



POLICY 3.304

5-A I recommend that the Board approve development of the new Policy 3.304, entitled "Retention Agreement for Certain Administrative Professional, Managerial, Confidential, and Miscellaneous ERP Personnel."

[Contact: Mark Mitchell, PX 47529.]

Development

CONSENT ITEM

- This regular rule development is proceeding in parallel with emergency rulemaking. Final adoption of this regular Policy should occur within 90 days of the emergency rule's adoption on May 2, 2007.
- This Policy will enable the School District to enter into Retention Agreements with certain classifications of employees who have key skill sets with the Enterprise Resource Project (ERP). 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.
- Application of this Policy is limited to certain ERP employees.

POLICY 3.304

**RETENTION AGREEMENT FOR ADMINISTRATIVE PROFESSIONAL,
MANAGERIAL, CONFIDENTIAL, AND MISCELLANEOUS ERP 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.--** This Policy is limited to implementation of the Enterprise
17 Resource Project ("ERP") process employees who meet the following: non-
18 bargaining unit full time employees in the Administrative / Professional / Managerial
19 "S", Confidential "C", and Miscellaneous "M" employee groups, with a performance
20 evaluation of satisfactory or above, are eligible to participate in the Plan at the
21 selection and discretion of the Committee. For definitions of these employee
22 groups refer to the District web site www.palmbeach.k12.fl.us (link to
23 "employment", then "salary") or request information from the District's Office of
24 Public Affairs.
- 25 4. **Plan Administration.--** The duties of the Committee shall include: determining
26 eligibility for, and administering and interpreting the Agreement in accordance with
27 Federal and State Law, and the provisions outlined in section (5) below. Any
28 interpretation of the Agreement or other act of the Committee in determining
29 eligibility for, and administering or interpreting the Agreement shall be final and
30 binding on all participants.
- 31 5. **Retention Agreement.--** For each fiscal year period, and on an individual case by
32 case basis, the Committee shall determine the amount and terms of a Participant's
33 Agreement as follows
 - 34 a. General.-- The maximum amount of a Participant's Agreement shall be set by
35 the Committee relative to each Period based on the following factors including:
36 skills deemed critical to the District, relevant market pay considerations;

37 experience, and individual performance. In no event, however, shall a
38 Participant's Agreement exceed twenty-five thousand dollars (\$25,000) per
39 fiscal year, and there shall be no obligation or expectation that the Committee
40 provide awards at the maximum.

41 b. **Standards.--** The standards for individual Agreements shall be set by the
42 Committee and may change for each individual Agreement based on factors
43 including: skills deemed critical to the District, demand for skill sets in the
44 market, relevant market pay considerations; experience; competitive rates of
45 pay for in-demand skill sets; and individual performance as set forth in the
46 model Agreement. These standards shall include:

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

49 ii. the annual supplement amounts to be paid;

50 iii. the payment schedule; and

51 iv. the term of the Agreement.

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

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

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

66 STATUTORY AUTHORITY: Fla. Stat. §§ 215.425; 1001.41(2); 1001.42(5)(a), (23);
67 1001.43(11); 1012.22(1); 1012.23(1)

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

69 HISTORY: 5/2/2007 (as 3.304-ER); / /2007

Legal Signoff:

The Legal Department has reviewed the proposed new Policy 3.304 and finds it legally sufficient for development by the Board.

Attorney

Date

APPENDIX

[MODEL] RETENTION/INCENTIVE EMPLOYMENT AGREEMENT

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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”).
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RECITALS

- A. From time to time the District faces critical needs requiring specific skill sets in demand in the marketplace in the implementation of the ERP process. The Board of Directors of the District (the “Board”) recognizes that such critical needs and skill sets may have additional significance from time to time and the Board has determined that it is in the best interests of the District to assure that it will have continuity of talent regarding these critical skills.
- B. The Board recognizes that the market is competitive for these critical skill sets and that it is in the best interests of the District to provide the Employee with an incentive to begin and/or continue his or her employment.

AGREEMENT

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

1. Definitions. For purposes of this Agreement, the following definitions shall apply:
 - a. Committee shall mean the District’s Leadership Committee as comprised of the Superintendent, the Chief Academic Officer, the Chief Operating Officer, and the Chief Counsel.
 - b. Critical Skills shall mean those unique skills or unusually high qualifications which are determined to be extremely necessary and important, based on management needs, to the successful performance in a highly competitive position in the implementation of the ERP process.
 - c. Market Pay Considerations shall include: 1) demand for particular skill sets in the marketplace, 2) competitive rates of pay for in demand skill sets, and other just and reasonable considerations as determined by the Committee.
 - d. Individual Performance shall include: a consideration of an employee’s performance evaluation, moral character, experience, and other performance observations as determined by the Committee.

43 e. Salary Supplement shall mean the amount to be paid under this Agreement based on
44 critical skills, market pay considerations and individual performance as determined by
45 the District's Leadership Committee. This amount shall not exceed twenty-five
46 thousand dollars (\$25,000) per fiscal/school year period.
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48 2. Eligible Employees. Employee acknowledges that he/she is a full-time employee in the
49 implementation of the ERP process in either an Administrative/Professional/Managerial "S,"
50 Confidential "C" or Miscellaneous "M" non-bargaining unit employee group. As such
51 employee, he/she is eligible for an annual salary supplement in which the terms of the
52 Agreement are met.
53

54 3. Retention Agreement Payments. Employee shall be eligible to receive a salary supplement
55 according the schedule below, as determined by the Committee based on factors set forth in
56 School Board Policy 3.304. Employee has read the School Board Policy and understands it
57 and agrees to the terms of such Policy. Payments shall be made in a lump sum subject to
58 applicable taxes and deductions. Payments shall be made as soon as is administratively
59 possible not to exceed 30 calendar days following the payment dates specified below. The
60 payout amounts and schedule of payments for the Employee are as follows:
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	<u>Payment Date</u>	<u>Amount</u>
62 Payment 1:	July 1, 2007	_____
63 Payment 2:	July 1, 2008	_____
64 Payment 3:	July1, 2009	_____

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67 The schedule and payments are subject to Employee's skills and performance, as well as
68 market pay considerations and any other considerations as outlined in School Board Policy
69 3.304. Employee acknowledges and agrees that he/she has no right or claim to any benefit
70 under this Agreement, unless it has been specifically granted by the Committee as set forth
71 herein.
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73 4. Terms of Employment. The District and the Employee agree that Employee's employment
74 are as set forth in the Employee's Employment Agreement and that this Retention/Incentive
75 Agreement does not in any way guarantee or imply a right to continued employment with the
76 District on a full-time, part-time, or any other basis for any period whatsoever.
77

78 5. Termination of Employment. If the Employee's employment terminates for any reason prior
79 to the payout of the supplement as set forth in Paragraph 2 above, all payments of
80 compensation and benefits shall cease immediately and thereafter the Employee shall not be
81 entitled to any payments, benefits, damages, awards or compensation except as provided for
82 in the Employment Agreement or as otherwise available in accordance with the District's
83 employee plans, other policies and/or practices.
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85 6. Change In Duties. If the Employee's continued assignment of duties changes or is
86 significantly reduced prior to the payout of the supplement as set forth in Paragraph 2 above,
87 either of which is not substantially equivalent to the Employee's duties with the District as of
88 the Effective Date of this Agreement, all payments of compensation and benefits shall cease
89 immediately and thereafter the Employee shall not be entitled to any payments, benefits,

90 damages, awards or compensation except as provided for in the Employment Agreement or
91 as otherwise available in accordance with the District's employee plans, policies and/or
92 practices.
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94 7. Term of Agreement. The term of this Agreement shall be from the Effective Date through
95 the final Payment Date and may change as determined by the Committee, as outlined in
96 School Board Policy 3.304.
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98 8. Miscellaneous Provisions.
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100 a. Choice of Law. The validity, interpretation, performance and construction of this
101 Agreement shall be governed by the laws of the State of Florida.
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103 b. Severability. The invalidity or unenforceability of any provision or provisions of this
104 Agreement shall not affect the validity of any other provision hereof, which shall remain
105 in full force and effect.
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107 c. Dispute Resolution. The Parties acknowledge and agree that any dispute or controversy
108 over the administration or interpretation of, or decision on, any matter pertaining to this
109 Agreement which is made by the Committee in good faith shall not be made the subject
110 of any grievance, claim or appeal by Employee or anyone on behalf of Employee, except
111 when permitted by applicable federal, state or local law.
112

113 d. No Assignment of Benefits. The rights of any person to payments or benefits under this
114 Agreement shall not be made subject to option or assignment, either by voluntary or
115 involuntary assignment or by operation of law, including (without limitation) bankruptcy,
116 garnishment, attachment or other creditor's process, and any action in violation of this
117 subsection shall be void.
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119 e. Employment Taxes. All payments made pursuant to this Agreement will be subject to
120 withholding of applicable income and employment taxes as required by state and/or
121 federal law.
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123 IN WITNESS WHEREOF, each of the Parties or its duly authorized officer, has executed this
124 Agreement, as of the day and year first above written.
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126
127 DISTRICT: PALM BEACH COUNTY
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129
130 By: _____
131 Arthur C. Johnson, Ph.D., Superintendent
132 The School District of Palm Beach County
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134
135 EMPLOYEE: _____

