



POLICY 6.14

5-F I recommend the Board approve the proposed revised Policy 6.14, entitled "Purchasing Department," and also approve the repeal of Policies 2.51 and 6.145, the substance of which is incorporated in this revision.

[Contact: Sharon Swan, 434-8214.]

Development

CONSENT ITEM

- This proposed revision includes provisions required by a State Board of Education Rule and includes provisions for online and electronic procurement.
- The proposal also raises the threshold for certain competitive procurements to \$25,000, consistent with statute.
- This revision incorporates the substance of, and calls for the repeal of, Policies 2.51 and 6.145. Fla. Stat. § 120.74(1)(c) requires agencies to review their rules (policies) and "delete obsolete or unnecessary rules." Both Policies 2.51 and 6.145 should be repealed because they will be rendered obsolete and unnecessary by the proposed revision to Policy 6.14. The repeal of Policies 2.51 and 6.145 will be timed to occur when the revision of Policy 6.14 is adopted.
- This revision expands and clarifies the bid protest procedures in Section (4), consistent with state law.
- Section (4)(e)(iii) clarifies that construction purchasing is separately governed by Policy 7.10 and different bid-protest bond standards apply.
- For the Board's convenience, a table (Exhibit A) listing the proposed delegations of purchasing/contracting authority appears on the following page. Much of the table's substance is the same as in the current Policy; the proposed changes are reflected in strikeouts and double underlining in the table.

EXHIBIT A

DELEGATION OF THE BOARD'S PURCHASING/CONTRACTING AUTHORITY			
	Item	Method	Who Can Approve?
A	Contractual services up to \$2,500	Any	<u>Department Heads</u> , Principals, Superintendent/designee
B	Contractual services between \$2,500 and \$10,000 (except consultant contracts)	Any	Principals
C	Contractual services between \$2,500 and \$15,000 (except consultant contracts)	Any	Superintendent/designee
D	Consultant agreements between \$2,500 and \$10,000	Any	Superintendent/designee
E	Consultant agreements above \$10,000	Any appropriate	School Board only
F	Commodities up to \$15,000	(Quotes required above \$10,000)	Principals or Superintendent/designee
G	Commodities above \$15,000	Quotes (but bids are required above \$15,000 <u>25,000</u>)	Superintendent/designee, <u>if the method is by bid or quote, without regard to dollar amount with Board ratification if between \$15,000 and \$50,000; but only with prior Board approval if over \$50,000</u>
H	Contractual services above \$15,000: price-based quotes or bids	Quotes (but bids are required above \$15,000 <u>25,000</u>)	Superintendent/designee, <u>if the method is by bid or quote, without regard to dollar amount with Board ratification if between \$15,000 and \$50,000; but only with prior Board approval if over \$50,000</u>
I	Contractual services above \$15,000: when the method is RFP, etc. (methods other than price-based quotes or bids)	RFP (or other non-price-based-quote/non-price-based-bid methods)	Only the School Board Superintendent/designee, with Board ratification if between \$15,000 and \$50,000; but only with prior Board approval if over \$50,000
J	Exceptional purchases (i.e., <u>exempt</u> from bid requirements under SBER 6A-1.012 or other applicable law)	Any appropriate	Superintendent/designee, <u>without regard to dollar amount</u> (apart from any dollar limitation imposed by the exemption itself, such as \$150,000 for SNAPS)

POLICY 6.14

PURCHASING DEPARTMENT

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5 1. Delegation of Authority.-- As set forth below, the School Board has delegated
6 authority to The Director of Purchasing the Superintendent or his/her designee to
7 be is responsible for the purchase of the commodities material, equipment and
8 contractual services for the District in compliance with Florida Statutes, State Board
9 of Education Rules, and Board Policy. The Board has also delegated limited
10 purchasing authority to Department heads and school principals, as set forth
11 below. Any purchases not delegated to department heads, principals, or the
12 Superintendent/designee, must be approved in advance by the School Board.

13 a. Department Heads.-- Authority is vested in the Director of each department to
14 contract for contractual services in an amount not to exceed two thousand five
15 hundred dollars (\$2,500). (Other purchases of contractual services and all
16 purchases of commodities are subject to subsection (1)(c) below.)

17 ~~Purchases Authority is vested in the Director of Purchasing to approve or~~
18 ~~reject purchase requisitions and to authorize purchase of supplies, equipment,~~
19 ~~and services when the total amount of each purchase does not exceed fifteen~~
20 ~~thousand dollars (\$15,000).~~

21 b. School Principals

22 i. Authority is vested in the Principal of each school center to contract for
23 ~~educational or student activity~~ contractual services in an amount not to
24 exceed two thousand five hundred dollars (\$2,500). (Other purchases of
25 contractual services are subject to subsection (1)(c) below.)

26 ii. ~~Principals may also, and to approve~~ purchases of commodities goods
27 which are to be paid from the internal funds of the school when the total
28 amount of each purchase does not exceed fifteen thousand dollars
29 (\$15,000). (Other purchases of goods are subject to subsection (1)(c)
30 below).

31 c. Superintendent/Designee

32 i. Authority is vested in the Superintendent or his/her designee to approve
33 consultant agreements between two thousand five hundred dollars
34 (\$2,500) and ten thousand dollars (\$10,000). However, when the
35 contract amount will exceed \$10,000 for any one fiscal year utilizing
36 budgeted funds, the consultant agreement must be approved by the
37 School Board prior to services being provided.

38 ii. Apart from the consultant agreements mentioned in paragraph (1)(c)(i),
39 above, (for which the threshold is \$10,000), authority is also vested in the
40 Superintendent or his/her designee to:

41 c. ~~Purchases in excess of fifteen thousand dollars (\$15,000), except as exempt~~
42 ~~by State Board of Education Rule 6A-1.012, shall be approved by the Board as~~
43 ~~follows:~~

44 A. ~~The Director of Purchasing may authorize purchases and award~~
45 ~~contracts for commodities or contractual services not exceeding~~
46 ~~fifteen thousand dollars (\$15,000) between fifteen thousand dollars~~
47 ~~(\$15,000) and fifty thousand dollars (\$50,000). Such purchases shall~~
48 ~~be presented to the Board within the scheduled deadlines for the~~
49 ~~next Board Meeting for ratification. Purchases over fifty thousand~~
50 ~~dollars (\$50,000) shall require prior approval by the Board.;~~

51 B. approve or reject purchase requisitions and authorize purchase of
52 commodities and contractual services, without regard to dollar
53 amount, when the method used is an Invitation to Bid or competitive
54 quotes and the award is based upon lowest bid or quote from a
55 responsive and responsible bidder meeting specifications; or

56 C. approve, and award contracts for, exceptional purchases without
57 limitation as to dollar amount (apart from any dollar limitation
58 specified in the exemption itself, such as in paragraph (2)(c)(v)
59 below). "Exceptional purchases" refers to any purchase of
60 commodities or contractual services excepted by law or rule, such as
61 State Board of Education Rule 6A-1.012, from the requirements for
62 competitive solicitation.

63 2. **Maximum Value.**-- Pursuant to Fla. Stat. § 1001.51(11)(i), the Superintendent of
64 Schools or his/her designee shall, insofar as possible, propose standards and
65 specifications. He or she shall see that the purchase or contract conforms to those
66 standards and specifications, and shall take such other steps as are necessary to
67 see that the maximum value is being received for any money expended. Insofar as
68 practicable, all purchases shall be based on requisitions, and the
69 Superintendent/designee shall certify that funds to cover the expenditures under
70 the requisitions are authorized by the budget and have not been encumbered.

71 a. **Competitive Quotes.**-- Competitive quotes shall be requested from three (3)
72 or more sources for commodities and contractual services when requisitioning
73 any item or group of similar items exceeding ten thousand dollars (\$10,000)
74 except as exempted by State Board of Education Rule 6A-1.012 or other
75 applicable laws.

76 b. **Bids/Proposals.**-- Bids/RFPs/proposals shall be requested from three (3) or

77 more sources for commodities and contractual services supplies, ~~services,~~
78 ~~and equipment~~ when requisitioning any item or group of similar items
79 exceeding ~~fifteen thousand dollars (\$15,000)~~ twenty-five thousand dollars
80 (\$25,000) or as otherwise set by the threshold amount in Fla. Stat. § 287.017
81 for Category Two, except as exempt by State Board of Education Rule 6A-
82 1.012 or other applicable laws. However, for the purchase of items covered
83 under the Federal Assistance Programs, the threshold for such items shall
84 be ten thousand dollars (\$10,000) or as otherwise required under federal
85 regulations.

86 i. In acceptance of bids, the School Board (or the Superintendent/designee,
87 for purchases delegated to him or her) shall accept the lowest bid from a
88 responsive and responsible bidder.

89 ii. However, the School Board (and the Superintendent/designee, for
90 purchases delegated to him or her) shall have the authority to reject any
91 or all bids and request new bids.

92 c. **Other Options.--** As provided in State Board of Education Rule 6A-1.012 or
93 other laws, in addition to the methods described in subsections (2)(a) and (b),
94 the Board (or the Superintendent/designee, for purchases delegated by
95 Section (1)):

96 i. shall have the option to purchase under the current contracts as may be
97 established for any state agency whose purchasing agents are authorized
98 to make purchases for the benefit of other government agencies within
99 the county, at the prices stated therein (piggybacking), if such purchase
100 is to the economic advantage of the School Board, subject to
101 conformance of the items of purchase to the standards and specifications
102 prescribed by the Superintendent or his/her designee;

103 ii. may, in lieu of requesting bids from three (3) or more sources, make
104 purchases at the unit prices in contracts awarded by other city or county
105 governmental agencies, school boards, community colleges, or state
106 university system cooperative agreements, when the bidder/awardee of
107 those contracts will permit purchases by the School Board at the same
108 terms, conditions, and unit prices awarded in such agency contract, and
109 such purchases would be to the economic advantage of the Board;

110 iii. may, without requesting bids, purchase school buses, equipment, and
111 related contractual needs and supplies through the pool-purchase
112 provisions of Fla. Stat. § 1006.27;

113 iv. shall receive and give consideration to the prices available to it under
114 state contracts, pursuant to the rules of the Department of Management
115 Services, State Division of Purchasing state contracts and may purchase

- 116 from these contracts without requesting bids;
- 117 v. may use prices established by the State Division of Purchasing through
118 its state negotiated price schedule (SNAPS), provided such use will be
119 limited to \$150,000;
- 120 vi. may waive the requirements for competitive quotes or requesting bids for
121 the purchase of professional or educational services, educational tests,
122 textbooks, printed instructional materials, computer software, films,
123 filmstrips, videotapes, disc or tape recordings, or similar audio-visual
124 materials, and for library and reference books, and printed library cards
125 where such materials are purchased directly from the producer or
126 publisher, the owner of the copyright, an exclusive agent within the state,
127 a governmental agency or a recognized educational institution;
- 128 vii. may enter into negotiations with suppliers of commodities and contractual
129 services and execute contracts under terms and conditions as determined
130 to be in the best interests of the school system, when bids have been
131 requested in the manner prescribed and no valid or acceptable firm bid
132 has been received within the prescribed time;
- 133 viii. may, except as otherwise required by statute, enter into direct
134 negotiations and contract with a vendor or supplier that best meets the
135 needs of the School District when acquiring insurance, entering risk
136 management programs, or contracting with third party administrators. An
137 exception to this option is for employee group insurance that must be
138 competitively selected;
- 139 ix. may, when acquiring information technology resources pursuant to Fla.
140 Admin. Code Rule 6A-1.012(10) by purchase, lease, lease with option to
141 purchase, rental or otherwise, make the technology acquisition either
142 through competitive bids or by direct negotiation with a vendor or supplier,
143 as best fits the needs of the District as determined by the Board; or
- 144 x. may purchase commodities and contractual services available only from a
145 single source if it is determined that such commodities or services are
146 available only from a single source and such determination is
147 documented pursuant to Fla. Stat. § 287.057(5)(c).
- 148 d. **Online and Electronic Procurement**
- 149 i. The Superintendent or his/her designee will receive and give
150 consideration to the prices available through the use of the program for
151 online procurement of commodities and contractual services under the
152 rules of the Department of Management Services, Division of Purchasing,
153 as well as other opportunities for online procurement as may be available.

- 154 such as reverse auctioning.
- 155 ii. The Superintendent or his/her designee may utilize any appropriate
156 electronic methods, such as procurement cards, to purchase commodities
157 and contractual services as deemed to be in the best interest of the
158 District and consistent with the other parts of this Policy. Selected staff
159 will be eligible to use a District purchasing card upon approval by the
160 Superintendent/designee of the prospective user's signed Purchasing
161 Card Application (PBSD 2076) and Cardholder Acceptance Guidelines
162 and Contract (PBSD 2077), which contain the appropriate-use standards
163 and procedures. Pursuant to form PBSD 2077, each user shall
164 acknowledge, by signing the Application and Acceptance Guidelines and
165 Contract, that the user must reimburse the District for any misuse of the
166 purchasing card and that a violation of those standards and procedures
167 will be cause for discipline up to and including termination.
- 168 iii. The Superintendent shall develop procedures for any online and
169 electronic purchasing methods utilized. Such procedures may be
170 disseminated through a Bulletin and a summary of the standards and
171 guidelines should be included in a future revision of this Policy.
- 172 e. **Advance Payments.--** With adequate safeguards to ensure that the
173 commodities or contractual services will be provided, the Board, or the
174 Superintendent/designee pursuant to the Board's delegation of authority in
175 Section (1) above, may make advance payments:
- 176 i. pursuant to Fla. Stat. § 216.181(16)(b) under certain contracts with other
177 governmental agencies or not-for-profit corporations;
- 178 ii. consistent with Fla. Stat. § 215.422(14) for maintenance agreements,
179 software license agreements, subscriptions, contracts to reserve space,
180 and certain other commodities, when advance payment will result in a
181 savings to the District equal to or greater than the amount the District
182 would earn by investing the funds and paying in arrears, or where those
183 items are essential to the operation of the District and are available only if
184 advance payment is made; or
- 185 iii. in accordance with Policy 6.01 regarding certain employee travel
186 expenses.
- 187 3. **Integrity of the Award Process**
- 188 a. Once the bid or RFP is released, no bidder or individuals acting on behalf of
189 the bidder or offeror shall lobby District personnel or School Board members.
190 Lobbying School Board members or District personnel will result in
191 rejection/disqualification of said bids or RFPs. For purposes of this Policy,

192 "lobbying" is defined as "any action taken by an individual, firm, association,
193 joint venture, partnership, syndicate, corporation and all other groups who
194 seek to influence the governmental decision of a Board member or District
195 personnel after the release of the bid or RFP and prior to time that an award
196 recommendation is posted."

197 b. After the award is posted, any persons including bidders, or those acting on
198 behalf of the bidders may discuss with any Board Member the merits of any
199 bid or RFP on which Board action may be taken. Board members shall
200 disclose any ex-parte communications in accordance with Fla. Stat. §
201 286.0115., Fla. Stat. Such disclosure shall be made before or during the public
202 meeting at which time a vote will be taken on the award of a contract. This will
203 allow persons who may have opinions contrary to those expressed during any
204 ex-parte communications to have a reasonable opportunity to respond to
205 those communications.

206 4. **Protests Arising from the Contract Solicitation or Award Process.-- This**
207 **section implements Fla. Stat. § 120.57(3) and Fla. Admin. Code Chapter 28-110.**

208 a. **Definitions**

209 i. As used in this Section, the term "decision or intended decision" includes,
210 pursuant to F.A.C. Rule 28-110.002(2):

211 A. the notice of posting of the contents of an ITB or an RFP or other
212 specifications, including addenda;

213 B. a determination that a specified procurement can be made only from
214 a single source;

215 C. the approval of procurement by negotiation;

216 D. the rejection of a bid or proposal, or all bids or proposals, or a
217 request to approve a single source or negotiation; or

218 E. the intention to award a contract as indicated by a posted bid or
219 proposal tabulation or other written notice.

220 ii. As used in this Section, the term "contract procurement process" has the
221 same meaning as "contract bidding process" as used in Fla. Stat. §
222 120.57(3). This phrase includes procurements by invitation to bid (ITB),
223 request for proposal (RFP), single source approval, and negotiation
224 approval.

225 b. **District's Notice of Decision or Intended Decision.-- Pursuant to Fla. Stat.**
226 **§ 120.57(3), the District shall provide notice of a decision or intended decision**
227 **concerning a solicitation, contract award, or exceptional purchase by**

228 electronic posting. This notice shall contain the following statement: "Failure to
229 file a protest within the time prescribed in section 120.57(3), Florida Statutes,
230 shall constitute a waiver of proceedings under chapter 120, Florida Statutes."

231 c. **Notice of Protest.**-- In a contract procurement process, Any bidder or offeror
232 person who is adversely affected by the agency decision or intended decision
233 and intends to protest the decision or intended decision, must file a notice of
234 protests in writing within seventy-two (72) hours after the posting of the notice
235 of decision or intended decision the actual or proposed award of contract or
236 the specifications contained in an invitation to bid or in a request for proposal
237 may file a notice of protest, in writing, within seventy-two (72) hours after the
238 posting of the bid tabulation or within seventy-two (72) hours after the receipt
239 of specifications in an invitation to bid or request for proposals and shall file a
240 formal written protest within ten (10) days after filing the notice of protest. With
241 respect to a protest of the terms, conditions, and specifications contained in a
242 solicitation, including any provisions governing the methods for ranking bids,
243 proposals, or replies, awarding contracts, reserving rights of further
244 negotiation, or modifying or amending any contract, the notice of protest shall
245 be filed in writing within seventy-two (72) hours after the posting of the
246 solicitation.

247 i. All notices of protest shall be directed to the Director of Purchasing.

248 ii. A notice of protest should not be filed before the 72-hour period begins.
249 The 72-hour period begins upon receipt of a copy of the ITB or RFP;
250 when notice of a single source approval or disapproval or negotiation
251 approval or disapproval is posted, or otherwise received if not posted;
252 when a bid or proposal tabulation is posted; or when notice is otherwise
253 received if not posted.

254 iii. The notice of protest must be actually received by the Purchasing
255 Department before the 72-hour period expires. The 72-hour period
256 excludes Saturdays, Sundays, and holidays when the District
257 administrative office is closed. The 72-hour period is not extended by
258 service of the notice of protest by mail. Failure to timely file a notice of
259 protest shall constitute a waiver of proceedings under this Section and
260 Fla. Stat. § 120.57(3).

261 iv. The notice of protest shall identify the procurement by number and title or
262 any other language that will clearly enable the District to identify it; and it
263 shall state that the person intends to protest the decision.

264 d. **Formal Written Protest.**-- The protestor shall file a formal written protest
265 within ten (10) days after the date the notice of protest is filed. Failure to timely
266 file the formal written protest shall constitute a waiver of proceedings under

267 this Section and Fla. Stat. § 120.57(3). The 10-day period for filing the petition
268 is not extended by service of the petition by mail.

- 269 i. The formal written protest shall be a petition that:
- 270 A. states with particularity the facts and law upon which the protest is
271 based;
 - 272 B. contains all the information specified in Fla. Admin. Code Rule 28-
273 106.201(2);
 - 274 C. is substantially in the form of petition set forth in Fla. Admin. Code
275 Rule 28-110.004(2), naming "The School Board of Palm Beach
276 County, Florida" as the Respondent; and
 - 277 D. should include a request for a hearing involving disputed issues of
278 material fact; or, if the relevant facts are not in dispute, the petition
279 should so allege and request a hearing not involving disputed issues
280 of material fact.

281 ii. Pursuant to F.A.C. Rule 28-110.004(1), if the formal written protest is filed
282 in proper form within the 72-hour period for filing a notice of protest, the
283 formal written protest will also constitute the notice of protest, and all time
284 limits applicable to a notice of protest are waived and the time limits
285 relative to formal written protests shall apply.

286 e. **Posting the Bond.--** The protesting party shall be required to post a bond in a
287 form consistent with Fla. Admin. Code Rule 28-110.005(2). A notice of
288 decision or intended decision shall contain this statement: "Failure to file a
289 protest within the time prescribed in Section 120.57(3), Florida Statutes, or
290 failure to post the bond or other security required by law within the time
291 allowed for filing a bond shall constitute a waiver of proceedings under
292 Chapter 120, Florida Statutes."

293 i. **Bond: Commodities (Other than Lease of Space) and Contractual**
294 **Services (Including Professional Services and Insurance)--**
295 Pursuant to Fla. Stat. § 287.042(2)(c), Any person bidder or offeror who
296 files an action protesting a decision or intended decision pertaining to a
297 solicitation or contract award shall post with the Board District, at the time
298 of filing the formal written protest, a bond secured by an acceptable
299 surety company in Florida, payable to The School Board of Palm Beach
300 County the District in an amount equal to one percent (1%) of the
301 District's estimate of the dollar value of the proposed contract, or five
302 thousand dollars (\$5,000), whichever is less,

303 A. The District shall provide the estimated contract amount to the
304 protestor within seventy-two (72) hours (excluding Saturdays,

305 Sundays, and holidays when the District administrative office is
 306 closed) after the filing of the notice of protest. The estimated contract
 307 amount is not subject to protest under this Policy or Fla. Stat. s.
 308 120.57(3). In lieu of a bond, the Board may accept a cashier's check,
 309 official bank check, or money order in the amount of the bond.

310 B. The ~~which~~ bond shall be conditioned upon the payment of all costs
 311 and charges which may be adjudged against the protestor ~~bidder or~~
 312 ~~offerer~~ in the administrative hearing in which the action is brought,
 313 and in any subsequent appellate court proceeding.

314 C. Pursuant to Fla. Stat. § 287.042(2)(c), if-If, after completion of the
 315 administrative hearing process and any appellate court proceedings
 316 the Board ~~District~~ prevails, it shall be entitled to recover all costs and
 317 charges which ~~shall be~~ are included in the final order or judgment,
 318 ~~including~~ excluding attorney's fees. Upon payment of such costs and
 319 charges by the person protesting the decision or intended decision or
 320 contract award, the bond, cashier's check, official bank check, or
 321 money order shall be returned to the protestor ~~firm~~. If, after the
 322 completion of the administrative hearing process and any appellate
 323 court proceedings, the protestor prevails, the protestor may recover
 324 from the Board the costs and charges which are included in the final
 325 order or judgment, excluding attorney's fees.

326 ii. **Bond: Competitive Bids for Lease of Space.--** Pursuant to Fla. Stat. §
 327 255.25(3)(c), any person who files an action protesting a decision or
 328 intended decision pertaining to a competitive bid for space to be leased
 329 by the Board shall post with the Board, at the time of filing the formal
 330 written protest, a bond payable to The School Board of Palm Beach
 331 County in an amount equal to 1 percent of the estimated total rental of the
 332 basic lease period or \$5,000, whichever is greater, which bond shall be
 333 conditioned upon the payment of all costs which may be adjudged against
 334 him or her in the administrative hearing in which the action is brought and
 335 in any subsequent appellate court proceeding. If the Board prevails after
 336 completion of the administrative hearing process and any appellate court
 337 proceedings, it shall recover all costs and charges which are included in
 338 the final order or judgment, excluding attorney's fees. Upon payment of
 339 such costs and charges by the person protesting the award, the bond
 340 shall be returned to him or her. If the person protesting the award
 341 prevails, the bond shall be returned to that person and he or she shall
 342 recover from the Board the costs and charges which are included in the
 343 final order or judgment, excluding attorney's fees.

344 iii. **Bond: Construction Purchasing.--** Construction purchasing is
 345 separately governed by Policy 7.10, and protestors regarding competitive

346 procurement related to educational facilities shall be required to post a
347 bond in the amount specified in Fla. Stat. § 255.0516, which also governs
348 recovery of fees and costs including attorney's fees.

349 f. **Staying the Procurement Process.--** ~~In the event a timely protest is filed~~
350 ~~under this section, the Board shall not proceed further with the solicitation or~~
351 ~~with the award of contract. Upon timely receipt of the formal written protest~~
352 petition, the solicitation or contract award process shall be stopped until the
353 subject of the protest is resolved by final agency action, unless the School
354 Board sets forth in writing particular facts and circumstances which require the
355 continuance of the solicitation or contract award process without delay in order
356 to avoid an immediate and serious danger to the public health, safety, or
357 welfare.

358 g. **Informal Resolution.--** The Director of Purchasing shall provide an
359 opportunity to resolve the protest by mutual agreement between the parties
360 within seven (7) ~~working days~~ (excluding Saturdays, Sundays, and holidays
361 when the District administrative office closed) of receipt of the formal written
362 protest. All affected parties shall be notified of the notice of protest.

363 h. **Hearing.--** If the protest is not resolved informally under subsection (4)(g), the
364 aggrieved party may file a formal written request for an administrative hearing
365 (if such request was not already included in the formal written protest). All
366 procedures as delineated in Fla. Stat. § 120.57(3)(d)-(f) 120.53(5)(a), Fla.
367 Stat., and Fla. Admin. Code Chapter 28-110 shall be followed.

368 i. If there is no disputed issue of material fact, an informal proceeding shall
369 be conducted pursuant to Fla. Stat. § 120.57(2) and applicable Board
370 Policies and may be conducted before an impartial hearing officer who is
371 a member in good standing of The Florida Bar.

372 ii. If there is a disputed issue of material fact, the Board will refer the protest
373 to DOAH for a formal hearing under Fla. Stat. § 120.57(1).

374 iii. As stated in Fla. Stat. § 120.57(3)(f), the burden of proof shall rest with
375 the party protesting the proposed agency action.

376 A. In any bid-protest proceeding contesting an intended agency action
377 to reject all bids, proposals, or replies, the standard of review shall
378 be whether the agency's intended action is illegal, arbitrary,
379 dishonest, or fraudulent.

380 B. In competitive-procurement protests other than those contesting an
381 intended agency action to reject all bids, proposals, or replies, the
382 hearing officer or administrative law judge will conduct a de novo
383 proceeding to determine whether the Board's proposed action is

384 contrary to the governing statutes, the Board's Policies, or the
385 solicitation specifications. The standard of proof for such
386 proceedings shall be whether the proposed agency action was
387 clearly erroneous, contrary to competition, arbitrary, or capricious.

388 h. ~~In the event a timely protest is filed under this section, the Board shall not~~
389 ~~proceed further with the solicitation or with the award of contract. Valid bid~~
390 ~~protests as determined by the Office of the General Counsel shall be reported~~
391 ~~to the Board no less than quarterly.~~

392 ~~Any bidder or offeror who files an action protesting a decision or intended~~
393 ~~decision pertaining to a solicitation or contract award shall post with the~~
394 ~~District, at the time of filing the formal written protest, a bond secured by an~~
395 ~~acceptable surety company in Florida, payable to the District in an amount~~
396 ~~equal to one percent (1%) of the District's estimate of the dollar value of the~~
397 ~~proposed contract, or five thousand dollars (\$5,000), whichever is less, which~~
398 ~~bond shall be conditioned upon the payment of all costs which may be~~
399 ~~adjudged against the bidder or offeror in the administrative hearing in which~~
400 ~~the action is brought, and in any subsequent appellate court proceeding. If,~~
401 ~~after completion of the administrative hearing process and any appellate court~~
402 ~~proceedings the District prevails, it shall be entitled to recover all costs and~~
403 ~~charges which shall be included in the final order or judgment, including~~
404 ~~attorney's fees. Upon payment of such costs and charges by the person~~
405 ~~protesting the decision or intended decision or contract award, the bond shall~~
406 ~~be returned to the firm.~~

407 i. Valid bid protests, as determined by the Office of the Chief Counsel, shall be
408 reported to the Board at least quarterly.

409 5. Debarment.-- Pursuant to Fla. Stat. §§ 1001.32(2) and 1001.41(1), and similar to
410 § 287.042(1)(b), ~~the~~ Board shall have the authority to debar a person/company
411 ~~corporation~~ for cause from ~~for~~ consideration or award of future contracts. The
412 debarment shall be for a period commensurate with the seriousness of the causes,
413 generally not to exceed three (3) years. When the offense is willful or blatant, a
414 longer term of debarment may be imposed, up to an indefinite period.

415 6. Emergency Purchases.-- Requests for emergency purchases, as defined in § Fla.
416 Stat. § 287.057(5)(3)(a), Fla. Stat., require the signatures of the initiating
417 administrator, and his/her Area/Assistant/Associate Superintendent or Division
418 Head, and approval by the Superintendent or designee(s). Emergency purchases
419 ~~over fifteen thousand dollars (\$15,000)~~ twenty-five thousand dollars (\$25,000) will
420 be reported to the Board at its next business meeting. The vendor and purchase
421 order number will be assigned by the Purchasing Department.

422 7. **Tracking**

- 423 a. The Director of Purchasing is responsible for tracking of bids/RFPs and other
424 Board awarded contracts to ensure that the amount of purchase orders
425 released does not exceed the ~~estimated amount~~ budgeted funds approved by
426 the Board, ~~by more than plus five percent (+5%) of the total or fifteen thousand~~
427 ~~dollars (\$15,000) whichever is less. If additional expenditure authorization is~~
428 ~~needed, a request for an additional estimated expenditure will be presented to~~
429 ~~the Board for approval.~~
- 430 b. Additionally, purchases of various goods and services made under State
431 Board of Education Rule 6A-1.012(4) (State Contracts) and those made by
432 contracts awarded under Rule 6A-1.012(3) (Piggy-Back Bids) shall be tracked
433 and reported to the Board on a ~~monthly~~ quarterly basis.

434 8. Definitions.-- Unless otherwise defined herein, the procurement terms used in this
435 Policy have the meanings set forth in Fla. Stat. § 287.012 where the context allows.

436
437 STATUTORY AUTHORITY: §§ 119.07(3)(m); 120.53(5); 1001.41(2); 230.22(2);
438 1001.42(22) 230.23(10)(j) 1001.43(2), Fla. Stat.
439 LAWS IMPLEMENTED: §§ 119.07(3)(m); 120.53(5); 120.57(3); 230.23(10)(j);
440 237.02(1)(2); 255.0516; 255.25(3)(c); 286.0115; 287.017(1)(b); 287.042(2)(c);
441 287.057(5)(a), (5)(c); 1001.32(2); 1001.41(1), (4), (5); 1001.42(10)(i), (j);
442 1001.51(11)(i); 1006.27; 1010.04; 1011.06, Fla. Stat.
443 SBER: State Board of Education Rule Supplemented: F.A.C. r. 6A-1.012
444 Administrative Procedure Act Rules Implemented: F.A.C. Chapter 28-110
445 Procurement Guidelines for Federal Assistance Programs: Procurement Circular: C-
446 OMB Circular A-102; (6/99); 7 C.F.R. § 3015; 7 C.F.R. § 3016; 7 C.F.R. §
447 210.21; 7 C.F.R. § 220.16; 7 C.F.R. § 215.14a; 7 C.F.R. § 225.17.
448 HISTORY: 3323, 9340.0, 2/18/72; 12/19/73; 4/6/83; 12/11/91; 11/21/95; 6/3/98;
449 9/22/99; 5/17/00; / /04
450

451 ***[AND, in conjunction, REPEAL Policies 2.51 and 6.145, as follows:]***

452 ***[REPEAL]***

453 ***POLICY 2.51***

454 **~~CONTRACTS FOR PROFESSIONAL AND TECHNICAL CONSULTATIVE SERVICES~~**

- 455 1. ~~It is the intent of the School Board to carry out in-service training activities for district~~
456 ~~employees on an annual basis and to provide for other professional and technical~~
457 ~~services. Where appropriate, use of district personnel to conduct training activities is~~
458 ~~encouraged. However, the Board recognizes that out-of-district professional and~~
459 ~~technical consultants may be necessary to provide such training and staff~~
460 ~~development activities. This policy is adopted in accordance with the Florida State~~
461 ~~Board of Education Administrative Rule 6A-1.012.~~

- 462 ~~2. The Superintendent shall establish, by directive, a process by which professional~~
463 ~~and technical consultants are retained for in-service training which contributes to the~~
464 ~~district's educational program.~~
- 465 ~~3. The Superintendent is authorized to approve of and contract with consultants~~
466 ~~recommended for such services in the amount of \$10,000 or less. Any consultant~~
467 ~~whose fees for such in-service training will exceed \$10,000 must be approved by the~~
468 ~~Board.~~
- 469 ~~4. In accordance with the District Minority/Women Business Enterprise Policy, the~~
470 ~~Superintendent shall solicit proposals and retain consultants in compliance with the~~
471 ~~MAWBE participation goals for the retention of professional services.~~

472
473 ~~Florida Statute(s) Authority: Florida Statute § 230.22~~
474 ~~Florida Statute(s) Implemented: Florida Statute § 211.613~~
475 ~~State Board of Education Rule: 6-A-1.012~~
476 ~~History: New: 2/21/79; Revised: 7/21/82; 2/17/93; 10/25/95; 12/18/96~~
477

478 ***[REPEAL]***

479 **POLICY 6.145**

480 **~~CONTRACTS FOR OTHER PROFESSIONAL AND TECHNICAL SERVICES~~**

481 ~~The School Board of Palm Beach County hereby authorizes the Superintendent or his~~
482 ~~appointed agent to execute contracts for other Professional or Technical services prior~~
483 ~~to formal action by the Board.~~

484 ~~Authority: 120.53, FS~~
485 ~~Implemented: 120.53, FS~~
486 ~~History: New: 4/6/83~~

Legal Signoff:

The Legal Department has reviewed proposed Policy 6.14, along with the proposed repeal of Policies 2.51 and 6.145, and finds it legally sufficient for development.

Attorney

Date