



**Issue Date: 20 June 2012**

Case No.: **2011-LCA-43**

In the Matter of:  
ADMINISTRATOR, WAGE & HOUR DIVISION,  
Complainant

v.

CONCEPT SCHOOL NFP,  
d/b/a CONCEPT SCHOOLS, INC and  
d/b/a HORIZON SCIENCE ACADEMY –  
DENNISON MIDDLE SCHOOL,  
Respondent

**DECISION AND ORDER APPROVING SETTLEMENT  
AGREEMENT AND CONSENT FINDINGS**

This proceeding arises under the H-1B provisions of the Immigration and Nationality Act of 1952, as amended by the Immigration Act of 1990, the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991, and the American Competitiveness and Workforce Improvement Act of 1998, found at 8 U.S.C. §§ 1101, *et seq.*, 8 U.S.C. § 1101 (a)(15)(H)(i)(b) (hereinafter referred to collectively as the "INA"), and its implementing regulations, which are located at 20 Part 655, Subparts H and I.

The Prosecuting Party, Administrator, Wage and Hour Division, United States Department of Labor ("Administrator"), determined that Concept Schools NFP, failed to pay wages as required, misrepresented a material fact on the Labor Condition Application, and failed to maintain documentation as required. On May 16, 2011, the Administrator's representative issued a determination letter to Respondent, Concept Schools NFP (doing business as Concept Schools, Inc., and doing business as Horizon Science Academy—Dennison Middle School), detailing its findings with respect to the above violations. The Respondent filed a timely request for hearing on May 27, 2011.

Jurisdiction with respect to Respondent's request for a hearing concerning the alleged violations of the provisions of § 1182(n) of the INA is vested in the Office of Administrative Law Judges by INA § 212(n), 8 U.S.C. § 1182(n) and 20 CFR Part 655.800, *et. seq.*

A Notice of Hearing and Pre-Hearing Order was issued on February 15, 2012, setting this case for hearing on June 27, 2012, in Cleveland, Ohio. However, on May 16, 2012, a Cancellation of Hearing was issued because the parties advised that they had settled the case and a hearing was no longer necessary. On June 11, 2012, the parties submitted their Settlement Agreement and Consent Findings. The Consent Findings are signed by Mary Bradley, counsel

for the Prosecuting Party, and by William A. Stock, counsel for Concept Schools, NFP, and Lori A. Pinjuh, counsel for Horizon Science Academy – Dennison Middle School. In the Consent Findings, the parties have accepted certain obligations and agreed to specific actions which resolve all existing issues.

### **ORDER**

Upon review of the record and the terms of the parties' consent findings, I find that the terms of the settlement are fair and reasonable. Accordingly, **IT IS HEREBY ORDERED** that:

1. The Administrator and Respondent have agreed to settle the matter alleged in the Determination Letter of May 16, 2011, with respect to Concept Schools ("Concept") and Horizon Science Academy-Dennison Middle School ("HSA-DMS"). Concept and HSA-DMS further agree to comply with the provisions of the INA and the applicable regulations in the future with respect to Concept's and HSA-DMS' petitioning for and employing H-1B non-immigrants.
2. Concept and HSA-DMS agree to pay to the Administrator, in full and complete settlement of all back wage issues raised in the Administrator's Determination Letter addressing payment of requisite wages in this proceeding, the sum of \$21,000.00, representing an agreed amount of back wages to be paid to the H-1B non-immigrant identified in Exhibit A, for the time periods and amounts listed herein.
3. The provisions of this Settlement Agreement relative to the payment of back wages shall be deemed satisfied when Concept and HSA-DMS deliver to the Administrator a certified check or checks in an amount equal to \$21,000.00, made payable to Wage-Hour Division/U.S. Department of Labor, Office of the Solicitor, 1240 East Ninth Street, Room 881, Cleveland, Ohio 44199. All back wage payments made by Concept and HSA-DMS shall be made free and clear, within the meaning of 29 C.F.R. § 531.35. Payment shall be made on the date of signing this agreement.
4. The civil money penalty in this matter shall be \$5,500.00. The provisions of the Settlement Agreement relative to the payment of the civil money penalty shall be deemed satisfied when Concept and HSA-DMS deliver to the Administrator a certified check or checks in an amount equal to \$5,500.00 made payable to the Wage-Hour Division/U.S. Department of Labor and sent to the following address: United States Department of Labor, Office of the Solicitor, 1240 East Ninth Street, Room 881, Cleveland, Ohio 44199. This payment shall be due on the date of the signing of this agreement.
5. Each party agrees to bear its own costs, attorney fees, and other expenses incurred by such party in connection with any stage of this proceeding to

date. This Decision and Order shall have the same force and effect as one made after a full hearing on the merits.

6. The entire record on which this Decision and Order is based consists solely of the Administrator's Determination Letter and the Settlement Agreement and Consent Findings executed by the parties.
7. The parties are hereby deemed to have waived any further procedural steps before the undersigned or the Secretary of Labor, as appropriate, regarding the matters which are the subject of their Consent Findings.
8. Any rights to challenge or contest the validity of this Decision and Order entered into in accordance with the Consent Findings are hereby waived.
9. The Determination Letter, and the parties' Settlement Agreement and Consent Findings, together with this Decision and Order, shall constitute the final administrative findings and Order in this case.

**A**

JOHN P. SELLERS III  
Administrative Law Judge