimination policy to all employees in the Harmony Austin Cluster within thirty (30) days of the beginning of the 2014-2015 school year. During the term of this Consent Decree, HSA-Austin shall continue to distribute this policy to all newly hired individuals assigned to work at any school in the Harmony Austin Cluster within thirty (30) days after their hire. This provision covers the five schools currently in the Harmony Austin Cluster and any additional schools that become part of the Harmony Austin Cluster during the term of this Consent Decree.

11. During the term of this Consent Decree, HSA-Austin shall provide, within thirty (30) days of the beginning of each of the 2014-2015 and 2015-2016 school years, no less than (1) hour of training to all of its employees, including, but not limited to, all superintendents, principals, vice-principals, teachers, teaching assistants and all other staff members assigned to work at any school in the Harmony Austin Cluster, regarding employee rights and employer obligations under the Equal Pay Act and Title VII of the Civil Rights Act of 1964.

12. Within twenty (20) days after the completion of each training session, HSA-Austin shall certify to EEOC and the United States, in writing, that the required training has taken place and that required personnel attended. Such certification shall include:

- (a) The date, location and duration of the training; and
- (b) A copy of the registry of attendance which shall include the name and position or title of each person in attendance.

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13. Within ten (10) days from the entry of this Decree, HSA-Austin shall post copies of the Notice attached as Exhibit "A" to this Decree at all of the Harmony Austin Cluster facilities, in conspicuous locations easily accessible to and commonly frequented by employees. The Notice shall remain posted for the duration of this Decree. HSA-Austin shall ensure that the postings are not altered, defaced or covered by any other material.

14. During the term of this Decree, upon reasonable notice, the EEOC and/or the United States shall have the right to ensure compliance with the terms of this Decree and may:

- (a) Conduct inspections at the Harmony Austin Cluster facilities;
- (b) Interview employees; and
- (c) Request copies of and/or examine and copy relevant documents.

15. HSA-Austin shall bear the costs associated with the development and distribution of policies, associated training, and the Notice described in Paragraph 13.

16. The terms of this Decree shall be binding upon the EEOC, United States and HSA-Austin, and their respective agents, officers, employees, servants, successors, and assigns, as to the issues resolved in this civil action.

17. The duration of this Decree shall be two (2) years from the date of its entry by the Court. The Parties agree that the Court shall retain jurisdiction over this case during the term of this Decree to enforce compliance and to take any action necessary and/or appropriate for its interpretation, execution, modification and/or adjudication of disputes.

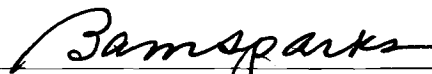
18. The parties to this Decree shall bear their own costs and attorney's fees incurred in this action.

19. When this Decree requires the submission by HSA-Austin of documents or other materials to the EEOC and/or the United States, such documents or other materials shall be mailed to Judith G. Taylor, Supervisory Trial Attorney, United States Equal Employment

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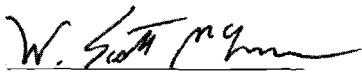
Opportunity Commission, San Antonio Field Office, 5410 Fredericksburg Road, Suite 200, San Antonio, Texas 78229 and, via overnight mail service, to Valerie Meyer, Senior Trial Attorney, U.S. Department of Justice, Civil Rights Division, Employment Litigation Section, 601 D Street NW, Patrick Henry Building, Room 4916, Washington, D.C., 20579.

**SO ORDERED AND ENTERED** this 10<sup>th</sup> day of March, 2014.

  
HONORABLE SAM SPARKS  
UNITED STATES DISTRICT JUDGE

AGREED TO AS TO FORM AND SUBSTANCE:

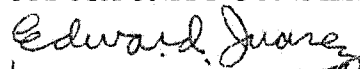

**ATTORNEYS FOR HSA-AUSTIN**


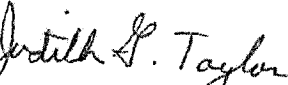
  
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OPPORTUNITY COMMISSION**

  
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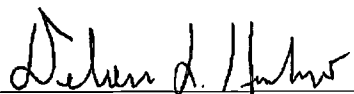
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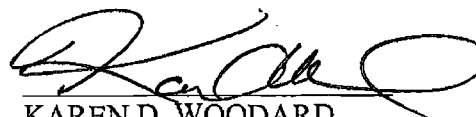
GWENDOLYN YOUNG REAMS  
Associate General Counsel

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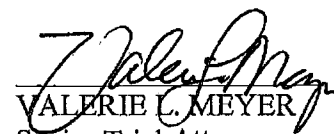
  
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CIVIL RIGHTS DIVISION  
EMPLOYMENT LITIGATION SECTION  
950 Pennsylvania Avenue, N.W.  
Patrick Henry Building, Room 4916  
Washington, D.C. 20530  
Telephone: (202) 305-3179  
Facsimile: (202) 514-1005

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**ATTACHMENT A**  
**NOTICE TO ALL EMPLOYEES**

**This NOTICE is being posted pursuant to an agreement between the EEOC, the United States and Harmony Public Schools. This NOTICE will be conspicuously posted for a period of two (2) years at this facility and in all places where employment notices are posted within the Harmony Austin Cluster. It must not be altered, defaced, or covered by any other material.**

**POLICY:** Discrimination of any kind can and often will detract from an employee's job performance, discourage employees from remaining on the job, keep employees from advancing in their careers and lowers overall employee morale and productivity. It is the policy of Harmony Public Schools that discrimination is unacceptable conduct and will not be condoned.

**PURPOSE:** It is the purpose of this policy to reaffirm and amplify the Equal Pay Act and Title VII, and the Equal Employment Opportunity Commission's guidelines on sex-based wage discrimination and/or retaliation and to reiterate the Harmony Public Schools' policy against sex-based wage discrimination and/or retaliation.

**SCOPE:** This policy extends to all employees of Harmony Public Schools, including superintendents, principals, vice-principals, teachers, teaching assistants and all other staff members, temporary and/or probationary.

**GENERAL:** Equal Pay/Compensation Discrimination:

The Equal Pay Act prohibits discriminating against an employee or an applicant for employment on the basis of sex, by paying wages to employees of one sex at rates less than the rates at which it pays to employees of the opposite sex for substantially equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions, except where the difference is due to reasons other than sex (as defined by the Equal Pay Act). The jobs need not be identical, but they must be substantially equal. Job content (not job titles) determines whether jobs are substantially equal. All forms of pay are covered by this law, including salary, overtime pay, bonuses, stock options, profit sharing and bonus plans, life insurance, vacation and holiday pay, automobile and/or gasoline allowances, hotel accommodations, reimbursement for travel expenses, and benefits. If there is an inequality in wages between men and women, employers may not reduce the wages of either sex to equalize their pay.

Equal Pay/Compensation and Sex Discrimination

Title VII also makes it illegal to discriminate based on sex in pay and benefits. Therefore, someone who has an Equal Pay Act claim may also have a claim under Title VII.

**REPORTING:** Reports or complaints of wage discrimination should be submitted pursuant to the Harmony Grievance Policy. Regardless of what a supervisor or anyone else tells you, you should always feel free to call the main office with any complaints involving discrimination. All reports and complaints of discrimination will be investigated. The facts will

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determine the response to each report or complaint. All information regarding any specific incident will be kept as confidential as possible.

In addition to reporting a complaint of discrimination to company officials, a person may also contact the U.S. Equal Employment Opportunity Commission, and file a charge of employment discrimination. The address and telephone number of the San Antonio EEOC office is 5410 Fredericksburg Road, Suite 200, San Antonio, Texas 78229; 1 (866) 408-8075, 1 (800) 669-4000 or 1 (210) 281-7610 (TTY). The EEOC also has offices in Dallas, El Paso and Houston. Information about employment rights and the procedures dealing with how to file a charge is available on the Internet at [www.eeoc.gov](http://www.eeoc.gov).

An individual alleging a violation of the EPA may go directly to court and is not required to file an EEOC charge beforehand. The time limit for filing an EPA charge with the EEOC and the time limit for going to court are the same: within two years of the alleged unlawful compensation practice or, in the case of a willful violation, within three years. The filing of an EEOC charge under the EPA does not extend the time frame for going to court.

**RETALIATION:** There shall be no retaliation against any employee because that person has opposed what they believe to be unlawful employment practices under the Equal Pay Act and Title VII; or has filed a charge of discrimination, or has given testimony, assistance, or has participated in any manner in any investigation, proceeding or hearing under Equal Pay Act and Title VII. The Harmony Public Schools will not punish you for reporting discrimination simply because you have made a complaint under the above guidelines.

**EXCEPTIONS:** There are no exceptions to this policy.

Signed this \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
HSA-AUSTIN