SCHOOL DISTRICT OF SPRING VALLEY
CAFETERIA PLAN

PLAN DOCUMENT AND SUMMARY PLAN DESCRIPTION

RESTATED

Effective: 09/01/14
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1.1 **Creation and Title.** The School District of Spring Valley hereby creates a cafeteria plan under the terms and conditions set forth in this Plan Document (hereinafter called the “Plan”). The Plan is to be known as the School District of Spring Valley Cafeteria Plan.

1.2 **Effective Date.** The provisions of the Plan shall be effective as of September 1, 2014.

1.3 **Purpose of the Plan.** The purpose of the Plan is to allow Employees to select between cash compensation and certain nontaxable benefits, namely coverage under one or more benefits programs maintained by the School District of Spring Valley. The Plan is also designed to permit an Employee to contribute on a pre-tax salary reduction basis to an Employee’s Health Savings Account (HSA). The School District of Spring Valley intends that the Plan qualify as a cafeteria plan under Section 125 of the Internal Revenue Code of 1986, as amended (hereinafter “the Code”), and that the benefits provided under the Plan be eligible for exclusion from Federal income tax, Social Security, Medicare, FUTA taxes, and applicable Wisconsin State income tax.
ARTICLE II

GENERAL PLAN INFORMATION

Name of Plan: School District of Spring Valley Cafeteria Plan

Plan Sponsor: School District of Spring Valley
S1450 County Road CC
P.O. Box 249
Spring Valley, WI 54767
Phone: 715-778-5551
Fax: 715-778-4761
Website: www.springvalley.k12.wi.us

Plan Administrator: School District of Spring Valley
(Named Fiduciary)
S1450 County Road CC
P.O. Box 249
Spring Valley, WI 54767
Phone: 715-778-5551
Fax: 715-778-4761
Website: www.springvalley.k12.wi.us

Plan Sponsor ID No. (EIN): 39-6004579

Source of Funding: Self-Funded

Applicable Law: ERISA

Plan Year: September 1 through August 31

Plan Number: 510

Plan Type: Cafeteria Plan under Code Section 125

Initial Effective Date of the Plan: August 1, 2011

Third Party Administrator: Benefit Plan Administrators of Eau Claire, Inc.
402 Graham Avenue – 4th Floor
Eau Claire, WI 54701
Telephone: (715) 832-5535
Telephone: (800) 236-7789
Website: www.bpaco.com

Participating School District of Spring Valley(s): School District of Spring Valley
Agent for Service of Process: School District of Spring Valley
Plan Administrator
S1450 County Road CC
P.O. Box 249
Spring Valley, WI 54767
Phone: 715-778-5551
Fax: 715-778-4761
Website: www.springvalley.k12.wi.us

The Plan shall take effect for each Participating School District of Spring Valley on the Effective Date, unless a different date is set forth above opposite such Participating School District of Spring Valley’s name.

2.1 Legal Entity; Service of Process.
The Plan is a legal entity. Legal notice may be filed with, and legal process served upon, the Plan Administrator.

2.2 Not a Contract.
This Plan Document and any amendments constitute the terms and provisions of coverage under this Plan. The Plan Document is not to be construed as a contract of any type between the School District of Spring Valley and any Participant or to be consideration for, or an inducement or condition of, the employment of any Employee. Nothing in this Plan Document shall be deemed to give any Employee the right to be retained in the service of the School District of Spring Valley or to interfere with the right of the School District of Spring Valley to discharge any Employee at any time; provided, however, that the foregoing shall not be deemed to modify the provisions of any collective bargaining agreements which may be entered into by the School District of Spring Valley with the bargaining representatives of any Employees.

2.3 Applicable Law.
This is a cafeteria plan coming within the purview of the Employee Retirement Income Security Act of 1974 (“ERISA”). The Plan is funded with Employee and/or School District of Spring Valley Contributions. As such, when applicable, Federal law and jurisdiction preempt State law and jurisdiction.

2.4 Discretionary Authority.
The Plan Administrator shall have sole, full and final discretionary authority to interpret all Plan provisions, including the right to remedy possible ambiguities, inconsistencies and/or omissions in the Plan and related documents; to make determinations in regards to issues relating to eligibility for benefits; to decide disputes that may arise relative to a Participant’s rights; and to determine all questions of fact and law arising under the Plan.
ARTICLE III
DEFINITIONS

As used in this Plan Document, the following terms shall have the following meanings:

3.1 "Affiliate" means:

1. Any corporation other than the Plan Sponsor, i.e. either a subsidiary corporation or an affiliated or associated corporation of the Plan Sponsor, which together with the Plan Sponsor is a member of a "controlled group" of corporations;

2. Any organization which together with the Plan Sponsor is under "common control"; or

3. Any organization which together with the Plan Sponsor is an "affiliated service group";
as those terms are used in Sections 414(b), 414(c) and 414(m) of the Code.

3.2 "Benefit Entry Date" means for each Eligible Employee the day that the Employee becomes eligible to participate in each of the Plan's Benefits. If the Plan does not have different eligibility requirements for each benefit, the Benefit Entry Date will be the same as the Plan Entry Date.

3.3 "Benefits" mean cash and the various qualified benefits under Section 125(f) of the Code sponsored by the School District of Spring Valley and made available by the School District of Spring Valley through the Plan, including, but not limited to, health insurance, dental insurance, and Health Savings Account.

3.4 "Benefits Accounts" mean the accounts established by the Plan Administrator under the Plan for each Participant’s Benefits for purposes of administering the Plan.

3.5 "Change in Status" means any of the events described below, as well as any other events included under subsequent changes to Code Section 125 or regulations issued under Code Section 125 that the Plan Administrator (in its sole discretion) decides to recognize on a uniform and consistent basis:

1. Legal marital status - A change in a Participant’s legal marital status, including marriage, death of spouse, divorce, legal separation, and annulment.

2. Change in number of dependents - Events that change a Participant's number of tax dependents (see definition of Dependent below), including birth, adoption, placement for adoption, and death, or where a court has issued a judgment, decree or order requiring that an employee’s dependent child or foster child be provided with health coverage or that another group health plan provide coverage.
3. Change in employment status - Any change in employment status of the Participant, the Participant's spouse or the Participant's Dependents that affects the benefit eligibility under a cafeteria plan (including this Plan) or other employee benefit plan of the School District of Spring Valley of the Participant, the Spouse, or Dependents, such as (a) termination or commencement of employment; (b) a strike or lockout; (c) a commencement of or return from an unpaid leave of absence; (d) beginning or returning from FMLA leave; (e) switching from salaried to hourly-paid or union to non-union or vice versa; (f) incurring a reduction or increase in hours of employment (e.g., going from part-time to full-time; (g) change in worksite; or (h) any other similar change that makes the individual become (or cease to be) eligible for a particular employee benefit.

4. Dependent eligibility requirements - An event that causes a Participant's dependent to satisfy or cease to satisfy the Dependent eligibility requirements for a particular benefit due to attainment of a specified age, gain or loss of student status, marriage or any similar circumstances.

5. Residence change - A change in the place of residence of the Participant, the Participant's Spouse or the Participant's Dependent, which affects the Employee's eligibility for coverage.

6. Status changes which would permit an Employee to make mid-year changes in his School District of Spring Valley sponsored health coverages in accordance with the special enrollment rights of the Health Insurance Portability and Accountability Act (HIPAA: P.L. 104-191). A change in election status can be made under the Plan only on a prospective, and not a retrospective, basis (except for the retroactive enrollment right under Code Sec. 9801(f) that applies to an election made within 30 days of a birth, adoption, or placement of a child for adoption).

7. Such other changes as may be determined to be qualified in accordance with applicable IRS regulations as amended from time to time and which are approved and allowed by the Plan Sponsor.

3.6 "COBRA" means the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended.


3.8 "Compensation" means all the earned income, salary, wages and other earnings paid by the School District of Spring Valley to a Participant during a Plan Year, including any amounts contributed by the School District of Spring Valley pursuant to a Salary Reduction Agreement which are not includable in gross income under Sections 125, 402(g)(3), 402(h), 403(b) or 457(b) of the Code.

3.9 “Contributions” means the amount contributed to pay for the cost of Benefits (including self-funded Benefits as well as those that are insured), as calculated for Premium Payment Benefits and HSA Benefits.

3.10 "Dependent" means a Participant’s Spouse or any individual who is a “dependent” as defined in Code Section 152(a), without regard to Section 152(b)(1), (b)(2), and (d)(1)(B) thereof.

3.11 "Effective Date" shall be August 1, 2011.
3.12 **"Eligible Employee"** means an Employee, as defined in Section 3.14 below, who is eligible to participate in the School District of Spring Valley's health and/or dental program, including this Cafeteria Plan, except for: (1) Employees who are included in the unit of Employees covered by a collective bargaining agreement between the School District of Spring Valley and Employee Representatives, provided benefits were the subject of good faith bargaining and two percent (2%) or less of the employees of the School District of Spring Valley who are covered pursuant to that agreement are professionals as defined in Treasury Regulation Section 1.410(b)-9. For this purpose, the term "Employee Representatives" does not include any organization more than half of whose members are Employees who are owners, officers, or executives of the School District of Spring Valley, (2) Employees who are Non-Resident Aliens (within the meaning of Section 7701(b)(1)(B) of the Code) deriving no earned income (within the meaning of Section 911(d)(2) of the Code) from the School District of Spring Valley which constitutes income from sources within the United States (within the meaning of Section 861(a)(3) of the Code), (3) Employees who are self-employed individuals as defined in section 401(c) of the Code (including sole proprietors and partners in a partnership), (4) Employees who own (or are considered to own within the meaning of Section 318 of the Code) more than two percent (2%) of the outstanding stock of an “S corporation” or stock possessing more than two percent (2%) of the total combined voting power of all stock of such corporation.

3.13 **"Employee"** means a person who is currently or hereafter employed by the School District of Spring Valley, or by any other School District of Spring Valley aggregated under Sections 414(b), (c), (m), (n) or (o) of the Code and the regulations thereunder, including a Leased Employee subject to Section 414(n) of the Code. Excluding individuals who are not contemporaneously classified as Employees of the School District of Spring Valley for purposes of the School District of Spring Valley's payroll system (including, without limitation, individuals employed by temporary help firms, technical help firms, staffing firms, employee leasing firms, professional School District of Spring Valley organizations or other staffing firms whether or not deemed to be "common law" Employees or "Leased Employees" within the meaning of Section 414(n) (o) of the Code) are not considered to be Eligible Employees of the School District of Spring Valley and shall not be eligible to participate in the Plan. In the event any such individuals are reclassified as Employees for any purpose, including without limitation, common law or statutory employees, by any action of any third party, including, without limitation, any government agency, or as a result of any private lawsuit, action, or administrative proceeding, such individuals shall, notwithstanding such reclassification, remain ineligible for participation hereunder. Notwithstanding the foregoing, the exclusive means for individuals who are not contemporaneously classified as an Employee of the School District of Spring Valley on the School District of Spring Valley's payroll system to become eligible to participate in this Plan is through an amendment to this Plan, duly executed by the School District of Spring Valley, which specifically renders such individuals eligible for participation hereunder.

The Plan Administrator shall have full and complete discretion to determine eligibility for participation and benefits under this Plan, including, without limitation, the determination of those individuals who are deemed Employees of the School District of Spring Valley (or any controlled group member). The Plan Administrator's decision shall be final, binding and conclusive on all parties having or claiming a Benefit under this Plan. This Plan is to be construed to exclude all individuals who are not considered Employees for purposes of the School District of Spring Valley's payroll system, and the Plan Administrator is authorized to do so, despite the fact that its decision may result in the loss of the Plan's tax qualification.
3.14 "FMLA" means the Family and Medical Leave Act of 1993, as amended.

3.15 “High Deductible Health Plan” means the high-deductible health plan offered by the School District of Spring Valley as an option under the medical insurance plan that is intended to qualify as a high-deductible health plan under Code §223(c)(2), as described in materials provided separately by the School District of Spring Valley.

3.16 "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, as amended.

3.17 “Health Savings Account (HSA)” means a health savings account established under Code §223. Such arrangements are individual trusts or custodial accounts, each separately established and maintained by an Employee with a qualified trustee/custodian. Even though funded by Salary Reduction under this Plan, the HSA is not part of or intended to be part of an ERISA-covered benefit plan.

3.18 “HSA-Eligible Individual” means an individual who is eligible to contribute to an HSA under Code §223 and who has elected qualifying High Deductible Health Plan coverage offered by the School District of Spring Valley and who has not elected any disqualifying non-High Deductible Health Plan coverage offered by the School District of Spring Valley or is covered under any health plan (i.e. Union, Medicare, or VA Benefits) that is not a High Deductible Health Plan.

3.19 "Open Enrollment Period" with respect to a Plan Year means the month of December in the year preceding the Plan Year, or such other period as may be prescribed by the Plan Administrator.

3.20 "Participant" means any Employee who has met the eligibility requirements of Section 4.1 of the Plan and has elected to participate in the Plan by providing the Plan Administrator with an executed Pre-Tax Benefits Enrollment Form.

3.21 "Plan" means School District of Spring Valley Cafeteria Plan as described herein.

3.22 "Plan Administrator" means the School District of Spring Valley or such other person or committee as may be appointed by the School District of Spring Valley to administer the Plan.

3.23 "Plan Entry Date" means for each Eligible Employee, the first day of the month immediately following the day that the Employee becomes eligible to participate in the Plan.

3.24 "Plan Year" means the 12-consecutive month period beginning on September 1 and ending on August 31.

3.25 "Pre-Tax Benefits Enrollment Form" means the Pre-Tax Benefits Enrollment Form, which includes the Salary Reduction Agreement, evidencing an Eligible Employee's selections from among the various Benefits and the amount to be contributed towards various Benefits for a Plan Year or portion of a Plan Year.

3.26 "Premium Payment Benefits" means the Premium Payment Benefits that are paid for on a pre-tax Salary Reduction basis as described herein.

3.27 "Salary Reduction" means the amount by which the Participant's Compensation is reduced and applied by the School District of Spring Valley under this Plan to pay for the Benefits, as permitted herein, before any applicable state and/or federal taxes have been deducted from the Participant's Compensation (i.e., on a pre-tax basis).
3.28 "Salary Reduction Agreement" means the agreement by an Employee authorizing the School District of Spring Valley to reduce the Employee's Compensation while a Participant during the Plan Year for purposes of making Contributions toward HSA Benefits under the Plan.

3.29 "School District of Spring Valley" means School District of Spring Valley or any of its Affiliates, successors or assignors which adopt this Plan.

3.30 "Spouse" means an individual who is legally married to a Participant and thereby possessing a valid marriage license, not annulled or voided in any way. A Dependent Spouse shall therefore not be one whom is divorced from the Employee and shall not include an individual separated from a Participant under a decree of legal separation.

3.31 "Timely Submitted" means, unless the Plan Administrator has specific and special cause to alter the definition of this phrase, within 30 calendar days of the event that has triggered the Change in Status.
ARTICLE IV

PARTICIPATION

4.1 Eligibility.
Each Employee, as defined in section 3.13 above, shall be eligible to participate in the Plan if the Employee is eligible to participate in the School District of Spring Valley's health and/or dental program, including the Premium Payment component and the HSA component, and so long as the Employee is employed by the School District of Spring Valley as of his or her Plan Entry Date. To participate in the HSA component, the individual must be an HSA-Eligible Individual, as defined in section 3.20, and shall also be subject to the additional requirements, if any, specified in the High Deductible Health Plan.

4.2 Commencement of Participation.
An Eligible Employee shall become a Participant in the Plan after providing the Plan Administrator with an executed Pre-Tax Benefits Enrollment Form setting forth the Benefits to be made available to the Eligible Employee for the immediately following Plan Year or remaining portion of the Plan Year. As part of the Pre-Tax Benefits Enrollment Form, the Participant shall also execute a Salary Reduction Agreement, which authorizes the School District of Spring Valley to withhold from the Participant's Compensation an amount the Participant elects to have contributed to the Plan. The Participant must, before the end of the first Plan Year of participation and, before the end of each subsequent Plan Year if requesting changes, provide the Plan Administrator with a newly executed Pre-Tax Benefits Enrollment Form. Each new Pre-Tax Benefits Enrollment Form shall specify the type and amount of Benefits to be made available to the Participant for the immediately following Plan Year or remaining portion of the Plan Year. For the initial Plan Year only, if a Participant fails to execute a valid Pre-Tax Benefits Enrollment Form before the Plan's original Effective Date, the Participant shall be ineligible to participate in the Plan for the initial Plan Year. Should a Participant fail to execute a valid Pre-Tax Benefits Enrollment Form for any Plan Year before the start of the Plan Year, the Participant shall be ineligible to participate in the Plan for that Plan Year. When first eligible to participate as described in Section 4.1 above, Participants will be given the opportunity to elect Premium Payment Benefits and HSA Benefits.

4.3 Term of Participation.
Each Participant shall be a Participant in the Plan for the entire Plan Year or the portion of the Plan Year remaining after the Participant's Plan Entry Date, if later than the first day of the Plan Year. A Participant shall cease to be a Participant in the Plan on the earliest of:

(a) the date the Participant dies, resigns or terminates employment with the School District of Spring Valley, subject to the provisions of Section 4.4;

(b) the date the Participant fails to make required Contributions under the Plan;

(c) the end of the Plan Year the Participant ceases to be an Employee; or

(d) the date the Plan terminates.
Termination of participation in this Plan will automatically revoke the Participant's elections. Distributions from a Participant's HSA (whether before or after termination of employment) and all other matters relating to a Participant's HSA are outside of this Plan and are to be handled by the Participant and his or her trustee/custodian in accordance with the agreement between them.

4.4 Treatment of Rehired Employees.
A Participant whose employment terminates and who is subsequently re-employed with less than 30 days separation of service will immediately rejoin the Plan with the same Benefit elections. Should the Participant return to service during the following Plan Year, the Participant would not be allowed to elect new Benefits prior to returning to service, unless the Employee should incur an applicable Change in Status (Note: Change in Status rules are not applicable to the HSA Benefit). Notwithstanding the above, an election to participate in the Premium Payment component will be reinstated only to the extent that coverage under the applicable health plan is reinstated. Likewise, an HSA Benefit election will only be reinstated if an individual is an HSA-Eligible Individual. A Participant whose employment terminates and who is subsequently re-employed with more than 29 days separation of service will need to re-satisfy Plan eligibility requirements to rejoin the Plan. Any unused reimbursement Benefits Accounts balance prior to the initial separation of service date will be forfeited.

4.5 HIPAA Portability.
Notwithstanding any other provisions in this Article IV, any Employee who becomes eligible under the Health Portability and Accountability Act of 1996 ("HIPAA") for coverage by an Accident or Health benefit under the Plan shall be allowed to participate in the Plan, so long as such Employee complies with the provisions set out in HIPAA.

4.6 COBRA Continuation Coverage.
Subject to any provision in the Code, Regulations or Contract governing COBRA Continuation Coverage to the contrary, COBRA type continuation shall be available to all Participants. Notwithstanding any other provisions in this Article IV, any Participant, Spouse or Dependent eligible for continuation coverage under the Plan under the Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA") as amended from time to time, shall be allowed to continue to participate in the Plan, so long as such Participant, Spouse or Dependent complies with the provisions set out in COBRA. The School District of Spring Valley shall adopt rules relating to continuation coverage, as provided under Section 4980B of the Code or applicable state law, as may be required from time to time, and shall advise affected individuals of the terms and conditions of such continuation coverage.

4.7 Uniformed Services Employment and Reemployment Rights Act (USERRA) – Continuation Provision.
Under USERRA, if a person’s health plan coverage would terminate because of an absence due to military service, the person (and their eligible dependents) may elect to continue the health plan coverage after the absence begins for the maximum allowable period as stated under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), as amended.
4.8 Family and Medical Leave Act.
Under the Family and Medical Leave Act (“FMLA”), the provisions of this section 4.8 shall not be available to Eligible Employees for such Plan Years in which the School District of Spring Valley has 50 or fewer Employees. For Plan Years in which the School District of Spring Valley has more than 50 Employees, the School District of Spring Valley must make FMLA leave available to Eligible Employees for up to 12 weeks in connection with the birth or adoption of a child, or to care for a close relative, or because of a serious health condition of the Employee. Notwithstanding any provision to the contrary in this Plan, if a Participant goes on a qualifying leave under the FMLA, then to the extent required by the FMLA, the School District of Spring Valley will continue to maintain the Participant's HSA Benefits on the same terms and conditions as if the Participant were still an active Employee. That is, if the Participant elects to continue his or her coverage while on leave, the School District of Spring Valley will continue to pay its share of the Contributions.

4.9 Non-FMLA Leaves of Absence.
If a Participant goes on an unpaid leave of absence that does not affect eligibility, then the Participant will continue to participate and the Contributions due for the Participant will be paid by pre-payment before going on leave, by after-tax Contributions while on leave, or with catch-up Contributions after the leave ends, as may be determined by the Plan Administrator. If a Participant goes on an unpaid leave that affects eligibility, then the election change rules in Article V will apply.

4.10 Qualified Medical Child Support Order.
In the event you are involved in a divorce, separation, or custody proceeding, your benefits under the Plan may be subject to a Qualified Medical Child Support Order (“QMCSO”). A QMCSO is an order issued under a state’s domestic relations law that requires health benefit coverage for the child of a Participant under a group health plan. QMCSOs generally will be directed primarily towards an underlying group health plan rather than this Plan, but may be directed towards the Plan. You should contact the Plan Administrator if you receive an order that you think may be a QMCSO.
ARTICLE V
CONTRIBUTIONS

5.1 Source of Contributions.
The School District of Spring Valley shall contribute amounts deemed necessary to meet its obligations under the Plan. Contributions to the Plan for the Plan Year shall be limited to the amounts determined by the Pre-Tax Benefits Enrollment Form entered into by Participants for the Plan Year. Contributions to the Plan shall be made to, and all Plan assets shall be held in, such accounts or funds as the School District of Spring Valley deems appropriate. Participants who elect HSA Benefits must pay for the cost of that coverage on a pre-tax Salary Reduction basis by completing a Salary Reduction Agreement. The School District of Spring Valley contributions shall be provided on a flat dollar amount to the HSA Benefits for participation in the School District of Spring Valley Employee Benefit Plan (HDHP/HSA).

5.2 Using Salary Reductions to Make Contributions.
(a) Salary Reductions per Pay Period. The Salary Reduction for a pay period for a Participant is, for the Benefits elected, an amount equal to (1) the annual Contributions for such Benefits, divided by 22 pay periods in the Period of Coverage; (2) an amount otherwise agreed upon between the School District of Spring Valley and the Participant; or (3) an amount deemed appropriate by the Plan Administrator (i.e., in the event of shortage in reducible Compensation, amounts withheld and the Benefits to which Salary Reductions are applied may fluctuate). If a Participant increases his or her election under the HSA component, the Salary Reductions per pay period will be, for the Benefits affected, an amount equal to (1) the new reimbursement limit elected, less the Salary Reductions made prior to such election change, divided by the number of pay periods in the balance of the Period of Coverage commencing with the election change; (2) an amount otherwise agreed upon between the School District of Spring Valley and the Participant; or (3) an amount deemed appropriate by the Plan Administrator (i.e., in the event of shortage of reducible Compensation, amounts withheld and the benefits to which Salary Reductions are applied may fluctuate).

(b) Considered School District of Spring Valley Contributions for Certain Purposes. Salary Reductions are applied by the School District of Spring Valley to pay for the Participant's share of the Contributions for the Premium Payment Benefits and HSA Benefits, and, for the purposes of this Plan and the Code, are considered to be School District of Spring Valley Contributions.

(c) Salary Reduction Balance Upon Termination of Coverage. If, as of the date that any elected coverage under this Plan terminates, a Participant's year-to-date Salary Reductions exceed or are less than the Participant's required Contributions for the coverage, then the School District of Spring Valley will, as applicable, either return the excess to the Participant as additional taxable wages or recoup the due Salary Reduction amounts from any remaining Compensation.

(d) After-Tax Contributions for Premium Payment Benefits. The Plan will not allow Participants to pay their share of the Contributions for any of the health and/or dental benefits with after-tax deductions.
5.3 **Change in Participant's Benefits Enrollment (Not applicable to HSA Benefit).**
No Participant in the Plan shall be allowed to alter or discontinue the Participant's elected Benefits under the Plan during a Plan Year except when due to and consistent with a Change in Status.

Upon the occurrence of a Change in Status, the Participant may file a new Pre-Tax Benefits Enrollment Form, which will serve to revoke the Participant's previous Pre-Tax Benefits Enrollment Form. The new Pre-Tax Benefits Enrollment Form, if determined by the Plan Administrator to be timely submitted and consistent with the Status Change, shall be effective prospectively and apply only to those Benefits accruing to the Participant, the Participant's Spouse or the Participant's Dependents after the effective date of the new Pre-Tax Benefits Enrollment Form.

With respect to an election change under the special enrollment period provisions of HIPAA, "timely submitted" shall mean submitted no later than the last day of such special enrollment period. With respect to any other change in election, the Plan Administrator shall determine if the new Pre-Tax Benefits Enrollment Form has been timely submitted consistent with the nature of the Change in Status.

The Participant's Pre-Tax Benefits Enrollment Form for a given Plan Year shall terminate and Benefits under the Plan shall cease upon the date a Participant is no longer eligible to participate under the terms of this Plan.

5.4 **Increases or Decreases in Premiums.**
Should a third party benefit provider, such as an Insurance Company, increase or decrease premiums for any health and/or dental benefits being offered under this Plan during the Plan Year, any Participant participating in such benefit shall have his Contributions increased or decreased automatically in an amount sufficient to pay for such increase or decrease. However, in the case of an increase in premium, if there is a similar benefit offered under the Plan at the time of said increase, the Participant may select such similar benefit rather than pay the increase.

Notwithstanding anything to the contrary in the preceding paragraph, the School District of Spring Valley reserves the right to reduce the Participants' share of any Premiums and increase the School District of Spring Valley's share by a like amount. The duration of this "Premium Holiday" is at the School District of Spring Valley's discretion. The School District of Spring Valley will notify the Participants prior to ceasing the "Premium Holiday."

The School District of Spring Valley reserves the right to increase the Participants' share of any Premiums and decrease the School District of Spring Valley's share by a like amount. The duration of this is at the School District of Spring Valley's discretion. The School District of Spring Valley will notify Participants prior to raising the Participants' obligations. As this is considered to be temporary, Participants will not be considered to have incurred a Change in Status should the School District of Spring Valley invoke this option.

5.5 **Maximum Contribution.**
The Maximum Contribution any individual can make under this Plan is an amount equal to the sum of the costs for each of the highest cost premium-type Benefit Options offered under the Plan in each Benefit Category. The term "Benefit Option" refers to any category of Benefits offered under this Plan in which the Participant has the opportunity to choose one benefit from several different Options in that category. The term "Benefit Category" refers to any category of Benefits offered under this Plan and may include (but is not limited to) Health Insurance, Group Term Life Insurance or Disability Insurance.
5.6 Nondiscrimination.
The Plan is intended to not discriminate in favor of highly compensated individuals as to eligibility to participate, Contributions and benefits in accordance with applicable provisions of the Code. The Plan Administrator may take such actions as excluding certain highly compensated individuals from participation in the Plan or limiting the Contributions made with respect to certain highly compensated Participants if, in the Plan Administrator’s judgment, such actions serve to assure that the Plan does not violate applicable nondiscrimination rules.

5.7 Elections During Open Enrollment Period.
During each Open Enrollment Period with respect to a Plan Year, the Plan Administrator shall provide a Pre-Tax Benefits Enrollment Form and a Salary Reduction Agreement to each Employee who is eligible to participate in this Plan. The Pre-Tax Benefits Enrollment Form and Salary Reduction Agreement shall enable the Employee to elect to participate in this Plan for the next Plan Year and to authorize the necessary Salary Reductions to pay for the Benefits elected. The Pre-Tax Benefits Enrollment Form and Salary Reduction Agreement must be returned to the Plan Administrator on or before the last day of the Open Enrollment Period, and it shall become effective on the first day of the next Plan Year. If an Eligible Employee fails to return the Pre-Tax Benefits Enrollment Form and/or the Salary Reduction Agreement during the Open Enrollment Period, then the Employee may not elect any Benefits under this Plan until the next Open Enrollment Period, unless an event occurs that would justify a midyear election change, as described herein.
ARTICLE VI
PARTICIPANTS' ACCOUNTS AND BENEFITS

6.1 Participants' Benefit Accounts.
The Plan Administrator shall establish separate Benefits Accounts based on the Benefits selections made by each Participant. Contributions shall be credited to the proper Benefits Accounts of each Participant. Each Benefits Account shall be designated as a "Premium Account."

6.2 Premium Account.
A "Premium Account" is an account established with the intent of paying for premium-type Benefits pursuant to an insurance policy issued by an insurance company, or a contract with a health maintenance organization to provide medical, vision, psychological or psychiatric, prescription drugs, or other qualified benefits under Code Section 125.

6.3 Payment of Benefits.
The Plan Administrator shall pay the Benefits authorized under the Plan other than insurance benefits administered by a third-party benefit provider. Payment shall be made by the School District of Spring Valley, (or the designated Plan Administrator), in a timely manner upon receipt of a Premium Notice from the Benefit Provider providing such benefit.

6.4 Premium Payment Component Benefits.
The Premium Payment component offers benefits under a medical insurance plan, providing major medical benefits (with PPO, HMO, and High Deductible Health Plan options) or dental insurance plan. Notwithstanding any other provision in this Plan, the medical or dental insurance benefits are subject to the terms and conditions of the applicable medical or dental insurance plan, and no changes can be made with respect to such medical or dental insurance benefits under this Plan (such as midyear changes in selection) if such changes are not permitted under the applicable medical or dental insurance plan. A Participant's Salary Reductions during a Plan Year under the Premium Payment component may be applied by the School District of Spring Valley to pay the Participant's share of the Contributions for medical or dental insurance benefits that are provided to the Participant during the period that begins immediately following the close of that Plan Year and ends on the day that is two (2) months plus fifteen (15) days following the close of that Plan Year. The annual Contribution for a Participant's Premium Payment Benefits is equal to the amount as set by the School District of Spring Valley, which may or may not be the same amount charged by the insurance carrier.

6.5 Benefits Provided Under the Medical and Dental Insurance Plans.
Medical or dental insurance benefits will be provided by the applicable medical or dental insurance plans, not this Plan. The types and amounts of medical or dental insurance benefits, the requirements for participating in the medical or dental insurance plans, and the other terms and conditions of coverage and benefits of the medical or dental insurance plans are set forth in the medical or dental insurance plans. All claims to receive benefits under the medical or dental insurance plans shall be subject to and governed by the terms and conditions of the medical or dental insurance plans and the rules, regulations, policies, and procedures adopted in accordance therewith, as may be amended from time to time.
6.6 Medical Insurance Benefits: COBRA.
Notwithstanding any provision to the contrary in this Plan, to the extent required by COBRA, a Participant and his or her Spouse and Dependents, as applicable, whose coverage terminates under the medical insurance benefits because of a COBRA qualifying event (and who is a qualified beneficiary as defined under COBRA), shall be given the opportunity to continue on a self-pay basis the same coverage that he or she had under the medical insurance plans the day before the qualifying event for the periods prescribed by COBRA. Such continuation coverage shall be subject to all conditions and limitations under COBRA.

Contributions for COBRA coverage for medical insurance benefits may be paid on a pre-tax basis for current Employees receiving taxable compensation (as may be permitted by the Plan Administrator on a uniform and consistent basis, but may not be prepaid from Contributions in one Plan Year to provide coverage that extends into a subsequent Plan Year) where COBRA coverage arises either (a) because the Employee ceases to be eligible because of a reduction in hours; or (b) because the Employee's Dependent ceases to satisfy the eligibility requirements for coverage. For all other individuals (e.g., Employees who cease to be eligible because of retirement, termination of employment, or layoff), Contributions for COBRA coverage for medical insurance benefits shall be paid on an after-tax basis (unless may be otherwise permitted by the Plan Administrator on a uniform and consistent basis, but may not be prepaid from Contributions in one Plan Year to provide coverage that extends into a subsequent Plan Year).

6.7 HSA Benefits.
An Eligible Employee can elect to participate in the HSA component by electing to pay the Contributions on a pre-tax Salary Reduction basis to the Employee's HSA established and maintained outside the Plan by a trustee/custodian to which the School District of Spring Valley can forward Contributions to be deposited (this funding feature constitutes the HSA Benefits offered under this Plan). Such election can be increased, decreased or revoked prospectively at any time during the Plan Year, effective no later than the first day of the next calendar month following the date that the election change was filed.

6.8 Contributions for Cost of Coverage for HSA: Maximum Limits.
The annual Contribution for a Participant's HSA Benefits is equal to the annual benefit amount elected by the Participant, but in no event shall the amount elected exceed the statutory maximum amount for HSA Contributions applicable to the Participant's High Deductible Health Plan coverage option (i.e., single or family) for the calendar year in which the Contribution is made ($3,350 for single and $6,650 for family are the statutory maximum amounts for 2015). For Plan Years beginning after 2015, the maximum amount of HSA Benefits may be changed by the Plan Administrator and shall be communicated to Employees through the Salary Reduction Agreement or another document, provided the maximum dollar limit shall not exceed the maximum amount permitted under Code 223(b)(2) as the maximum HSA Benefits will be adjusted annually for inflation pursuant to Code Section 223(b)(2). An additional catch-up Contribution of $1,000 may be made for Participants who are age 55 or older. In addition, the maximum annual Contribution shall be:

(a) reduced by any matching (or other) School District of Spring Valley Contribution made on the Participant's behalf (other than pre-tax Salary Reductions) made under the Plan); and

(b) prorated for the number of months in which the Participant is an HSA-Eligible Individual.
6.9 **Recording Contributions for HSA.**
The HSA is not a School District of Spring Valley-sponsored employee benefit plan; it is an individual trust or custodial account separately established and maintained by a trustee/custodian outside the Plan. Consequently, the HSA trustee/custodian, not the School District of Spring Valley, will establish and maintain the HSA. The HSA trustee/custodian will be chosen by the Participant, not by the School District of Spring Valley. The School District of Spring Valley may, however, limit the number of HSA providers to whom it will forward Contributions that the Employee makes via pre-tax Salary Reductions - such a list is not an endorsement of any particular HSA provider. The Plan Administrator will maintain records to keep track of HSA Contributions an Employee makes via pre-tax Salary Reductions, but it will not create a separate fund or otherwise segregate assets for this purpose. The School District of Spring Valley has no authority or control over the funds deposited in an HSA.

6.10 **Tax Treatment of HSA Contributions and Distributions.**
The federal income tax treatment of the HSA (including Contributions and distributions) is governed by Code §223.

6.11 **Trust/Custodial Agreement; HSA Not Intended to Be an ERISA Plan.**
HSA Benefits under this Plan consist solely of the ability to make Contributions to the HSA on a pre-tax Salary Reduction basis. Terms and conditions of coverage and benefits (e.g., eligible medical expenses, claims procedures, etc.) will be provided by and are set forth in the HSA, not this Plan. The terms and conditions of each Participant's HSA trust or custodial account are described in the HSA trust or custodial agreement provided by the applicable trustee/custodian to each electing Participant and are not a part of this Plan.

The HSA is not a School District of Spring Valley-sponsored employee benefits plan. It is a savings account that is established and maintained by an HSA trustee/custodian outside this Plan to be used primarily for reimbursement of "qualified eligible medical expenses" as set forth in Code §223(d)(2). The School District of Spring Valley has no authority or control over the funds deposited in a HSA. Even though this Plan may allow pre-tax Salary Reduction Contributions to an HSA, the HSA is not intended to be an ERISA benefit plan sponsored or maintained by the School District of Spring Valley.
ARTICLE VII

PLAN ADMINISTRATION

7.1 Plan Administrator.
The Plan Administrator shall be responsible for the administration of the Plan.

7.2 Plan Administrator’s Duties.
In addition to any rights, duties or powers specified throughout the Plan, the Plan Administrator shall have the following rights, duties and powers:

(a) to interpret the Plan, to determine the amount, manner and time for payment of any benefits under the Plan, and to construe or remedy any ambiguities, inconsistencies or omissions under the Plan;

(b) to determine all questions of eligibility and status under the Plan;

(c) to make factual findings;

(d) to adopt and apply any rules or procedures to insure the orderly and efficient administration of the Plan;

(e) to determine the rights of any Participant, Spouse, Dependent or beneficiary to benefits under the Plan;

(f) to decide disputes which may arise relative to a Participant’s rights;

(g) to develop appellate and review procedures for any Participant, Spouse, Dependent or designated beneficiary denied benefits under the Plan and to uphold or reverse such denials;

(h) to provide the School District of Spring Valley with such tax or other information it may require in connection with the Plan;

(i) to keep and maintain the Plan documents and all other records pertaining to the Plan;

(j) to employ any agents, attorneys, accountants or other parties (who may also be employed by the School District of Spring Valley and to allocate or delegate to them such powers or duties as is necessary to assist in the proper and efficient administration of the Plan, provided that such allocation or delegation and the acceptance thereof is in writing;

(k) to report to the School District of Spring Valley, or any party designated by the School District of Spring Valley, after the end of each Plan Year regarding the administration of the Plan, and to report any significant problems as to the administration of the Plan and to make recommendations for modifications as to procedures and benefits, or any other change which might insure the efficient administration of the Plan; and
(l) to perform each and every function necessary for or related to the Plan’s administration.

However, nothing in this section 7.2 is meant to confer upon the Plan Administrator any powers to amend the Plan or change any administrative procedure or adopt any other procedure involving the Plan without the express written approval of the School District of Spring Valley regarding any amendment or change in administrative procedure, or Benefit provider. Notwithstanding the preceding sentence, the Plan Administrator is empowered to take any actions he sees fit to assure that the Plan complies with the nondiscrimination requirements of Section 125 of the Code.

7.3 Election Modifications Required by Plan Administrator.
The Plan Administrator may, at any time, require any Participant or class of Participants to amend the amount of their Salary Reductions (including Salary Reductions for HSA Benefits) for a Period of Coverage if the Plan Administrator determines that such action is necessary or advisable in order to (a) satisfy any of the Code's nondiscrimination requirements applicable to this Plan or other cafeteria plan; (b) prevent any Employee or class of Employees from having to recognize more income for federal income tax purposes from the receipt of benefits hereunder than would otherwise be recognized; (c) maintain the qualified status of benefits received under this Plan; or (d) satisfy Code nondiscrimination requirements or other limitations applicable to the School District of Spring Valley's qualified plans. In the event that Contributions need to be reduced for a class of Participants, the Plan Administrator will reduce the Salary Reduction amounts for each affected Participant, beginning with the Participant in the class who had elected the highest Salary Reduction amount and continuing with the Participant in the class who had elected the next-highest Salary Reduction amount, and so forth, until the defect is corrected.

7.4 Information to be Provided to Plan Administrator.
The School District of Spring Valley, or any of its agents, shall provide to the Plan Administrator any employment records of any Employee eligible to participate under the Plan. Such records shall include, but will not be limited to, any information regarding period of employment, leaves of absence, salary history, termination of employment, or any other information the Plan Administrator may need for the proper administration of the Plan. Any Participant or Dependent or any other person entitled to benefits under the Plan shall furnish to the Plan Administrator his correct post office address, his date of birth, the names, correct addresses and dates of birth of any designated beneficiaries, with proper proof thereof, or any other data the Plan Administrator might reasonably request to insure the proper and efficient administration of the Plan.

7.5 Decision of Plan Administrator Final.
Subject to applicable State or Federal law, any interpretation of any provision of this Plan made by the Plan Administrator as to any Participant's rights or benefits under this Plan is final and shall be binding upon the parties. Any misstatement or other mistake of fact shall be corrected as soon as reasonably possible upon notification to the Plan Administrator and any adjustment or correction attributable to such misstatement or mistake of fact shall be made by the Plan Administrator as he considers equitable and practicable.

7.6 Extensions of Time.
In any case where the Plan Administrator determines special circumstances apply, the Plan Administrator may extend the amount of time any Participant, Spouse, Dependent or designated beneficiary may need to appeal a claim, upon proper application to the Plan Administrator.
7.7 **Rules to Apply Uniformly.**
The Plan Administrator shall perform his duties in a reasonable manner and on a nondiscriminatory basis and shall apply uniform rules to all Participants similarly situated under the Plan.

7.8 **Indemnity.**
The School District of Spring Valley does hereby agree to indemnify and hold harmless, to the extent allowed by law and over and above any liability coverage contracts or directors and officers insurance, any sole proprietor, member, partner, officer or director of the School District of Spring Valley, designated by the School District of Spring Valley or the Plan Administrator who has been employed, hired or contracted to assist in the fulfillment of the administration of this Plan. In addition, the School District of Spring Valley agrees to pay any costs of defense or other legal fees incurred by any of the above parties over and above those paid by any liability or insurance contract.
ARTICLE VIII

GENERAL PROVISIONS

8.1 Amendment and Termination.
The School District of Spring Valley may amend or terminate this Plan at any time by legal action of the authorized agents of the School District of Spring Valley, subject to the limitation that no amendment shall change the terms and conditions of payment of any benefit a Participant, Spouse, Dependent or designated beneficiary was or might have been entitled to under the Plan at the time of the amendment or termination. The School District of Spring Valley may also make amendments apply retroactively to the extent necessary so that the Plan remains in compliance with Section 125 of the Code or any other provision of the Code applicable to the Plan.

The process whereby amendments, suspension and/or termination of the Plan is accomplished, or any part thereof, shall be decided upon and/or enacted by resolution of the School District of Spring Valley’s directors and officers if it is incorporated (in compliance with its articles of incorporation or bylaws and if these provisions are deemed applicable), or by the sole proprietor in his or her own discretion if the School District of Spring Valley is a sole proprietorship, but always in accordance with applicable Federal and State law, including – where applicable – notification rules provided for and as required by ERISA.

If the Plan is terminated, the rights of the Participants are limited to Benefits owed before termination. In connection with the termination, the Plan Sponsor may establish a deadline by which all Benefits claims must be submitted for consideration. Benefits will be paid only for Benefits owed prior to the termination date and submitted in accordance with the rules established by the School District of Spring Valley. Upon termination, any Plan assets will be used to pay outstanding Benefits owed and all expenses of Plan termination. To the extent that any Plan assets remain, they will be used for the benefit of covered Participants in accordance with ERISA.

8.2 Nonassignability.
Any benefits to any Participants under this Plan shall be nonassignable and for the exclusive benefit of Participants, Spouses, Dependents and designated beneficiaries. No benefit shall be voluntarily or involuntarily assigned, sold or transferred.

8.3 Not an Employment Contract.
By creating this Plan and providing benefits under the Plan, the School District of Spring Valley in no way guarantees employment for any employee or Participant under this Plan. Participation in this Plan shall in no way assure continued employment with the School District of Spring Valley.

8.4 Participant Litigation.
In any action or proceeding against the Plan, or the administration thereof, Employees or former employees of the School District of Spring Valley or any other person having or claiming to have an interest under the Plan shall not be necessary parties to such action or proceeding. The School District of Spring Valley, the Plan Administrator, or their registered representatives shall be the sole source for service of process against the Plan. Any final judgment which is not appealed or appealable shall be binding on the School District of Spring Valley and any interested party to the Plan.
8.5 **Addresses, Notice and Waiver of Notice.**

Each Participant shall furnish the School District of Spring Valley with his correct post office address. Any communication, statement or notice addressed to a Participant at his last post office address as filed with the School District of Spring Valley will be binding on such person. The School District of Spring Valley or Plan Administrator shall be under no legal obligation to search for or investigate the whereabouts of any person benefiting under this Plan. Any notice required under the Plan may be waived by such person entitled to such notice.

8.6 **Required Information.**

Each Participant, Spouse or Dependent shall furnish to the School District of Spring Valley such documents, evidence or information as the School District of Spring Valley considers necessary or desirable to ensure the efficient operation and administration of the Plan and for the protection of the School District of Spring Valley.

8.7 **Severability.**

In any case where any provision of this Plan is held to be illegal or invalid, such illegality or invalidity shall apply only to that part of the Plan and shall not apply to any remaining provisions of the Plan, and the Plan shall be construed as if such illegal or invalid provision had never existed under the Plan.

8.8 **Applicable Law.**

The Plan shall be construed, administered, and enforced under the laws of the State of Wisconsin, to the extent not preempted by the Code or any Federal law.

8.9 **No Guarantee of Tax Consequences.**

Neither the Plan Administrator nor the School District of Spring Valley makes any commitment or guarantee that any amounts paid to or for the benefit of a Participant under this Plan will be excludable from the Participant's gross income for federal, state, or local income tax purposes. It shall be the obligation of each Participant to determine whether each payment under this Plan is excludable from the Participant's gross income for federal, state, and local income tax purposes and to notify the Plan Administrator if the Participant has any reason to believe that such payment is not so excludable.
ARTICLE IX

CLAIM PROCEDURES/PAYMENT OF CLAIMS

9.1 Claimant: Authorized Representative.
In accordance with applicable law, the Plan will allow an authorized representative to act on a Claimant’s behalf in pursuing or appealing a benefit claim. For the purposes of this Article IX, “Claimant” shall mean any plan Participant or beneficiary seeking to receive Plan benefits.

9.2 Medical and Dental Insurance Benefits.
The applicable insurance company will decide your claim in accordance with its claims procedures. If your claim is denied, you may appeal to the insurance company for a review of the denied claim. If you don't appeal on time, you will lose your right to file suit in a state or federal court, as you will not have exhausted your internal administrative appeal rights (which generally is a prerequisite to bringing a suit in state or federal court). Note that under certain circumstances, you may also have the right to obtain external review (that is, review outside of the plan.) For more information about how to file a claim and for details regarding the medical and dental insurance companies' claims procedures, consult the claims procedures applicable under that plan or policy, as described in the plan document or summary plan description for the Medical or Dental Insurance Plan.

9.3 Claims Under the Cafeteria Plan.
However, if you are denied a Benefit under the Cafeteria Plan (such as the ability to pay for Medical or Dental Insurance premiums on a pre-tax salary reduction basis) due to an issue germane to your coverage under the Cafeteria Plan (for example, a determination of a Change in Status; a "significant" change in Contributions charged; or eligibility and participation matters under this Plan Document), then the claims procedure described below will apply.

If your claim is denied in whole or in part, you will be notified in writing by the Plan Administrator within 30 days after the date the Plan Administrator received your claim. (This time period may be extended for an additional 15 days for matters beyond the control of the Plan Administrator, including in cases where a claim is incomplete. The Plan Administrator will provide written notice of any extension, including the reasons for the extension and the date by which a decision by the Plan Administrator is expected to be made. Where a claim is incomplete, the extension notice will also specifically describe the required information, will allow you 45 days from receipt of the notice in which to provide the specified information and will have the effect of suspending the time for a decision on your claim until the specified information is provided.)

Notification of a denied claim will set out:

(a) a specific reason or reasons for the denial;

(b) the specific Plan provision on which the denial is based;

(c) a description of any additional material or information necessary for you to validate the claim and an explanation of why such material or information is necessary; and
(d) appropriate information on the steps to be taken if you wish to appeal the Plan Administrator's decision, including your right to submit written comments and have them considered, your right to review (upon request and at no charge) relevant documents and other information, and your right to file suit under ERISA (where applicable) with respect to any adverse determination after appeal of your claim.

9.4 Appeals.
If your claim is denied in whole or part, then you (or your authorized representative) may request review upon written application to the Plan Administrator that acts on behalf of the Plan Administrator with respect to appeals (the Committee). Your appeal must be made in writing within 180 days after your receipt of the notice that the claim was denied. If you do not appeal on time, you will lose the right to appeal the denial and the right to file suit in court. Your written appeal should state the reasons that you feel your claim should not have been denied. It should include any additional facts and/or documents that you feel support your claim. You will have the opportunity to ask additional questions and make written comments, and you may review (upon request and at no charge) documents and other information relevant to your appeal.

9.5 Decision on Review.
Your appeal will be reviewed and decided by the Committee or other entity designated by the Plan in a reasonable time not later than 60 days after the Committee receives your request for review. The Committee may, in its discretion, hold a hearing on the denied claim. Any medical expert consulted in connection with your appeal will be different from and not subordinate to any expert consulted in connection with the initial claim denial. The identity of a medical expert consulted in connection with your appeal will be provided. If the decision on review affirms the initial denial of your claim, you will be furnished with a notice of adverse benefit determination on review setting forth:

(a) the specific reason(s) for the decision on review;

(b) the specific Plan provision(s) on which the decision is based;

(c) a statement of your right to review (upon request and at no charge) relevant documents and other information;

(d) if an "internal rule, guideline, protocol, or other similar criterion" is relied on in making the decision on review, then a description of the specific rule, guideline, protocol, or other similar criterion or a statement that such a rule, guideline, protocol, or other similar criterion was relied on and that a copy of such rule, guideline, protocol, or other criterion will be provided free of charge to you upon request; and

(e) a statement of your right to bring suit under ERISA §502(a) (where applicable).
ARTICLE X

HIPAA PROVISIONS

10.1 Compliance. This Plan shall comply with the standards for privacy of protected health information as set forth in the Privacy Rule, the security standards for the protection of Electronic PHI as set forth in the Security Rule, and the notification requirements for Breaches of Unsecured PHI under the Breach Notification Rule.

10.2 Definitions. For purposes of this Article X, the following definitions shall apply:

(a) "Breach" shall mean the acquisition, access, use, or disclosure of an individual’s PHI in a manner not permitted under the Privacy Rule. A Breach shall be presumed unless the Plan determines there is a low probability that the PHI has been compromised. A Breach does not include: (1) an unintentional acquisition, access, or use of PHI by a workforce member or person acting under the authority of a covered entity or business associate, if such acquisition, access, or use was in good faith and within the scope of authority and does not result in a further impermissible use or disclosure; (2) an inadvertent disclosure by a person who is authorized to access PHI to another person authorized to access PHI at the same covered entity or business associate or organized health care arrangement and the information received is not further used or disclosed in a manner not permitted under the Privacy Rule; or (3) a disclosure of PHI where a covered entity or business associate has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain such information.

(b) "Breach Notification Rule" means the regulations issued under HIPAA set forth in subpart D of 45 CFR Part 164.

(c) "Electronic Protected Health Information" or "Electronic PHI" means PHI that is transmitted by or maintained in electronic media.

(d) "Health Care Operations" is as defined under 45 CFR §160.501.

(e) "HIPAA Health Plan," as defined under 45 CFR §160.103, means an individual or group plan that provides, or pays the cost of, medical care, and includes those plans and arrangements listed in 45 CFR §160.103.

(f) "Payment" is as defined under 45 CFR §160.501, and means activities undertaken by a HIPAA Health Plan to obtain Contributions or to determine or fulfill its responsibility for coverage and provision of benefits, or to obtain or provide reimbursement for the provision of health care.

(g) "Privacy Policy" means the School District of Spring Valley HIPAA Privacy Policy.

(h) "Privacy Rule" means the regulations issued under HIPAA set forth in subpart E of 45 CFR Part 164.
(i) "Protected Health Information" or "PHI" means individually identifiable health information that (1) relates to the past, present, or future physical or mental condition of a current or former Participant, Spouse, or Dependent, provision of health care to a Participant, Spouse, or Dependent, or payment for such health care; (2) can either identify the Participant, Spouse, or Dependent, or there is a reasonable basis to believe the information can be used to identify the Participant, Spouse, or Dependent; and (3) is received or created by or on behalf of the Plan.

(j) "Responsible Employee" means an employee (including a contract, temporary, or leased employee) of the Plan or of the School District of Spring Valley whose duties (1) require that the employee have access to PHI for purposes of Payment or Health Care Operations; or (2) make it likely that the employee will receive or have access to PHI. Persons designated as Responsible Employees are described in Section 10.3. A Responsible Employee shall also include any other employee (other than a designated Responsible Employee) who creates or receives PHI on behalf of the Plan, even though the employee's duties do not (or are not expected to) include creating or receiving PHI. Responsible Employees are within the School District of Spring Valley's HIPAA firewall when they perform Plan functions.

(k) "Security Incident," as defined under 45 CFR §164.304, means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.

(l) "Security Rule" means the regulations issued under HIPAA set forth in subpart C of 45 CFR Part 164.

10.3 Responsible Employees.

Only Responsible Employees shall be permitted to use, disclose, create, receive, access, maintain, or transmit PHI or Electronic PHI on behalf of the Plan. The use or disclosure of PHI or Electronic PHI by Responsible Employees shall be restricted to the Plan administration functions that the School District of Spring Valley performs on behalf of the Plan pursuant to Section 10.4.

(a) School District of Spring Valley employees who perform the following functions on behalf of the Plan are Responsible Employees: (1) claims determination and processing functions; (2) Plan vendor relations functions; (3) benefits education and information functions; (4) Plan administration activities; (5) legal department activities; (6) Plan compliance activities; (7) information systems support activities; (8) internal audit functions; and (9) human resources functions.
(b) In addition to those individuals described in subsection (a), the Plan’s HIPAA privacy officer and security official, and School District of Spring Valley employees to whom the Plan’s HIPAA privacy officer and security official have delegated any of the following responsibilities, shall also be Responsible Employees: (1) implementation, interpretation, and amendment of the Privacy Policy; (2) Privacy Rule, Breach Notification Rule, or Security Rule training for School District of Spring Valley employees; (3) investigation of and response to complaints by Participants, Spouses, Dependents, and/or employees; (4) preparation, maintenance, and distribution of the Plan’s privacy notice; (5) response to requests by Participants, Spouses, or Dependents to inspect or copy PHI; (6) response to requests by Participants, Spouses, or Dependents to restrict the use or disclosure of their PHI; (7) response to requests by Participants, Spouses, or Dependents to receive communications of their PHI by alternate means or in an alternate manner; (8) amendment and response to requests to amend the PHI of Participants, Spouses, or Dependents; (9) response to requests by Participants, Spouses, or Dependents for an accounting of disclosures of their PHI; (10) response to requests for information by the Department of Health and Human Services; (11) approval of disclosures to law enforcement or to the military for government purposes; (12) maintenance of records and other documentation required by the Privacy Rule, Breach Notification Rule, or Security Rule; (13) negotiation of Privacy Rule, Breach Notification Rule, and Security Rule provisions and/or reasonable security provisions into contracts with third-party service providers; (14) maintenance of PHI or Electronic PHI security documentation; or (15) approval of access to Electronic PHI by Participants, Spouses, or Dependents.

10.4 Permitted Uses and Disclosures.
Responsible Employees may access, request, receive, use, disclose, create, and/or transmit PHI only to perform certain permitted and required functions on behalf of the Plan, consistent with the Privacy Policy. This includes:

(a) uses and disclosures for the Plan’s own Payment and Health Care Operations functions;

(b) uses and disclosures for another HIPAA Health Plan's Payment and Health Care Operations functions;

(c) disclosures to a health care provider, as defined under 45 CFR §160.103, for the health care provider's treatment activities;

(d) disclosures to the School District of Spring Valley, acting in its role as Plan Sponsor, of (1) summary health information for purposes of obtaining health insurance coverage or premium bids for HIPAA Health Plans or for making decisions to modify, amend, or terminate a HIPAA Health Plan; or (2) enrollment or disenrollment information;

(e) disclosures of a Participant's, Spouse's, or Dependent's PHI to the Participant or the Dependent or his or her personal representative, as defined under 45 CFR §164.502(g);

(f) disclosures to a Participant's, Spouse's, or Dependent's family members or friends involved in the Participant's, Spouse's, or Dependent's health care or payment for the Participant's, Spouse's, or Dependent's health care, or to notify a Participant's, Spouse's, or Dependent's family in the event of an emergency or disaster relief situation;
(g) uses and disclosures to comply with workers' compensation laws;

(h) uses and disclosures for legal and law enforcement purposes, such as to comply with a court order;

(i) disclosures to the Secretary of Health and Human Services to demonstrate the Plan’s compliance with the Privacy Rule, Security Rule, or Breach Notification Rule;

(j) uses and disclosures for other governmental purposes, such as for national security purposes;

(k) uses and disclosures for certain health and safety purposes, such as to prevent or lessen a threat to public health, to report suspected cases of abuse, neglect, or domestic violence, or relating to a claim for public benefits or services;

(l) uses and disclosures to identify a decedent or cause of death, or for tissue donation purposes;

(m) uses and disclosures required by other applicable laws; and

(n) uses and disclosures pursuant to the Participant’s authorization that satisfies the requirements of 45 CFR §164.508.

10.5 Prohibited Uses and Disclosures.
Notwithstanding anything in the Plan to the contrary, use or disclosure of Protected Health Information is prohibited in the following situations.

(a) Genetic Information. Use or disclosure of Protected Health Information that is Genetic Information about an individual for underwriting purposes shall not be a permitted use or disclosure. The term "underwriting purposes" includes determining eligibility or benefits, computation of premium or Contribution amounts, or the creation, renewal, or replacement of a contract of health insurance.

(b) Employment-Related Actions. Use or disclosure of Protected Health Information for the purpose of employment-related actions or decisions shall not be a permitted use or disclosure.

(c) Other Benefits. Use or disclosure of Protected Health Information in connection with any other benefit or employee benefit plan of the School District of Spring Valley, except as expressly permitted in Section 10.4, shall not be a permitted use or disclosure.

10.6 Certification Requirement.
The Plan shall disclose PHI, including Electronic PHI, to Responsible Employees only upon receipt of a certification by the School District of Spring Valley that the School District of Spring Valley agrees:

(a) not to use or further disclose PHI other than as permitted or required by this Article X and the Privacy Policy or as required by law;
(b) to take reasonable steps to ensure that any agents to whom the School District of Spring Valley provides PHI or Electronic PHI received from the Plan agree: (1) to the same restrictions and conditions that apply to the School District of Spring Valley with respect to such PHI; and (2) to implement reasonable and appropriate security measures to protect such Electronic PHI;

c) not to use or disclose PHI for employment-related actions and decisions or in connection with any other benefit or employee benefit plan of the School District of Spring Valley other than another Health Plan;

(d) to report to the Plan any use or disclosure of PHI, including Electronic PHI, that is inconsistent with the uses or disclosures described in Section 10.4, or any Security Incident, of which the School District of Spring Valley becomes aware;

(e) to make available PHI for inspection and copying in accordance with 45 CFR §164.524;

(f) to make available PHI for amendment, and to incorporate any amendments to PHI, in accordance with 45 CFR §164.526;

(g) to make available PHI required to provide an accounting of disclosures in accordance with 45 CFR §164.528;

(h) to make its internal practices, books, and records relating to the use and disclosure of PHI and Electronic PHI, received on behalf of the Plan, available to the Secretary of Health and Human Services for purposes of determining compliance by the Plan with the Privacy Rule, the Breach Notification Rule, or the Security Rule;

(i) if feasible, to return or destroy all PHI and Electronic PHI received from the Plan that the School District of Spring Valley still maintains in any form and retain no copies of such PHI and Electronic PHI when no longer needed for the purpose for which disclosure was made, except that, if such return or destruction is not feasible, limit further uses and disclosures to those purposes that make the return or destruction of PHI and Electronic PHI infeasible;

(j) to take reasonable steps to ensure that there is adequate separation between the Plan and the School District of Spring Valley's activities in its role as Plan Sponsor and School District of Spring Valley, and that such adequate separation is supported by reasonable and appropriate security measures; and

(k) to implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of any Electronic PHI that the School District of Spring Valley creates, receives, maintains, or transmits on behalf of the FSA.
10.7 Mitigation.
In the event of noncompliance with any of the provisions set forth in this Article X:

(a) The HIPAA privacy officer or security official, as appropriate, shall address any complaint promptly and confidentially. The HIPAA privacy officer or security official, as appropriate, first will investigate the complaint and document the investigation efforts and findings.

(b) If PHI, including Electronic PHI, has been used or disclosed in violation of the Privacy Policy or inconsistent with this Article X, the HIPAA privacy officer and/or the security official, as appropriate, shall take immediate steps to mitigate any harm caused by the violation and to minimize the possibility that such a violation will recur.

(c) If a Responsible Employee or other School District of Spring Valley employee is found to have violated the Privacy Policy and/or policy developed under the Security Rule, such personnel shall be subject to disciplinary action up to and including termination.

10.8 Breach Notification.
Following the discovery of a Breach of unsecured PHI, the Plan shall notify each individual whose unsecured PHI has been, or is reasonably believed to have been, accessed, acquired, or disclosed as a result of a Breach, in accordance with 45 CFR §164.404, and shall notify the Secretary of Health and Human Services in accordance with 45 CFR §164.408. For a breach of unsecured PHI involving more than 500 residents of a State or jurisdiction, the Health FSA shall notify the media in accordance with 45 CFR §164.406. "Unsecured PHI" means PHI that is not secured through the use of a technology or methodology specified in regulations or other guidance issued by the Secretary of Health and Human Services.

10.9 HIPAA Security; Standards for Security of Individually Identifiable Health Information ("Security Rule").
HIPAA and other applicable law shall override the following wherever there is a conflict, or a term or terms is/are not hereby defined. The Security Rule imposes regulations for maintaining the integrity, confidentiality and availability of protected health information that it creates, receives, maintains, or maintains electronically that is kept in electronic format (ePHI) as required under HIPAA.

10.10 HIPAA Security Definitions.
(a) “Electronic Protected Health Information (ePHI),” as defined in Section 160.103 of the Security Standards (45 C.F.R. 160.103), means individually identifiable health information transmitted or maintained in any electronic media.

(b) “Security Incidents,” as defined within Section 164.304 of the Security Standards (45 C.F.R. 164.304), means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with systems operation in an information system.

10.11 HIPAA Security Plan Sponsor Obligations.
To enable the Plan Sponsor to receive and use Electronic PHI for Plan Administration Functions (as defined in 45 CFR §164.504(a)), the Plan Sponsor agrees to:

1. Implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the Electronic PHI that it creates, receives, maintains, or transmits on behalf of the Plan;
2. Ensure that adequate separation between the Plan and the Plan Sponsor, as required in 45 CFR § 164.504(f)(2)(iii), is supported by reasonable and appropriate Security Measures;
3. Ensure that any agent, including a subcontractor, to whom the Plan Sponsor provides Electronic PHI created, received, maintained, or transmitted on behalf of the Plan, agrees to implement reasonable and appropriate administrative, physical, and technical safeguards to protect the confidentiality, integrity, and availability of the Electronic PHI and report to the Plan any security incident of which it becomes aware; and
4. Report to the Plan any security incident of which it becomes aware.

10.12 HIPAA Security Notification Requirements in the Event of a Breach of Unsecured PHI.
The required Breach notifications are triggered upon the discovery of a Breach of unsecured PHI. A Beach is discovered as of the first day the Breach is known, or reasonably should have been known.

When a Breach of unsecured PHI is discovered, the Plan will:

1. Notify the Participant whose PHI has been, or is reasonably believed to have been, assessed, acquired, used, or disclosed as a result of the Breach, in writing, without unreasonable delay and in no case later than 60 calendar days after discovery of the Breach. Breach notification must be provided to individuals by:
   a. Written notice by first-class mail to Participant (or next of kin) at last known address or, if specified by Participant, e-mail;
   b. If Plan has insufficient or out-of-date contact information for the Participant, the Participant must be notified by a “substitute form”;
   c. If an urgent notice is required, Plan may contact the Participant by telephone.
      i. The Breach notification will have the following content:
         1. Brief description of what happened, including date of Breach and date discovered;
         2. Types of unsecured PHI involved (e.g., name, Social Security number, date of birth, home address, account number);
         3. Steps Participant should take to protect from potential harm;
         4. What the Plan is doing to investigate the Breach, mitigate losses and protect against further Breaches;

2. Notify the media if the Breach affected more than 500 residents of a State or jurisdiction. Notice must be provided to prominent media outlets serving the State or jurisdiction without unreasonable delay and in no case later than 60 calendar days after the date the Breach was discovered;

3. Notify the HHS Secretary if the Breach involves 500 or more individuals, contemporaneously with the notice to the affected individual and in the manner specified by HHS. If the Breach involves less than 500 individuals, an internal log or other documentation of such Breaches must be maintained and annually submitted to HHS within 60 days after the end of each Calendar Year; and

4. When a Business Associate, which provides services for the Plan and comes in contact with PHI in connection with those services discovers a Breach has occurred, that Business Associate will notify the Plan without unreasonable delay and in no case later than 60 calendar days after discovery of a Breach so that the affected Participants may be notified. To the extent possible, the Business Associate should identify each individual whose unsecured PHI has been, or is reasonably believed to have been, breached.
ARTICLE XI

PARTICIPANT'S RIGHTS

11.1 Participant’s Rights.
As a Participant in the Plan, you are entitled to certain rights and protections under ERISA. ERISA provides that all Participants are entitled to:

(a) Receive Information About Your Plan and Benefits.
   1. Examine, without charge, at the Plan Administrator’s office and at other specified locations, such as worksites and union halls (if any), all documents governing the Plan, including insurance contracts and collective bargaining agreements (if any).
   2. Obtain, upon written request to the Plan Administrator, copies of documents governing the operation of the Plan, including insurance contracts and collective bargaining agreements (if any), and updated summary plan description. The Plan Administrator may make a reasonable charge for the copies.
   3. Receive a summary of the Plan’s annual financial report. The Plan Administrator is required by law to furnish each Participant with a copy of this summary annual report.

(b) Continue Coverage.
   1. Continue coverage for yourself, Spouse or Dependents if there is a loss of coverage under the Plan as a result of a Qualifying Event. You or your Dependents may have to pay for such coverage. Review this Plan Document and the documents governing the Plan on the rules governing your COBRA Continuation Coverage rights.

(c) Prudent Actions by Plan Fiduciaries.
   1. In addition to creating rights for Participants, ERISA imposes duties upon the people who are responsible for the operation of the Plan. The people who operate your Plan, called “fiduciaries” of the Plan, have a duty to do so prudently and in the interest of you and other Participants and beneficiaries. No one, including your School District of Spring Valley, your union (if any), or any other person, may fire you or otherwise discriminate against you in any way to prevent you from obtaining a welfare benefit or exercising your rights under ERISA.

(d) Enforce Your Rights.
   1. If your claim for a welfare benefit is denied or ignored, in whole or in part, you have a right to know why this was done, to obtain copies of documents relating to the decision without charge, and to appeal any denial, all within certain time schedules.
   2. Under ERISA, there are steps you can take to enforce the above rights. For instance, if you request a copy of Plan documents or the latest annual report from the Plan and do not receive them within 30 days, you may file suit in a Federal court. In such a case, the court may require the Plan Administrator to provide the materials and pay you up to $110 a day until you receive the materials, unless the materials were not sent because of reasons beyond the control of the Plan Administrator. If you have a claim for benefits which is denied or ignored, in whole or in part, you may file suit in a State or Federal court.
In addition, if you disagree with the Plan’s decision or lack thereof concerning the qualified status of a domestic relations order or a Medical Child Support Order, you may file suit in Federal court. If it should happen that Plan fiduciaries misuse the Plan’s money, or if you are discriminated against for asserting your rights, you may seek assistance from the U.S. Department of Labor, or you may file suit in a Federal court. The court will decide who would pay court costs and legal fees. If you are successful, the court may order the person you have sued to pay these costs and fees. If you lose, the court may order you to pay these costs and fees, for example, if it finds your claim is frivolous.

11.2 Assistance with Your Questions.
If you have any questions about the Plan, you should contact the Plan Administrator. If you have any questions about this statement or about your rights under ERISA, or if you need assistance in obtaining documents from the Plan Administrator, you should contact the nearest Office of the Employee Benefits Security Administration, U.S. Department of Labor, listed in your telephone directory or the Division of Technical Assistance and Inquiries, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C., 20210. You may also obtain certain publications about your rights and responsibilities under ERISA by calling the publications hotline of the Employee Benefits Security Administration.
IN WITNESS WHEREOF, and as conclusive evidence of the adoption of the foregoing instrument comprising the School District of Spring Valley Cafeteria Plan, Spring Valley School District has caused this Plan to be executed in its name and on its behalf, on this_____________ day of ________________, 20    .

By
School District of Spring Valley

________________________________________
School District of Spring Valley Signature

________________________________________
Title

________________________________________
Witness

________________________________________
Title