

1 **SEPARATION AGREEMENT AND GENERAL RELEASE OF CLAIMS**

2 This Separation Agreement and General Release of Claims (hereinafter "Agreement") is
3 entered into this 21st day of April, 2010, by and between Sandra Gecewicz ("Employee") and the
4 Vista Unified School District (hereinafter "District"). Wherever the term "District" is used in this
5 Agreement, it shall refer to the Vista Unified School District, its Governing Board, and its agents,
6 directors, officers, and employees , whether administrative, faculty or classified , as well as its
7 representatives, attorneys, insurers, and successors. In this document, reference to "the Parties" is
8 a reference to both the District and Employee.

9 Employee and the District now desire to separate and to settle fully and finally any and all
10 differences between them, including, but not limited to, any potential claims, whether now known
11 or unknown, on all issues related to Employee's employment with the District and on all issues
12 related to Employee's release or resignation.

13 **RECITALS**

- 14 A. Employee is a permanent certificated employee of the District.
- 15 B. A dispute has arisen between the parties concerning Employee's rights and duties
16 as an employee of the District.
- 17 C. Employee agrees to resign her employment as a certificated employee of the
18 District as a condition of settlement. The parties desire to discontinue, without admission of
19 liability or fault, the employment relationship.
- 20 D. The Parties desire to fully settle, once and forever, all disputes arising out of,
21 related to, or in any manner connected with Employee's employment with the District.

22 **AGREEMENT:**

23 Now, therefore, in consideration of their bargained-for mutual promises, the Parties agree
24 as follows:

- 25 1. Resignation. Employee hereby submits her voluntary and irrevocable resignation
26 from employment by the District, with Employee's last day of employment being April 30, 2010.
27 Employee's resignation is deemed accepted by the District and the Board upon receipt by the
28 District, its designee or agent, the executed Agreement, subject to the limitations set forth in

1 paragraph twenty (20) of this Agreement. Employee's last day of employment shall be April 30,
2 2010 under this Agreement. District records shall reflect that Employee resigned her employment
3 with the District.

4 2. Employment Status. The employment relationship between Employee and the
5 District shall be severed at 3:00 p.m. on April 30, 2010.

6 3. Future Work. Employee hereby waives any right or claim to reinstatement as an
7 employee of the District and agrees that she will not seek or accept employment in with the
8 District after the Effective Date. If, through mistake or inadvertence or otherwise, Employee
9 applies for employment with the District then she shall withdraw her application immediately
10 upon notice without any recourse, legal or otherwise, and to the extent that Employee has already
11 been hired, she will resign immediately upon notice without any recourse, legal or otherwise.
12 Employee agrees that she will not apply to perform on a volunteer basis any services at any
13 District facility or for any District program(s).

14 4. No Admission of Liability. The Parties have entered into this Separation
15 Agreement and General Release of Claims for the purposes of ending Employee's employment by
16 the District and precluding any and all civil actions that might potentially exist between them, in
17 order to avoid the burden, expense, delay, and uncertainties of any hearing procedure and the
18 appeals process or any other litigation or claim that might be raised between them for any acts or
19 omissions alleged to have occurred before the date of execution of this Agreement. This
20 Agreement does not constitute, nor shall it be construed as, an admission of wrongdoing or
21 liability by any party for any purpose.

22 5. District Payment. In consideration of Employee's resignation from the District and
23 release of all claims against the District and its agents, officers, employees, attorneys, successors,
24 predecessors, and insurers, the District agrees to pay Employee in the manner and under the terms
25 set forth below:

26 a. Wages, Including Vacation. The District shall pay to Employee, by no later
27 than April 30, 2010, via a lump sum payment, the sum of one hundred forty-four thousand
28 ninety-seven and 51/100 U.S. dollars (\$144,097.51) (which constitutes the wages that the

1 District would have paid to Employee had Employee actively performed certificated
2 services as the Deputy Superintendent from April 01, 2010 through March 31, 2011), plus
3 fourteen thousand eighty-one and 98/100 U.S. dollars (\$14,081.98) (which constitutes
4 payment for 23 days of vacation that were accrued but unused as of April 30, 2010), minus
5 all regular deductions and withholdings that would have been made to Employee's pay
6 warrants during that time period as determined by the District's payroll department in the
7 final computation of wages, which deductions and withholdings include but are not limited
8 to employee's portion of state and federal taxes, Employee's regularly scheduled
9 contributions to the State Teachers Retirement System ("STRS") for certificated services
10 actually performed through April 30, 2010 and all other legally required deductions.

11 b. Payment of Wages will be through payroll automatic direct deposit.

12 c. STRS. Because this Agreement terminates the employment relationship
13 between Employee and the District as of April 30, 2010 and Employee therefore will not
14 perform further certificated services for the District after that date, the District will not
15 make any contribution to STRS or request any adjustment in service credit as the result of
16 or in relation to the portion of the monetary payment made by or on behalf of the District
17 to Employee that is described above, except for as it relates to the portion of said payment
18 which was compensation for performance of certificated services rendered by Employee to
19 District on or before April 30, 2010.

20 d. Health Benefits. The District shall, commencing May 01, 2010, pay 100%
21 of the heretofore unpaid insurance premium that Employee would be obligated to pay to
22 participate in the District's group health insurance policy, at Employee's current level of
23 enrollment (i.e., Employee and spouse only, no dependents), which payment shall continue
24 through either December 31, 2010, or the date on which Employee (1) obtains coverage
25 with another employer group health plan or (2) qualifies for Medicare benefits, whichever
26 event occurs first. Thereafter, the District shall not be obligated to pay any portion of any
27 health benefits to which Employee would otherwise be entitled whether under COBRA or
28 any other authority. Employee agrees to notify the District within five calendar days of

1 securing such alternate health coverage by providing written notice of same to the
2 District's Assistant Superintendent of Human Resources. Should Employee change her
3 coverage level by adding any dependents, Employee is responsible for timely paying the
4 difference between the cost of insurance premiums at the above-referenced coverage level
5 and the cost for Employee plus any beneficiaries who are added to her health benefit plan.

6 e. Global Settlement. The Parties agree that the above compensation is a
7 global settlement and will resolve all disputes and legal claims, if any, between Employee
8 and the District. Employee acknowledges that upon payment of the sum identified in this
9 section, she will have been paid in full all sums owed to her by the District of any nature
10 whatsoever.

11 7. STRS Benefits. The District makes no representations or assurances as to
12 Employee's eligibility with respect to STRS benefits or, if she is eligible, the amount of any such
13 benefits that she might receive, or is entitled to receive, due to her service to the District. The
14 District further makes no representations or assurances as to the effect of this Agreement on
15 Employee's eligibility for and/or receipt of STRS credits or benefits.

16 8. Tax Consequences. The District makes no representations regarding the federal or
17 state tax consequences of this Agreement.

18 9. Return of Property. Employee will be permitted to retrieve any personal
19 belongings from the District office at a mutually convenient time under the supervision of the
20 Superintendent or the Superintendent's designee. In addition, Employee agrees that, within five
21 calendar days of executing this Agreement, she shall return to the District any and all property
22 belonging to the District which she has not already returned, including but not limited to: all keys,
23 office equipment, documents, records, files, written materials, electronic information, credit cards
24 bearing the District's name, and other District property (originals or copies in whatever form) in
25 her possession or control. Employee represents that she retains no copies of confidential
26 documents beyond those returned as specified above, and that she will make no attempt to acquire
27 such documents in the future.

28 10. References. Employee agrees that she will direct any and all subsequent requests

1 for references to Joyce Bales and to no other employee of the District.

2 11. Waiver and Release of All Claims. In consideration of the promises by the District
3 set forth in this Compromise and Release of Claims Agreement, Employee, on her own behalf and
4 on behalf of her heirs, executors, administrators, successors and assigns (hereinafter referred to
5 collectively as “Releasers”), intending to be legally bound, hereby irrevocably and unconditionally
6 releases the District, its Governing Board, and its agents, directors, officers, and employees,
7 whether administrative, faculty or classified, as well as its representatives, attorneys, insurers, and
8 successors (hereinafter referred to collectively as “Releasees”) from any and all causes of action,
9 suits, claims, and demands whatsoever which Releasers had, have, or may have against Releasees
10 of any nature whatsoever, relating in any way to Employee’s employment with the District or the
11 termination of that employment, including any claims under any federal, state, or local laws,
12 including but not limited to: Title VII of the Civil Rights Act of 1964, as amended, §2000e, the
13 Age Discrimination in Employment Act, as amended, 29 U.S.C. §§ 621, 634 (1991), the
14 Americans with Disabilities Act, as amended, the California Fair Employment and Housing Act,
15 as amended, California Government Code Section 12940 et seq., workers’ compensation laws, any
16 common law claims, and any claim for counsel fees or costs.

17 Employee further agrees and promises that neither she, nor any person, organization, or
18 other entity acting on her behalf, will file, charge, claim, sue, cause, or permit to be filed, charged,
19 or claimed or brought, any action for damages or other relief against Releasees involving any
20 matter occurring in the past, up to the date of the execution of this Compromise and Release of
21 Claims Agreement, relating in any way to Employee’s employment by the District, or involving
22 any continuing effects of actions or practices which arose prior to the date of this Agreement.

23 Employee further agrees that, in the event that she has filed with any state or federal entity,
24 agency, or court of law any claim(s) or complaint(s) against any Releasee, that she will withdraw
25 said claim(s) or complaint(s) within two business days of her signing this Agreement.

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27 Employee expressly waives and relinquishes all rights and benefits afforded by Section
28 1542 of the Civil Code of the State of California, and does so understanding and acknowledging

1 the significance of such specific waiver of Section 1542, which states as follows:

2 “A general release does not extend to claims which the creditor does not know or
3 suspect to exist in his/her favor at the time of executing the release, which if known
4 by him/her must have materially affected his/her settlement with the debtor.”

4 Thus, notwithstanding the provisions of Section 1542, and for the purpose of implementing
5 a full and complete release and discharge of the District, Employee expressly acknowledges that
6 this Compromise and Release of Claims Agreement is intended to include in its effect, without
7 limitation, all claims which Employee does not know or suspect to exist in her favor at the time of
8 execution hereof, and that this Compromise and Release of Claims Agreement contemplates the
9 extinguishment of any and all such claim or claims.

10 12. Special Provisions for Age Discrimination. In addition to any other waiver and
11 release set forth herein, and by execution of this document, Employee expressly waives any and
12 all rights to claims arising under the Age Discrimination in Employment Act of 1967 (“the
13 ADEA”), as amended, and:

14 a. Employee acknowledges that her waiver of rights or claims arising under
15 the ADEA is in writing, written in a manner calculated to be understood, and is understood by her;

16 b. Employee expressly understands that this waiver refers to rights or claims
17 arising under the Age Discrimination in Employment Act of 1967;

18 c. Employee expressly understands that by execution of this document, she
19 does not waive any ADEA rights or claims that may arise after the date this Agreement is
20 executed;

21 d. Employee acknowledges that the waiver of her rights on claims arising
22 under the Age Discrimination in Employment Act of 1967 is in exchange for the consideration
23 outlined above, which is above and beyond that to which she is otherwise entitled to receive from
24 the District;

25 e. Employee has been advised by the District that she is given a reasonable
26 period of time within which to consider this document and may revoke this Agreement for a
27 period of 7 calendar days after execution by her, and this Agreement shall not become effective or
28 enforceable until this period has expired; and

1 f. Employee acknowledges that, by this document, the District expressly advised her
2 to consult with an attorney of her choosing prior to executing this document and that she has, in
3 fact, consulted an attorney.

4 13. Entire Agreement. This Agreement constitutes the entire agreement and
5 understanding of the Parties. There are no oral understandings, terms, or conditions, and neither
6 party has relied upon any representation, express or implied, not contained herein. All prior
7 understandings, terms, or conditions, written, oral, express, or implied, are superseded by this
8 Agreement.

9 14. Amendments. This Agreement cannot be changed or supplemented orally and may
10 be modified or superseded only by written instrument executed by both Parties.

11 15. Binding Effect. This Agreement is for the benefit of and shall be binding on all
12 Parties and their respective successors, heirs, and assigns.

13 16. Other Documents. All Parties agree to cooperate fully in the execution of any
14 additional documents that may be necessary to finalize this Agreement.

15 17. Severability. If any provision of this Agreement is held to be void, voidable, or
16 unenforceable, the remaining portions of the Agreement shall remain in full force and effect.

17 18. Interpretation. The Parties represent they have each had the opportunity to
18 participate in the preparation and drafting of this Agreement. In the event of any dispute between
19 the Parties as to the intent, meaning, or application of this Agreement, the terms of this Agreement
20 will be interpreted so as to follow the intent of the Parties to resolve all issues arising from or
21 related to Employee's employment relationship with the District.

22 19. Confidentiality. This Agreement shall be maintained as a confidential document
23 by the Parties except as required by law. The District shall not disclose Employee's personnel
24 records to third parties except as required by law, including, but not limited to, compliance with a
25 valid subpoena, court order, or Public Records Act request.

26 20. Revocation. The Parties agree that Employee has the right to revoke this
27 Agreement within seven (7) calendar days of signing it. To revoke this Agreement, Employee
28 must send, by Certified Mail and bearing a postmark within the seven day period, a signed and

1 dated letter of revocation to: Peter Fagen, Fagen, Friedman & Fulfroft, 1 Civic Center Drive, Suite
2 300, San Marcos, CA 92069.

3 21. Voluntary Agreement. Employee represents that she has read this Agreement in
4 full and understands and voluntarily agrees to all such provisions and that the Agreement has been
5 fully explained to her by her own counsel. Employee further declares that, prior to signing this
6 Agreement, she apprised herself of relevant data, through sources of her own selection, including
7 review by her own counsel, in deciding whether to execute this Agreement. Employee further
8 represents that she has, as of the date of execution of this Agreement, the legal capacity to
9 understand, agree to, and sign this Agreement, and that she has not assigned any rights or claims
10 related hereto to any third party.

11 22. Attorneys' Fees and Costs. Each party shall bear her/its own attorneys' fees and
12 costs arising out of or related to the development of, and any dispute regarding, this Agreement.

13 23. Governing Law & Forum Selection. The validity of this Agreement and the
14 interpretation of any of its terms or provisions shall be governed by the laws of the State of
15 California. Additionally, the forum for any legal proceedings to enforce this Agreement or any
16 portion thereof shall be San Diego County, California.

17 24. Board Approval. The Parties to this Agreement recognize that, to be enforceable,
18 this Agreement must be approved or ratified by the Governing Board at a lawfully called meeting.
19 This Agreement will not be signed by the District's representative until after the Board has
20 approved it.

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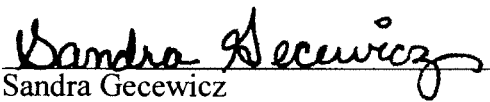
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27 25. Execution by Facsimile, Email, or in Counterparts. This Agreement may be
28 executed in counterparts such that the signatures may appear on separate signature pages. A copy

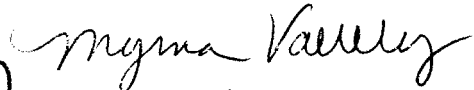

1 or an original, with all signatures appended together, shall be deemed a fully executed agreement.
2 A facsimile or email version of any Party's signature shall be deemed an original signature. Each
3 counterpart shall be deemed an original and the same document for all purposes.
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5 IN WITNESS WHEREOF, the Parties have executed this Agreement on dates noted
6 below.
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8
9 DATED: April 21, 2010

By: 
Sandra Gecewicz

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13 DATED: April 21, 2010

By: 

Joyce Bales, Superintendent
Myrna Vallely, Asst. Superintendent
Vista Unified School District

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