

LINCOLN PUBLIC SCHOOLS
SECTION 125 FLEXIBLE BENEFITS PLAN
FOR EMPLOYEES OTHER THAN
TECHNICIANS AND ADMINISTRATORS

TABLE OF CONTENTS

Article

- I. DEFINITIONS
 - 1.1 Administrator
 - 1.2 Adoption Agreement
 - 1.3 Benefits
 - 1.4 Benefits Enrollment Form
 - 1.5 Code
 - 1.6 Compensation
 - 1.7 Dependent
 - 1.8 Dependent Care Assistance Plan
 - 1.9 Effective Date
 - 1.10 Employee
 - 1.11 Employer
 - 1.12 Entry Date
 - 1.13 Highly Compensated Employee
 - 1.14 Key Employee
 - 1.15 Medical Reimbursement Plan
 - 1.16 Plan
 - 1.17 Plan Year
 - 1.18 Salary Reduction Agreement
 - 1.19 Spouse

- II. ELIGIBILITY AND PARTICIPATION
 - 2.1 Commencement of Participation
 - 2.2 Term of Participation
 - 2.3 Participation of Rehired Employees
 - 2.4 HIPAA Portability
 - 2.5 Family Medical Leave Act

- III. CONTRIBUTIONS
 - 3.1 Source of Contributions
 - 3.2 Maximum Contributions

- IV. BENEFITS
 - 4.1 Benefit Options
 - 4.2 Benefits Other than Cash
 - 4.3 Election Procedure
 - 4.4 Failure to Elect
 - 4.5 Irrevocability of Election
 - 4.6 Nondiscrimination

- V. PLAN ADMINISTRATION
 - 5.1 Plan Administrator
 - 5.2 Plan Administrator's Duties Generally
 - 5.3 Information to be Provided to Plan Administrator

- 5.4 Rules to Apply Uniformly
- 5.5 Indemnity

VI. GENERAL PROVISIONS

- 6.1 Amendment and Termination
- 6.2 Nonassignability
- 6.3 Not an Employment Contract
- 6.4 No Guarantee of Tax Consequences
- 6.5 Rights Against Employer
- 6.6 Severability

VII. ADOPTION AGREEMENT

ARTICLE I - DEFINITIONS

As used in this Plan, the following terms shall have the following meanings unless the context clearly indicates otherwise:

1.1 “Administrator” means the individual(s) or entity appointed by the Employer in the Adoption Agreement to carry out the administration of the Plan or the Employer if no such individual(s) or entities are appointed.

1.2 “Adoption Agreement” means the provisions of the Plan set forth in Article VII.

1.3 “Benefits” mean cash and the various qualified benefits under Section 125(f) of the Code sponsored by the Employer and available under this Plan as set forth in the Adoption Agreement.

1.4 “Benefits Enrollment Form” means the paper or electronic form or forms, including a 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.

1.5 “Code” means the Internal Revenue Code of 1986, as amended from time to time.

1.6 “Compensation” means all the earned income, salary, wages and other earnings paid by the Employer to a Participant during a Plan Year, including any amounts contributed by the Employer pursuant to a Salary Reduction Agreement which are not includible in gross income under Sections 125, 132(f), 402(g)(3), 402(h), 403(b) or 457(b) of the Code.

1.7 “Dependent” means an individual who qualifies as a dependent under the terms of the applicable benefit plans offered under this Plan.

1.8 “Dependent Care Assistance Plan” means the Dependent Care Assistance Plan adopted by the Employer, if any.

1.9 “Effective Date” means the date specified in the Adoption Agreement on which the Plan is effective and applicable to the Employees.

1.10 “Employee” means any individual whom the Employer treats as its common-law employee, who is performing services for the Employer for wages, salary, or other remuneration as evidenced by the Employer’s withholding taxes from such compensation. Unless otherwise provided in the Adoption Agreement, an independent contractor, a contractor’s employee and a leased employee shall not be considered an Employee hereunder. An independent contractor, a contractor’s employee and a leased employee (or other individual) who is reclassified as a common-law employee on a retroactive basis will not be treated as having been an Employee for purposes of the Plan for any period prior to the date that he or she is so reclassified. Only Employees shall participate in this Plan.

1.11 “Employer” means the Employer named in the Adoption Agreement and any affiliate or subsidiary that, with the consent of the Employer, becomes an Employer by adopting the Plan, or any successor business organization that assumes the obligations of the Employer.

1.12 “Entry Date” means the date(s) specified by the Employer in the Adoption Agreement as of which eligible Employees may become Participants.

1.13 “Highly Compensated Employee” means an individual who is a highly compensated employee as defined in Code Section 125(e).

1.14 “Key Employee” means an Employee described in Code Section 416(i)(1) and the Treasury regulations thereunder.

1.15 “Medical Reimbursement Plan” means the Medical Reimbursement Plan adopted by the Employer, if any.

1.16 “Plan” means this instrument, including all amendments hereto. Notwithstanding the foregoing, if Employees who are covered by a collective bargaining agreement between the Employer and an employee representative in which the cafeteria plan has been the subject of good faith bargaining, the Employees covered by each collective bargaining agreement are deemed to be covered by a separate cafeteria plan. The provisions of each collective bargaining agreement dealing with the cafeteria plan are incorporated herein by this reference.

1.17 “Plan Year” means the 12-consecutive month period specified in the Adoption Agreement.

1.18 “Salary Reduction Agreement” means the agreement between an Employee and the Employer authorizing the Employer to reduce the Employee’s Compensation while a Participant during the Plan Year for purposes of making contributions toward Benefits under the Plan.

1.19 “Spouse” means an individual who is legally married to a Participant but shall not include an individual separated from a Participant under a decree of legal separation.

ARTICLE II - ELIGIBILITY AND PARTICIPATION

2.1 Commencement of Participation. An Employee shall become a Participant in the Plan after providing the Plan Administrator with an executed Benefits Enrollment Form setting forth the Benefits to be made available to the Employee for the immediately following Plan Year or remaining portion of the Plan Year, provided the Employee satisfies the eligibility conditions set forth in the Adoption Agreement. As part of the Benefits Enrollment Form, the Participant shall also execute a Salary Reduction Agreement, which authorizes the Employer to withhold from the Participant’s Compensation an amount the Participant elects to have contributed to the Plan.

2.2 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 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 Employer, subject to the provisions of Section 2.3 and any continuation coverage rights under Federal or state law;

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

(c) the date the Participant ceases to be an eligible Employee; or

(d) the date the Plan terminates.

2.3 Participation by Rehired Employees. If a terminated Employee should later be rehired by the Employer within the same Plan Year as the Plan Year in which he or she separated from service, the Employee will resume participation in the Plan under the terms of the Benefits Enrollment Form in force on the date of termination of employment, if rehired within 30 days of his or her earlier termination. If participation resumes more than 30 days after the earlier employment termination date, the Employee may make a new election for the remainder of the Plan Year.

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

2.5 Family Medical Leave Act. If a Participant (an "FMLA Participant") is on a leave described in the Family and Medical Leave Act ("FMLA Leave"), the rules in this Section apply. The FMLA Participant may continue his or her coverage under the Benefit plans during the leave, or revoke his or her election for coverage under the Benefit plans which are group health plans and under a Medical Reimbursement Plan as hereinafter provided. Upon return from the leave, the FMLA Participant may elect to reinstate his or her coverage under the group health plans and Medical Reimbursement Plan on the terms provided herein. If the FMLA Leave spans two Plan Years, the FMLA Participant may make his or her election either during the same enrollment period as do other Plan Participants, or if not during that period, within the two-week period immediately following the FMLA Participant's return from the leave. The FMLA Participant's elections will apply to the coverages which are in effect on the date the coverage is reinstated. The FMLA Participant also has the same rights as a non-FMLA Participant to make elections, including those relating to an event detailed in Section 4.5.

(a) Benefit Plans. If the FMLA Leave is a paid leave, the FMLA Participant may continue to pay the same portion of the premiums on the Benefit plans as he or she was previously. If the employee cost of those plans is raised or lowered for employees not on FMLA Leave, the FMLA Participant's cost will be similarly adjusted. If the FMLA Leave is unpaid, the FMLA Participant may elect to revoke his or her election of coverage for the balance of the Plan Year, or the FMLA Participant may continue to pay for the employee cost of the coverage in the same manner as other Members who have elected coverage under the Benefit plans. A Participant and his or her Employer shall agree to one of the following payment options for coverage under any group health plans while the Participant is on unpaid FMLA Leave:

(1) Pre-pay. An Employee may pre-pay premiums before commencement of leave through pre-tax or after-tax Salary Reduction Agreement from any taxable compensation, including cashing out of unused sick or vacation days, provided all other plan requirements are met.

(2) Pay-as-you-go. Employees may pay their share of premium payments on the same schedule as payments would be made if the employee were not on leave, or under another schedule permitted under Department of Labor regulations.

The Employer shall not be required to continue the health coverage of an Employee who fails to make required premium payments while on FMLA leave. However, if the Employer chooses to continue the health coverage of an Employee who fails to make required premium payment while on FMLA leave, the Employer is entitled to recoup those payments after the Employee returns from FMLA leave.

(3) Catch-up-option. The Employer shall advance the Employee's share of group health premiums while the Employee is on FMLA leave and thereafter shall be entitled to recover such advanced amounts when the Employee returns from FMLA leave.

If the FMLA Leave spans two Plan Years, the FMLA Participant only may prepay by salary reduction the cost of coverage for the remainder of the Plan Year in which the FMLA Leave begins.

If the FMLA Participant fails to make a payment, coverage under the Benefit plans may be discontinued so long as the FMLA Participant may be restored to his or her coverage under the plans and this Plan upon return from the FMLA Leave. If the terms of the plans would preclude the FMLA Participant from being restored to the coverage the FMLA Participant had prior to the commencement of the FMLA Leave, the Employer will continue to pay the FMLA Participant's cost of the coverage during the period of the leave, but the FMLA Participant must repay the amounts paid by the Employer to maintain the coverage. If the FMLA Participant fails to return to employment following an unpaid FMLA Leave, the FMLA Participant must reimburse the Employer for the amounts the Employer paid during the FMLA Leave.

(b) Medical Reimbursement Plan. An FMLA Participant in any Medical Reimbursement Plan of the Employer may continue or revoke his or her coverage under such Plan upon the occurrence of an FMLA Leave. An FMLA Participant may only revoke his or her coverage under such Plan during the period of FMLA Leave if the FMLA Leave is for a period of one month or less. An FMLA Participant may revoke his or her coverage under such Plan for the balance of the Plan Year if the duration of the FMLA Leave exceeds one month. If he or she revokes the coverage, upon return to employment following the FMLA Leave, he or she will be reinstated to coverage under the Medical Reimbursement Plan, but the maximum amount of reimbursements from such Plan following the leave will be limited to the amount elected for the Plan Year, minus amounts previously reimbursed during the Plan Year, minus amounts which the FMLA Participant would have contributed by salary reduction during the time of the leave had the leave not occurred. Salary reduction contributions will resume following the return from the leave at the same level as was in effect prior to the commencement of the leave, subject to adjustments as the result of any event detailed in Section 4.5.

The FMLA Participant may continue his or her coverage under the Employer's Medical Reimbursement Plan so long as he or she continues to pay to the Employer an amount equal to the amount of the periodic salary reductions that would have been made absent the occurrence of the leave. Coverage will terminate upon the failure to make any such payment, subject to reinstatement as described in the preceding paragraph. The FMLA Participant may not be reimbursed for expenses incurred during a period in which the coverage was not in effect. In addition to allowing the FMLA Participant to continue to make the payments during the leave, either by salary reduction if the FMLA Participant is receiving Compensation during the leave, or by after-tax payment, the Plan Administrator may allow prepayments of required amounts in accordance with any procedures that have been established pursuant to subsection (a) above.

(c) Dependent Care Assistance Plan. The FMLA Participant may continue to receive reimbursements for expenses during the leave if the expenses qualify for reimbursement under the Employer's Dependent Care Assistance Plan. The FMLA Participant may also continue salary reduction contributions applicable to such plans if the leave is paid, or may make after-tax contributions if it is unpaid. If the FMLA Participant elected to revoke his or her election to contribute to the Cafeteria Plan during the leave, he or she may resume salary reduction contributions to these plans upon return to employment at the same level as was the case immediately prior to the commencement of the leave, subject to adjustment as a result of an event detailed in Section 4.5.

ARTICLE III - CONTRIBUTIONS

3.1 Source of Contributions. The Employer shall contribute to the Plan 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 Benefits Enrollment Forms entered into by Participants for the Plan Year. Employer contributions shall be made, if any, for each Participant in an amount set forth in the Adoption Agreement. Any Employer Contributions shall be deemed credited first to benefits other than the Medical Reimbursement Plan. Employer contributions shall be available for taxable as well as nontaxable benefits under the Plan. Contributions to the Plan shall be made to, and all Plan assets shall be held in, such accounts or funds as the Employer deems appropriate.

3.2 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 plus the sum of the deferrals made to reimbursement-type benefit programs under this Plan. 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.

ARTICLE IV - BENEFITS

4.1 Benefit Options. A Participant may elect under this Plan to receive his or her full compensation for any Plan Year in cash or may agree with the Employer to have his or her compensation reduced and have such reduction applied by the Employer toward one or more Benefits available under the Plan as set forth in the Adoption Agreement.

4.2 Benefits Other than Cash. A Participant's election to receive cash or one of the Benefits described in the Adoption Agreement must be made under this Plan. However, benefits, other than cash, will not be provided by this Plan but will be provided by the Benefit plans, contracts, policies or other documents, as applicable. The types and amounts of Benefits described in the Adoption Agreement, the requirements for participating in such Benefit plans and the terms of coverage and benefits under such Benefit plans are set forth from time to time in such Benefit plans, contracts, policies or other documents, as applicable, that constitute (or are incorporated by reference in) such plans. Such plan documents and the descriptions thereof are incorporated by reference into this Plan.

If the terms of any dental or vision insurance require a mandatory two-year coverage period, in no event will contributions relating to the first year of the two-year election apply to insurance coverage in the second year of the two year coverage period.

4.3 Election Procedure. The Plan Administrator shall provide written election forms to each Employee who is expected to become a Participant prior to such Participant's date of participation and to other Participants prior to the commencement of a Plan Year. A Participant's election form is effective as of the beginning of the first pay period coincident with the commencement of participation in the case of a new Participant or as of the beginning of a Plan Year for other Participants. A Participant's election form must be completed and returned to the Plan Administrator on or before such date as the Plan Administrator specifies. A newly eligible Participant must make his or her election within 30 days after his or her date of hire; provided that this does not apply to a Participant who is rehired or returns from an unpaid leave of absence within 30 days of his or her termination of employment or the first day of the leave of absence, as applicable. The Plan Administrator may implement procedures providing for electronic elections provided that such procedures are approved in advance by the Employer and are in compliance with applicable law.

4.4 Failure to Elect. A Participant failing to return a completed election form to the Administrator on or before the specified due date for any Plan Year of the Plan shall be deemed to have elected to receive his or her full Compensation in cash.

4.5 Irrevocability of Election. A Participant may revoke his or her election for the balance of a Plan Year and file a new election only if the revocation and new election are on account of and consistent with an event described in this Section or FMLA leave rights. New elections will be effective not earlier than the first pay period beginning after the election form is returned to the Plan Administrator. A Participant's revocation of an election during a period of coverage and new election for the remaining portion of the period (referred to below as an "election change") is consistent with an event described in this Section if, and only if (a) such event results in the Participant, Spouse, or Dependent gaining or losing eligibility for accident or health coverage under either a cafeteria plan or an accident or health plan of the Spouse's or Dependent's employer, and (b) the election change corresponds with that gain or loss of coverage. An event described in this Section results in a Participant, Spouse, or Dependent gaining (or losing) eligibility for coverage under a plan only if the individual becomes eligible (or ineligible) to participate in the plan. An individual will be treated as gaining (or losing) eligibility for coverage if the individual becomes eligible (or ineligible) for a particular benefit package option under a plan (e.g., such an event results in an individual becoming eligible for a managed care option or an indemnity option).

If the event is the Participant's divorce, annulment or legal separation from a Spouse, the death of a Spouse or Dependent, or a Dependent ceasing to satisfy the eligibility requirements for coverage, the Participant's election under this Plan to cancel coverage under a benefit plan for any individual other than the Spouse involved in the divorce, annulment or legal separation, the deceased Spouse or Dependent, or the Dependent that ceases to satisfy the eligibility requirements for coverage, respectively, fails to correspond with that event. Thus, if a Dependent dies or ceases to satisfy the eligibility requirements for coverage, the Participant's election to cancel coverage for any other Dependent, for the Participant, or for the Participant's Spouse fails to correspond with that event.

If a Participant, Spouse, or Dependent becomes eligible for coverage under a cafeteria plan or other qualified benefit plan sponsored by the employer of the Participant's spouse or dependent ("Family Participant Plan") as a result of a change in marital status or a change in employment status, a Participant's election under the cafeteria plan or other qualified benefit plan to cease or decrease coverage for that individual under the Plan corresponds with that event only if coverage for that individual becomes applicable or is increased under the Family Participant Plan.

If a Participant, Spouse or Dependent becomes eligible for continuation coverage under any group health plan of the Employer under COBRA or any similar state law, a Participant may alter his or her election to pay for the increased cost of continuation coverage.

No Participant in the Plan shall be allowed to alter or discontinue the Participant's elections under his or her Benefits Enrollment Form during a Plan Year except under any of the circumstances:

(a) Change in Status, which means:

(1) A change in the Participant's legal marital status, including marriage, death of a Spouse, divorce, legal separation or annulment;

(2) A change in the Participant's number of Dependents, including birth, adoption, placement for adoption (as defined in regulations under Code Section 9801) or death of a Dependent;

(3) A change in the employment status of the Participant, Spouse or Dependent, including a termination or commencement of employment, a strike or lockout, a commencement of or return from an unpaid leave of absence and a change in worksite. In addition, if the eligibility conditions of the cafeteria plan or other benefit plan of the employer of the Participant, Spouse or Dependent depend on the employment status of that individual and there is a change in that individual's employment status with the consequence that the individual becomes (or ceases to be) eligible under the plan, then that change constitutes a change in employment under this section (e.g., a switch between salaried and hourly-paid, a switch between full-time and part-time).

(4) An event that causes a Participant's Dependent to satisfy or cease to satisfy the coverage requirements for a particular benefit due to attainment of age, student status or any similar circumstance; and

(5) A change in the place of residence of the Participant, Spouse or Dependent.

(b) HIPAA Special Enrollment Rights. If a Participant, Spouse or Dependent is entitled to special enrollment rights under a group health plan pursuant to Code Section 9801(f) because he or she previously declined coverage due to the existence of other coverage or acquires a new dependent due to marriage, birth, adoption or placement for adoption, the Participant may revoke his or her election under the Participant's Benefits Enrollment Form and make a new election with respect to the health plan provided the new election is consistent with the event causing the special enrollment rights.

(c) Various Judgments, Decrees or Orders. If a Participant is a party to a judgment, decree or order resulting from a divorce, legal separation, annulment or change in legal custody that requires accident or health coverage for the Participant's child, the Participant may change his or her election to provide such coverage for the child if the judgment, decree or order requires accident or health coverage for the child or the Participant may change his or her election to cancel coverage for the child if the judgment, decree or order requires another individual (including the former spouse) to provide coverage for the child and the Participant demonstrates that other coverage is, in fact, provided for the child.

The Plan will enroll any alternate recipient in the Employer's accident or health plan upon receipt of any court order or other document (collectively "order") which the Employer determines to be a Qualified Medical Child Support Order pursuant to the Employer's procedures for determining the qualified status of such orders. The Plan will enroll the alternate recipient in such plan in accordance with the benefit option specified in the order. If a benefit option is specified in the order, but the Employee to whom the order relates is not enrolled in such plan, the Employer will enroll both the Employee and the alternate recipient in the such plan under the option specified in the order and will reduce the Employee's Compensation each Plan Year pursuant to this Plan and use the amount of the reduction to pay for the coverage specified in the order.

If no benefit option is specified in the order, but the Employee to whom the order relates is already enrolled in the accident or health plan, the Employer will enroll the alternate recipient under the same option as that of the Employee and will automatically change the Participant's Benefits Enrollment Form to reflect such change. If there is a change in the cost, the Employer will automatically change the Participant's Benefits Enrollment Form to reflect such change.

If no benefit option is specified in the order and the Employee to whom the order relates is not enrolled in the accident or health plan, the Employer will not consider the order to be a qualified order. If the Employer determines that the order is not a qualified order, it will notify the parties to the order, including the agency issuing the order if applicable, that the order is not qualified and therefore, such plan will not enroll the alternate recipient in the plan until it receives further instructions from the issuing agency or court as to the appropriate benefit option for the alternate recipient.

(d) Medicare or Medicaid. If the Employee, Spouse or Dependent who is enrolled in a health or accident plan offered as a Benefit under this Plan becomes or ceases to be enrolled under Medicare or Medicaid, other than coverage consisting solely of benefits under the program for distribution of pediatric vaccines, the Participant may prospectively cancel,

commence, decrease or increase coverage, as applicable, of the Employee, Spouse or Dependent, as applicable, under the health or accident plan of the Employer.

(e) **Change in Coverage.** *This subsection (e) does not apply to any Medical Reimbursement Plan.*

(1) If during a period of coverage, a benefit plan or policy offered as a Benefit under this Plan adds a new benefit package option or other coverage option or significantly improves a benefits package option or other coverage option, an Employee may change his or her election to elect the newly-added or newly-improved option, or an eligible Employee may elect to commence participation in the Plan and elect the newly-added or newly-improved option if the Employee was not previously participating in the Plan. If such a benefit plan or policy eliminates an existing benefit package option or other coverage option, a Participant may change his or her election to elect another benefit package option or other coverage option under such plan or policy which provides similar coverage.

(2) If coverage under a benefit plan or policy offered as a benefit under this Plan is significantly curtailed resulting in a complete loss of coverage during a period of coverage, a Participant may change his or her election to prospectively elect coverage under another benefit package option which provides similar coverage, or if no similar benefit package option is available, revoke his or her election for coverage under the benefit plan or policy. A loss of coverage includes a substantial decrease in medical care providers available under the option of accident or health coverage (such as a major hospital ceasing to be a Participant of a preferred provider network), a reduction in benefits for a specific type of medical condition or the treatment with respect to which the Participant, Spouse or Dependent is currently in a course of treatment or any other similar fundamental loss of coverage. If coverage under a benefit plan or policy offered as a benefit under this Plan is significantly curtailed but without resulting in a complete loss of coverage during a period of coverage, a Participant may change his or her election to prospectively receive coverage under another benefit package option under such benefit plan or policy providing similar coverage. Coverage under an accident or health plan is significantly curtailed only if there is an overall reduction in coverage provided to Employees under such plan so as to constitute reduced coverage to Employees generally.

(3) A Participant may prospectively change his or her election on account of and corresponding with a change made under another employer cafeteria plan other than this Plan (including a plan of the Employer), if the other cafeteria plan permits its participants to make an election change for a reason permitted under this Section or as a result of FMLA rights, or this Plan has a period of coverage that is different from the period of coverage under another employer cafeteria plan or qualified benefits plan.

(4) If during a period of coverage, a Participant, Spouse or Dependent loses coverage under any group health plan sponsored by a governmental or educational institution, including any state's children's health insurance program under Title XXI of the Social Security Act; a medical care program of an Indian tribal government (as defined in Code Section 7701(a)(40)), the Indian Health Service or a tribal organization; a state health benefits risk pool; or a foreign government group health plan, a Participant may change his or her election to elect coverage under the Plan for the affected Participant, Spouse or Dependent.

(f) Change in Cost. *This subsection (f) does not apply to any Medical Reimbursement Plan.*

(1) If the cost of a Benefit increases or decreases during a period of coverage, the Employer may prospectively increase or decrease, as applicable, the elections of affected Participants.

(2) If there is a significant increase or decrease in the cost of a benefit package option offered by the Employer during a period of coverage, a Participant may change his or her election to prospectively receive coverage under another benefit package option which provides similar coverage. If there is a significant increase in the cost of a benefit package option and no other benefit package option provides similar coverage, a Participant may revoke his or her election for coverage under the benefit package option. If there is a significant decrease in the cost of a benefit package option offered by the Employer during a period of coverage, an eligible Employee may elect to commence coverage under the Plan and elect the benefit package option that has significantly decreased in cost if the Employee was not participating in the Plan.

(3) This subsection (f) applies in the case of a Dependent Care Assistance Plan only if the cost change is imposed by a dependent care provider who is not an individual with respect to whom a deduction is allowable to the Employee or his or her Spouse under Code Section 151(c) (relating to personal exemptions for dependents) or who is a child of the Employee within the meaning of Code Section 152(f)(1) under the age of 19 years at the close of the taxable year.

(g) Other Events. If any subsequent changes are made to Code Section 125 or the Treasury regulations thereunder, the Plan Administrator, in its sole discretion, may recognize the other events specified in such guidance on a uniform and consistent basis.

4.6 Nondiscrimination. Notwithstanding any provisions of insurance coverage provided for under this Plan and any other provisions of this Plan, this Plan shall not discriminate as to eligibility, contributions, or benefits in favor of Participants who are Highly Compensated Employees or Key Employees. If the Plan Administrator determines, before or during any Plan Year, that this Plan or any Benefit of a plan available hereunder may fail to satisfy any nondiscrimination requirement imposed by the Code or other applicable authority, the Plan Administrator may take such action as it deems appropriate, under rules uniformly applied to similarly situated Participants, to assure compliance with such requirements. Such action may include, without limitation, a modification of elections of Highly Compensated Employees or Key Employees with or without the consent of such employees.

ARTICLE V - PLAN ADMINISTRATION

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

5.2 Plan Administrator's Duties Generally. The Plan Administrator shall administer the Plan and shall have the authority to exercise the powers and discretion conferred on it by the Plan and shall have such other powers and authority necessary or proper for the administration of the Plan as shall be determined from time to time by the Employer. For this purpose, the

administrative powers will include, but will not be limited to, the following authority, in addition to all other powers provided by this Plan.

(a) to make and enforce such rules and regulations as the Plan Administrator deems necessary or proper for the efficient administration of the Plan, including the establishment of a claims procedure;

(b) to interpret the Plan, the Plan Administrator's interpretations thereof in good faith to be final and conclusive of all persons claiming benefits under the Plan;

(c) to decide all questions concerning the Plan and the eligibility of any person to participate in the Plan and to receive benefits provided under the Plan;

(d) to compute the amount of benefits which will be payable to any Participant in accordance with the provisions of the Plan;

(e) to approve and authorize the payment of benefits;

(f) to appoint such agents, counsel, accountants, consultants and actuaries as may be required to assist in administering the Plan; and

(g) to prepare and file such documents as the Plan Administrator deems necessary to comply with the Code or other legislation.

Notwithstanding the foregoing, claims which arise under the Benefit plans will be reviewed and adjusted under the terms of such plans and shall not be subject to review under the terms of this Plan. The Plan Administrator's authority pursuant thereto shall not extend to any matter as to which another administrator is empowered under the terms of any other such plan to make determinations under such plan.

5.3 Information to be Provided to Plan Administrator. The Employer, 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, Spouse 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.

5.4 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.

5.5 Indemnity. The Employer 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 officer or director of the Employer, designated by the Employer 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 Employer 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.

5.6 Administrative Expenses. Unless the Employer otherwise elects, the Employer will pay the costs of administering the Plan. The Employer may require the Participants to pay some or all of the administrative costs of the Plan through a uniform, nondiscriminatory policy. By a Participant's electing a benefit under the Plan, he or she consents to the deduction of the administrative costs from his or her Account under the Plan if the Employer requires the Participants to pay all or part of the administrative costs of the Plan.

ARTICLE VI - GENERAL PROVISIONS

6.1 Amendment and Termination. The Employer expects the Plan to be maintained indefinitely, but since future conditions affecting the Employer cannot be anticipated or foreseen, the Employer must necessarily and does hereby reserve the right to amend, modify, or terminate the Plan at any time. The Employer may make any modifications or amendments to the Plan that are necessary or appropriate to qualify or maintain the Plan as a plan meeting the requirements of the applicable sections of the Code. The Plan shall not be used for purposes other than for the exclusive benefit of Participants or their dependents, and no amendment shall divest any person of his interest therein, except as may be required by the Internal Revenue Service or other governmental authority, or give any person any assignable or exchangeable interest or any right or thing of exchangeable value.

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

6.3 Not an Employment Contract. By creating this Plan and providing benefits under the Plan, the Employer 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 Employer.

6.4 No Guarantee of Tax Consequences. Neither the Plan Administrator nor the Employer makes any commitment or guarantee that any benefits described in this Plan will be excludable from the Participant's gross income for federal or state income tax purposes, or that any other federal or state tax treatment will apply to or be available to any Participant. It shall be the obligation of each Participant to determine whether said benefit is excludable from the Participant's gross income for federal or state income tax purposes, and to notify the Employer if the Participant has reason to believe that any such benefit is not so excludable.

6.5 Rights Against Employer. Neither the establishment of the Plan, nor any modification thereof, nor any distributions hereunder, shall be construed as giving to any Participant or any other person any legal or equitable rights against the Employer or its board, officers, partners, or members, as applicable.

6.6 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.

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ARTICLE VII - ADOPTION AGREEMENT

7.1 Establishment of Plan. The Employer has adopted this cafeteria plan as a means to allow employees to select among cash compensation and certain nontaxable benefits, namely coverage under one or more benefit programs sponsored by the Employer. The Employer intends that the Plan qualify as a cafeteria plan under Section 125 of the Internal Revenue Code of 1986, as amended, and that the benefits provided under the Plan, other than cash compensation, be eligible for exclusion from Federal income tax to the extent permitted by the Code.

7.2 Employer Information.

Employer: Lincoln Public Schools

Address: 5900 O Street
Lincoln, NE 68501

Telephone: (402) 436-1593

Employer Tax ID: 47-6003955

7.3 Plan Information.

Initial Effective Date: September 1, 1975

Amendment & Restatement Date: October 1, 2008

Plan Year: October 1 through September 30

Plan Name: Lincoln Public Schools Section 125 Flexible Benefits Plan for Employees other than Technicians and Administrators

Plan Number: 505

7.4 Eligible Benefits. The Employer elects to provide the benefits elected in this section under this Plan. Only the benefits elected in this section are provided, notwithstanding any other provision of the Plan to the contrary. (*Mark benefits to be provided.*)

X Premium Conversion with respect to the following plans:

X Group Health Plan (*specify available coverages, i.e., single, employee/spouse, etc.*) Employee Only; Employee and Spouse; Employee and Child(ren); Family

X Group Dental Plan (*specify available coverages, i.e., single, employee/spouse, etc.*) Employee Only; Employee and Spouse; Employee and Child(ren); Family

Long Term Disability Plan (*Note: If premiums are paid on a pretax basis, the benefits provided under the Long Term Disability Plan are subject to income tax.*)

Group Term Life Insurance Plan (to the extent of the first \$50,000 of coverage)

Vision Insurance

Cancer Insurance

Accident Insurance

COBRA Premiums for health and dental insurance for the Employee and his or her Dependents due to loss of coverage under the Employer's or a former Employer's plan.

Medical Reimbursement Plan

The annual limit on amounts to be allocated to this plan is \$4,000.
(*Note: The entire amount of this account is available for reimbursement of expenses from the first day of coverage, even though salary reductions occur throughout the Plan Year.*)

Dependent Care Assistance Plan

7.5 Eligibility Requirements.

Only those Employees meeting the following requirements are eligible to participate in this Plan:

Employees of the Employer (other than Administrators and Technicians) customarily and regularly scheduled for at least 15 hours of service per week. Employees whose service is performed over 9 months but who are paid in 12 installments over a 12-month period or as otherwise elected participate if they are customarily scheduled for at least 15 hours of service per week during the period they are actively working for the employer.

Eligible Employees participate on the following date: See Attachment.

Examples: First day of service, First day of the month following specified number of months of service, First day of the Plan Year following first day of service. If different entry dates apply to different options, set forth these terms on an attachment to this adoption agreement and indicate "See Attachment")

7.6 Employer Contributions. The only contributions to be made to this Plan are Salary Reduction Contributions unless the Employer elects below:

____ The Employer will make contributions in addition to Salary Reduction Contributions in the manner and amount described as follows: *(for example, describe any contributions to be made if Participant does not elect certain insurance coverages)* _____

7.7 The Employer (*mark one*) ____ does X does not elect to allow reimbursements during a grace period following the end of the Plan Year.

7.8 Plan Administrator. The Employer is the Plan Administrator unless the Employer identifies a Plan Administrator below.

Plan Administrator: _____

Address: _____

Telephone: _____

Executed _____, 2008 as the duly authorized officer of the Employer.

(Name and Title)

Attachment to Adoption Agreement

Adoption Agreement Item 7.5: Participation Date

For benefits other than the Group Health and Dental insurance, Eligible employees participate on the first day of the month following 30 days of employment. For Group Health and Dental Insurance, eligible employees may irrevocably elect before the first pay day in the first month of employment whether to participate on the first day of the month following employment or the first day of the month following 30 days of employment.