



POLICY 3.304-ER

- 4-A** I recommend that the Board adopt as an emergency rule the new Policy 3.304, entitled “Retention Agreement for Administrative Professional, Managerial, Confidential and Miscellaneous Personnel.”

[Contact: Mark Mitchell, PX 47529.]

Emergency Adoption CONSENT ITEM

- This Policy will enable the School District to enter into Retention Agreements with certain classifications of employees who have key skill sets. These agreements will provide supplements as a means to retain their employment. The Policy includes:
 - Description of the method of selection for recipients;
 - General parameters, terms, and standards for Individual Retention Agreements; and
 - Description of Employment Rights of the recipient.
- There is a need for emergency action as the District has invested training and development in its employees in connection with the implementation of the PeopleSoft ERP system. Local employers seeking to implement PeopleSoft are now seeking these highly skilled employees and their departure may adversely affect the success of District’s business processes. To address this concern, we recommend emergency adoption of this Policy and the associated Agreement that is incorporated by reference. The Policy will allow the District to put in place a retention vehicle to retain these key employees critical to the successful continued business operations of the District with regards to the PeopleSoft implementation
- This recommendation for adoption of an emergency rule is being made due to the reasons stated above and to avoid an immediate danger to the welfare of the public and District as to these important and significant functions, and the Policy needs to be adopted as timely as possible due to the current risk of loss of these select individuals.
- Regular development of this policy will be scheduled for May 30, 2007 and regular adoption of this rule will follow. That process is expected to be completed within the ninety days required by statute.

POLICY 3.304-ER

RETENTION AGREEMENT FOR ADMINISTRATIVE PROFESSIONAL,
MANAGERIAL, CONFIDENTIAL AND MISCELLANEOUS PERSONNEL

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4 1. Purpose.-- The purpose of the Retention Agreement (the "Agreement") is to:
 - 5 a. ensure the continuity of talent developed within the School District of Palm
6 Beach County "SDPBC" regarding critical skills; and
 - 7 b. recognize the market competitiveness for key skill sets in the marketplace.
- 8 2. Method.-- Such Retention Agreements shall be awarded by the District Leadership
9 Committee (comprised of the Superintendent, the Chief Academic Officer, the
10 Chief Operating Officer, and the Chief Counsel), the ("Committee") of the SDPBC
11 and in accordance with the provisions below. The Agreement defines the terms
12 and conditions by which select critical skills employees (both existing and new
13 hires) may receive a supplement over and above the District's salary schedule for
14 each year covered by the multi-year agreement in which they meet the terms of the
15 agreement. The Model Agreement is incorporated herein by reference.
- 16 3. Eligible Participants.-- Non-bargaining unit full time employees in the
17 Administrative / Professional / Managerial "S", Confidential "C", and Miscellaneous
18 "M" employee groups, with a performance evaluation of satisfactory or above, are
19 eligible to participate in the Plan at the selection and discretion of the Committee.
20 For definitions of these employee groups refer to the District website
21 www.palmbeach.k12.fl.us (link to "employment", then "salary") or request
22 information from the District's Office of Public Affairs.
- 23 4. Plan Administration.-- The duties of the Committee shall include: determining
24 eligibility for, and administering and interpreting the Agreement in accordance with
25 Federal and State Law, and the provisions outlined in section (5) below. Any
26 interpretation of the Agreement or other act of the Committee in determining
27 eligibility for, and administering or interpreting the Agreement shall be final and
28 binding on all participants.
- 29 5. Retention Agreement.-- For each fiscal year period, and on an individual case by
30 case basis, the Committee shall determine the amount and terms of a Participant's
31 Agreement as follows
 - 32 a. General.-- The maximum amount of a Participant's Agreement shall be set by
33 the Committee relative to each Period based on the following factors including:
34 skills deemed critical to the District, relevant market pay considerations;
35 experience, and individual performance. In no event, however, shall a

36 Participant's Agreement exceed twenty-five thousand dollars (\$25,000) per
37 fiscal year, and there shall be no obligation or expectation that the Committee
38 provide awards at the maximum.

39 b. **Standards.--** The standards for individual Agreements include:

40 i. particular critical skill sets eligible for the Agreement based on demand in
41 the marketplace for these skill sets;

42 ii. the annual supplement amounts to be paid;

43 iii. the payment schedule; and

44 iv. the term of the Agreement.

45 These standards shall be set by the Committee and may change for each
46 individual agreement based on factors including: skills deemed critical to the
47 District, demand for skill sets in the market, relevant market pay
48 considerations; experience; competitive rates of pay for in-demand skill sets;
49 and individual performance as set forth in the model agreement.

50 c. **Individual Agreements.--** All individual agreements are subject to the review,
51 adjustment, and advice of the Chief of Human Resources with final approval
52 by the Committee.

53 6. **Employment Rights.--** The Agreement does not constitute a contract of
54 employment and does not give a Participant the right to continue in the employ of
55 the District on a full-time, part-time, or any other basis. The Agreement does not
56 give any Participant any right or claim to any benefit under the Agreement, unless
57 such right or claim has specifically been granted by the Committee under the terms
58 of the Agreement.

59 7. **Committee's Decision Final.--** Any interpretation of the Plan and any decision on
60 any matter pertaining to the Plan which is made by the Committee in its discretion
61 in good faith based on the factors within this Policy shall be binding on all persons.
62 No grievance or appeal may be filed except to the extent permitted by applicable
63 federal or state law.

64 STATUTORY AUTHORITY: Fla. Stat. §§ 215.425; 1001.41(2); 1001.42(5)(a), (23);
65 1001.43 (11); 1012.22 (1); 1012.23(1)

66 LAWS IMPLEMENTED: Fla. Stat. § 1012.22 (1)

67 HISTORY: / 2007

Legal Signoff:

The Legal Department has reviewed the proposed Emergency Rule, Policy 3.304-ER, and finds it legally sufficient for emergency adoption by the Board.

Attorney

Date

APPENDIX

[MODEL] RETENTION/INCENTIVE EMPLOYMENT AGREEMENT

1
2 This Retention/Incentive Agreement (the "Agreement") is entered into and effective as of April 26,
3 2007 (the "Effective Date"), by and between _____ (the
4 "Employee") and The School District of Palm Beach County (the "District").
5

6 **RECITALS**
7

- 8 A. From time to time the District faces critical needs requiring specific skill sets in
9 demand in the marketplace. The Board of Directors of the District (the "Board")
10 recognizes that such critical needs and skill sets may have additional significance
11 from time to time and the Board has determined that it is in the best interests of the
12 District to assure that it will have continuity of talent regarding these critical skills.
13
14 B. The Board recognizes that the market is competitive for these critical skill sets and
15 that it is in the best interests of the District to provide the Employee with an incentive
16 to begin and/or continue his or her employment.
17

18 **AGREEMENT**
19

20 In consideration of the mutual covenants herein contained, and in consideration of the initiation
21 and/or continuation of employment of Employee by the District, the Parties hereby agree as follows:
22

- 23 1. Definitions. For purposes of this Agreement, the following definitions shall apply:
24
25 a. Committee shall mean the District's Leadership Committee as comprised of the
26 Superintendent, the Chief Academic Officer, the Chief Operating Officer, and the Chief
27 Counsel.
28
29 b. Critical Skills shall mean those unique skills or unusually high qualifications which are
30 determined to be extremely necessary and important, based on management needs, to
31 the successful performance in a highly competitive position.
32
33 c. Market Pay Considerations shall include: 1) demand for particular skill sets in the
34 marketplace, 2) competitive rates of pay for in demand skill sets, and other just and
35 reasonable considerations as determined by the Committee.
36
37 d. Individual Performance shall include: a consideration of an employee's performance
38 evaluation, moral character, experience, and other performance observations as
39 determined by the Committee.
40
41 e. Salary Supplement shall mean the amount to be paid under this Agreement based on
42 critical skills, market pay considerations and individual performance as determined by

43 the District's Leadership Committee. This amount shall not exceed twenty-five
44 thousand dollars (\$25,000) per fiscal/school year period.
45

- 46 2. Eligible Employees. Employee acknowledges that he/she is a full-time employee in either an
47 Administrative/Professional/Managerial "S", Confidential "C" or Miscellaneous "M" non-
48 bargaining unit employee group. As such employee, he/she is eligible for an annual salary
49 supplement in which the terms of the Agreement are met.
50
- 51 3. Retention Agreement Payments. Employee shall be eligible to receive a salary supplement
52 according the schedule below, as determined by the Committee based on factors set forth in
53 School Board Policy 3.304. Employee has read the School Board Policy and understands it
54 and agrees to the terms of such Policy. Payments shall be made in a lump sum subject to
55 applicable taxes and deductions. Payments shall be made as soon as is administratively
56 possible not to exceed 30 calendar days following the payment dates specified below. The
57 payout amounts and schedule of payments for the Employee are as follows:
58

	<u>Payment Date</u>	<u>Amount</u>
59 Payment 1:	July 1, 2007	_____
60 Payment 2:	July 1, 2008	_____
61 Payment 3:	July 1, 2009	_____

62
63
64 The schedule and payments are subject to Employee's skills and performance, as well as
65 market pay considerations and any other considerations as outlined in School Board Policy
66 3.304. Employee acknowledges and agrees that he/she has no right or claim to any benefit
67 under this Agreement, unless it has been specifically granted by the Committee as set forth
68 herein.
69

- 70 4. Terms of Employment. The District and the Employee agree that Employee's employment
71 are as set forth in the Employee's Employment Agreement and that this Retention/Incentive
72 Agreement does not in any way guarantee or imply a right to continued employment with the
73 District on a full-time, part-time, or any other basis for any period whatsoever.
74
- 75 5. Termination of Employment. If the Employee's employment terminates for any reason prior
76 to the payout of the supplement as set forth in Paragraph 2 above, all payments of
77 compensation and benefits shall cease immediately and thereafter the Employee shall not be
78 entitled to any payments, benefits, damages, awards or compensation except as provided for
79 in the Employment Agreement or as otherwise available in accordance with the District's
80 employee plans, other policies and/or practices.
81
- 82 6. Change In Duties. If the Employee's continued assignment of duties changes or is
83 significantly reduced prior to the payout of the supplement as set forth in Paragraph 2 above,
84 either of which is not substantially equivalent to the Employee's duties with the District as of
85 the Effective Date of this Agreement, all payments of compensation and benefits shall cease
86 immediately and thereafter the Employee shall not be entitled to any payments, benefits,
87 damages, awards or compensation except as provided for in the Employment Agreement or
88 as otherwise available in accordance with the District's employee plans, policies and/or
89 practices.

90
91 7. Term of Agreement. The term of this Agreement shall be from the Effective Date through
92 the final Payment Date and may change as determined by the Committee, as outlined in
93 School Board Policy 3.304.

94
95 8. Miscellaneous Provisions.

96
97 a. Choice of Law. The validity, interpretation, performance and construction of this
98 Agreement shall be governed by the laws of the State of Florida.

99
100 b. Severability. The invalidity or unenforceability of any provision or provisions of this
101 Agreement shall not affect the validity of any other provision hereof, which shall remain
102 in full force and effect.

103
104 c. Dispute Resolution. The Parties acknowledge and agree that any dispute or controversy
105 over the administration or interpretation of, or decision on, any matter pertaining to this
106 Agreement which is made by the Committee in good faith shall not be made the subject
107 of any grievance, claim or appeal by Employee or anyone on behalf of Employee, except
108 when permitted by applicable federal, state or local law.

109
110 d. No Assignment of Benefits. The rights of any person to payments or benefits under this
111 Agreement shall not be made subject to option or assignment, either by voluntary or
112 involuntary assignment or by operation of law, including (without limitation) bankruptcy,
113 garnishment, attachment or other creditor's process, and any action in violation of this
114 subsection shall be void.

115
116 e. Employment Taxes. All payments made pursuant to this Agreement will be subject to
117 withholding of applicable income and employment taxes as required by state and/or
118 federal law.

119
120 IN WITNESS WHEREOF, each of the Parties or its duly authorized officer, has executed this
121 Agreement, as of the day and year first above written.

122
123
124 DISTRICT: PALM BEACH COUNTY

125
126
127 By: _____
128 Arthur C. Johnson, Ph.D., Superintendent
129 The School District of Palm Beach County

130
131
132 EMPLOYEE: _____