

**2008-09**

**BA #19**

**Date Issued 8/08**

**TO: PRINCIPALS and DIRECTORS**

**FROM: Mark Shepard, Associate Superintendent for Business Affairs**

**SUBJECT: WEB LINKING AGREEMENT**

The Board of Education has adopted a policy and related regulations concerning Internet safety resulting from the Children's Internet Protection Act (CIPA). The policy protects against access, through computers with Internet access, to visual depictions that are obscene, pornographic, or otherwise harmful to minors. LPS must also provide a filtering or blocking technology to prevent Internet access by minors to these harmful materials.

From time to time a non-LPS entity, organization, or individual (Responsible Party) may desire to create a link on their Website to the LPS Website or LPS may include a link from the LPS Website to the Website of the Responsible Party. When that occurs a Web Linking Agreement (contract) must be signed by the Responsible Party stating that it agrees to hold LPS harmless from any and all claims made by anyone in connections with the content on the Responsible Party's Website. Before a link is established, the content, additional links and structure of the Responsible Party's Website will be subject to the approval of LPS related to its policies, rules, regulations, or practices then in effect. (See the Web Linking Agreement for specific language.)

This Agreement shall be required for all outside entities, organizations and individuals including school booster clubs and parent organizations. LPS approved student organizations and clubs must have their sponsor or site supervisor sign the agreement and monitor the Website. Public domain Websites used by teachers as part of their instructional delivery are not included in the scope of the Agreement. The Agreement (which can be accessed at <http://apollo.lps.org/~db/webagree/>) should be printed, completed, signed, and sent to the Associate Superintendent for Business Affairs, 5901 O Street, Lincoln, NE 68510. A duplicate copy of the fully executed Agreement will be returned to the Responsible Party. The original Agreement will be on file in the LPS Purchasing Department.

Teachers and other LPS staff maintaining their own Website will be required to complete a simplified electronic version of the Agreement. Since LPS is a publicly funded educational institution with its mission defined by a set of policies, regulations, rules, curricula and best practices, the content of Web sites hosted by LPS and maintained by LPS employees must be consistent with that mission. LPS hosted Web sites should be viewed as an electronic extension of LPS buildings, schools, and classrooms. The Agreement, in simple terms, requires that those placing links on LPS Web sites assure that the content on linked sites is consistent with the educational mission of LPS. The electronic version of the Agreement for teachers can be completed by entering the Keyword "Agreement" on the LPS Home Page at <http://www.lps.org>.

## Lincoln Public Schools

### Web Linking Agreement

This Web Linking Agreement ("Agreement") is entered into effective the \_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_, by \_\_\_\_\_ and \_\_\_\_\_ between the Lincoln Public Schools ("LPS") and \_\_\_\_\_, whose URL address or Web derivative thereof is \_\_\_\_\_ ("Responsible Party"), as follows:

LPS maintains a Web site with the current URL of www.LPS.org or Web derivatives thereof (the "LPS Web Site").

Responsible Party maintains a home or default result page at a separate URL or Web derivatives that may have Web-links or hyperlinks to other Web sites (the "Responsible Party's Home Page"); Responsible Party wishes to establish a Web-link or hyperlink from Responsible Party's Home Page to the LPS Web Site.

Therefore the parties have agreed to the following terms and conditions:

1. LPS shall allow a Web-link or hyperlink from the LPS Web Site to Responsible Party's Home Page. Responsible Party hereby grants and licenses to LPS a non-exclusive right to establish a link to Responsible Party's Home Page and the non-exclusive right and license to list, in connection with establishing this Web-link, Responsible Party's name, Responsible Party's Home Page and all content thereon or linked thereto on the LPS Web Site. Responsible party represents, warrants and guaranties to LPS that it has full power and authority by right, license or otherwise to establish the Web-link or hyperlink and to enter into this Agreement. The Responsible Party hereby agrees to and does hold LPS harmless from any and all claims made or to be made by any person or entity in connection with this Web-link or hyperlink to the LPS Web Site or this Agreement, as herein provided.
2. Before a Web-link or hyperlink is established, and at any time during this Agreement, the content, additional Web-links and structure of the Responsible Party's Home Page shall be subject to the approval of the LPS and /or all of its policies, rules, regulations or practices then in effect. Responsible Party hereby agrees to notify LPS of any significant changes to the content, additional Web-links or structure of Responsible Party's Home Page within 3 days of the change. This Agreement is voluntary on the part of LPS, and LPS may terminate the Web-link or hyperlink and/or this Agreement at any time without cause and without advance notice.
3. If Responsible Party's Home Page is on the LPS Web Site or server of LPS, it shall not exceed 250 kilobytes of space.
4. The term of this Agreement shall be "at-will". Either party may terminate the same and/or the Web-link or hyperlink without cause and without advance notice to the other at any time. The Responsible Party understands and agrees that LPS may at any time during the "at-will" term or otherwise, institute and charge the Responsible Party a Web-linking fee in an amount, and according to such terms and conditions as LPS deems appropriate. LPS agrees to provide at least 30 days advance written notice before charging the Responsible Party any such Web-linking fee. All notices required hereunder shall be delivered by regular mail to the addresses listed below.
5. For purposes of this Paragraph, "User" shall be defined as a user accessing Responsible Party's Home Page through the Web-link or hyperlink; "User Information" shall be defined as (i) navigational information, including but not limited to usage of other Web-links or hyperlinks within or available through Responsible Party's Home Page, and (ii) User's Internet address and/or other identifying information such as actual name or address. The Parties agree that

this Agreement does not restrict LPS from gathering, use and dissemination of information concerning users collected by LPS during the term of this Agreement. The Parties further agree that this Agreement does restrict the Responsible Party from gathering, use and dissemination of information concerning users collected by Responsible Party's Home Page unless the Responsible Party's Home Page was first accessed during the term of this Agreement. Each Party is responsible for determining whether any such gathering, use or dissemination it performs is consistent with this Agreement and applicable laws and regulations.

6. Responsible Party represents and warrants to LPS that, as of the date of execution of this Agreement, (i) it has duly registered the domain name of its respective Web site with all applicable authorities and possesses all rights necessary to use, and/or grant a license to use or link to, such domain name and all derivatives or additional links therein; and (ii) the content and materials which it has placed within their respective Web site, or any Web-link or hyperlink thereto or there from, do not and will not infringe upon or violate (a) any U.S. copyright, patent, trademark or other proprietary right of a third party, (b) any applicable law, regulation or non-proprietary third-party right or (3) the Rules of Professional Conduct (or the equivalent thereof) of the supreme court of any state or territory or any such other such governing or regulating authority.
7. Responsible Party agrees to indemnify defend, and hold harmless LPS and its board members (both past present and future), officers, employees, agents, parent, subsidiaries, successors, and assigns from and against any and all liabilities, claims, suits, actions, demands, settlements, losses, judgments, costs, damages and expenses (including reasonable attorneys' fees) arising out of or resulting from, in whole or part, any acts, errors or omissions of Responsible Party its employees, agents or contractors and its affiliated companies and their employees, agents or contractors in performing under this Agreement or as a result of establishing the Web-link or hyperlink as provided herein.
8. LPS warrants that it shall use its best efforts to maintain the Web Site in a condition comparable to the condition maintained by Web sites owned and operated by similar schools in the State of Nebraska. The LPS shall not be responsible for any temporary interruptions in service to the Web Site and reserves the right, from time to time, to change Web site, Web site servers or its URL. LPS shall have no liability of any kind whatsoever to Responsible Party or others for any interruption in service for any period of time. In any and all circumstances, the liability of LPS to Responsible Party under this agreement shall not exceed the amount of the license fee, if any, as may be provided herein.
9. This Agreement constitutes the entire agreement and understanding between the parties on the subject hereof and the transactions contemplated hereby and supersedes any and all prior oral or written agreements, statements, representations, warranties or understandings by any party, and all of which are merged herein and superseded hereby. Neither party shall be bound by any condition, definition, warranty or representation other than as expressly set forth in this Agreement or as may be set forth in a writing signed by the party to be bound thereby. This Agreement may not be changed, modified or rescinded except by a written agreement signed by all parties hereto.
10. In construing this Agreement or determining the rights of the parties hereto, no party shall be deemed to have drafted or created this Agreement.
11. This Agreement is made and entered into under the laws of the State of Nebraska and shall be interpreted, applied and enforced under those laws.
12. The provisions of this Agreement are severable, and if any one or more provisions is determined to be illegal, indefinite, invalid or otherwise unenforceable, in whole or in part, the

remaining provisions of this Agreement, and any partially unenforceable provisions to the extent enforceable in any jurisdiction, shall continue in full force and effect and shall be binding and enforceable.

13. Neither this Agreement nor any right or duty hereunder shall be assignable or delegable by either party without the express consent of the other party, and nothing in this Agreement, express or implied, is intended to confer upon any person other than the parties hereto any rights or remedies under or by reason of this Agreement. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, administrators, executors, legal representatives, successors in interest and permitted assigns.
14. No waiver of any provision of this Agreement shall be deemed to be or shall constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver. The failure of any party to object to any act, omission or breach by the other party or to declare the other party in default, irrespective of how long such failure continues, shall not constitute a waiver by such party of any rights or remedies hereunder or otherwise provided at law or in equity.
15. All notices, requests, demands and other communications to be given hereunder shall be in writing and shall be deemed to have been dully given on the date of personal service or on the first day after mailing by regular mail or sent by facsimile addressed as follows or at such other address as either party may hereafter indicated in writing by appropriate notice: If to LPS:  
Lincoln Public Schools, c/o The Associate Superintendent for Business Affairs, 5901 O Street, Lincoln, Nebraska, 68510, or Fax # (402) 458-3285. If to Responsible Party: At the address \_\_\_\_\_ and fax number \_\_\_\_\_ below set forth:  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
Fax \_\_\_\_\_  
E-mail Address \_\_\_\_\_.
16. Neither party shall use the other's trade names, trademarks or service marks ("Marks") without the prior written approval of the other party. Neither party shall display or use the other's Marks, nor permit the same to be displayed or used by third parties, except in connection with the performance of this Agreement. Nothing in this Agreement creates in a party rights in the Marks of the other. Upon termination of this Agreement, each party shall discontinue the use of the other's Marks.
17. Neither party is authorized or empowered to act for or represent the other party. Each party agrees not to do or allow any act, which would imply apparent authority to act for the other party. The acts to be performed by the parties are strictly and solely in their separate status as independent party contractors.

**LINCOLN PUBLIC SCHOOLS**

By \_\_\_\_\_  
Associate Superintendent for Business Affairs

**RESPONSIBLE PARTY**

By \_\_\_\_\_  
Authorized Official