

ADOPTION AGREEMENT

Employer hereby adopts the 403(b) Plan Document for Public Education Organizations plan document (the "Plan") as modified by this Adoption Agreement and agrees that the following provisions shall be incorporated as part of the Plan document.

EMPLOYER INFORMATION

Name of Employer: Boyertown Area School District

Federal Tax ID: 23-1667661

Employer's Address:

911 Montgomery Ave.  
Boyertown, PA 19512

Telephone Number: 610-369-7408 Fax: 610-369-7620

Contact Person: David A. Szablowski  
Assistant to the Superintendent for Business Affairs

Telephone/Extension: \_\_\_\_\_ E-mail dszablowski@boyertownasd.org

Type of Organization:

- K-12 Public School     Community College     Public College/University

Note: If Employer is not a public education organization, this document may not be used.

PLAN INFORMATION

1. Name of Plan: Boyertown Area School District 403(b) Plan

2. Effective Date: This Adoption Agreement:

- establishes a Plan effective as of January 1, 2009 (the "Effective Date") and is the first 403(b) plan document established by the Employer.  
 amends and restates a previously established 403(b) Plan document of the Employer. The effective date of this amended Plan is \_\_\_\_\_ (the "Effective Date").

Default Construction Rule: If no box is checked, that feature is NOT included in the Plan.

3. Eligibility: Under the Plan document, ALL common law employees except student teachers are immediately eligible to make contributions under the Plan, unless an exception is indicated below. Eligibility for Employer Contributions is based on applicable employment agreements or collective bargaining agreements to which an employee is subject, or as determined by the Employer from year to year.

The following employees are excluded from participating in the Plan (NOT RECOMMENDED):

- Employees who normally work fewer than \_\_\_ hours per week (must be 20 or less and generally equivalent to 1,000 hours or less in a working year except as otherwise provided under applicable 403(b) regulations  
 Employees who are eligible to participate in another plan sponsored by the Employer that permits salary reduction contributions described under Section 403(b)(12)(A) of the Code.

Note: Excluding any employees will greatly increase the risk of violating the "universal availability" requirements of Section 403(b)(A)(ii) of the Code which may result in complete Plan failure.

#### 4. Contributions:

Employee Contributions (in addition to pre-tax Elective Deferrals):

- X Roth 403(b) Contributions are NOT permitted under the Plan
- Roth 403(b) Contributions to the Plan are permitted beginning on \_\_\_\_\_. If Roth 403(b) Contributions are permitted to the Plan, direct rollovers from other Roth 403(b) or 401(k) plans are , are not  accepted into the Plan

Employer Contributions, if any:

- No Employer Contributions will be made.
- X Employer Contributions will be made in accordance with applicable employment agreements and collective bargaining agreements, or as may be determined from year to year by the Employer.

**5. 15 Years of Service Catch Up Contributions:** The Plan will  or will not  permit employees with 15 years of service with the Employer that satisfy the conditions for the Special Section 403(b) Catch-up Limitation for Employees With 15 Years of Service (Section 3.2 of the Plan) to increase their Elective Deferrals limitation.

**6. Investment Options:** Any Annuity Contracts and/or Custodial Accounts that meet the requirements of Section 403(b) of the Code offered by the organizations listed on Appendix 1 are authorized as Vendors under the Plan.

**7. Exchanges Within the Plan:** The Plan will  or will not  permit Participants to make Exchanges. If permitted, Exchanges may occur between:

- Those organizations listed on Appendix 1 only (organizations authorized to maintain current payroll slots).
- Those organizations listed on Appendix 1 and any other organization offering annuity contracts and/or custodial accounts that satisfy the requirements of Section 403(b) of the Code and execute the information sharing agreement provided by Employer for purposes of satisfying applicable compliance requirements. Administrator will maintain a list of organizations that have executed information sharing agreements and will make this list available to Vendors (Appendix 2).

**8. Transfers Into the Plan :** The Plan will  or will not  accept Transfers from another employer's 403(b) plan.

**9. Transfers From the Plan :** The Plan will  or will not  permit Transfers from the Plan to another employer's 403(b) plan, if requested by a former Participant.

**10. Financial Hardship Distributions:** Hardship Distributions are  or are not  available under the Plan.

**11. Loans:** Loans are  or are not  available under the Plan subject to availability and any additional conditions that may apply under a Participant's 403(b) Individual Agreement(s).

**Note: The Plan prohibits loans to any Participant who has previously defaulted on a loan from any retirement or deferred compensation plan sponsored by the Employer.**

**12. Plan Administration:** The Plan shall be administered:

- By the Employer (Default under the Plan)
- By a designated Administrator. The Employer has named Employer Admin Services, Inc., 11440 N. Jog Road, Palm Beach Gardens, FL 33418 to act in this capacity.
- Jointly by Employer and Vendors. Unless otherwise agreed to in writing by the parties, Employer and each Funding Vehicle shall jointly act as Administrator of the Plan. Employer shall be responsible for matters relating to the Plan document, eligibility (including providing notice of the Plan to Employees), enrollment opportunities, contributions, proper tax reporting on contributions, and payroll related issues. The Funding Vehicles are responsible for matters relating to investing Contributions as directed by Participants, beneficiary designations, distributions, exchanges, transfers, rollovers, loans, withdrawals and post-employment compliance matters, such as tax reporting, notice requirements and withholding on distributions.

**The following section may be used to insert provisions for which there were no acceptable alternatives provided. It may be used to modify any portion of the Plan or Adoption Agreement.**

**NOTE: Any modifications should be carefully reviewed by Employer's legal counsel to ensure that changes do not adversely affect the Plan's qualification under Section 403(b) of the Code.**

Other provisions of the Plan (Attach additional pages as necessary):

New 403(b) vendors will be approved based on the submission of a properly executed Service Provider Agreement (SPA) and must have a minimum of 10 employees as contributing clients.

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**EMPLOYER ACKNOWLEDGEMENTS AND SIGNATURES**

Employer acknowledges that it is an eligible public education organization under Section 170(b)(1)(A)(ii) of the Code and is authorized to offer a program qualified under Section 403(b) of the Internal Revenue Code.

**EMPLOYER**

Print Name of Employer: Boyertown Area School District

By: \_\_\_\_\_

Print Name of Signer: David A. Szablowski

Title: Assistant to the Superintendent for Business Affairs

Dated: \_\_\_\_\_

## APPENDIX 1

Authorized Vendors under the Plan Are:

Name of Organization	Contact Person	Telephone Number
<u>AXA Equitable Life Insurance Co.</u>	<u>Eric Nichols</u>	<u>610-660-4212</u>
<u>KMC Money By Design</u>	<u>Victoria Sher</u>	<u>610-971-1080</u>
<u>Lincoln Investment Planning</u>	<u>Kathryn Kuzo</u>	<u>800-242-1421 X5128</u>
<u>MetLife Insurance of CT</u>	<u>Thomas Quay, Jr</u>	<u>800-492-2505</u>
<u>OppenheimerFunds</u>	<u>John Schlegel</u>	<u>610-478-9000</u>
<u>Security Benefit Life Insurance</u>	<u>Victoria Sher</u>	<u>610-971-1080</u>
<u>Security Distributors</u>	<u>Victoria Sher</u>	<u>610-971-1080</u>
<u>Symetra Life Insurance Company</u>	<u>Victoria Sher</u>	<u>610-971-1080</u>
<u>Thrivent Financial For Lutherans</u>	<u>Rosanne Smith</u>	<u>610-367-6223</u>

### Important Note:

**As provided under the Plan, any authorized Vendor named above agrees to share information necessary for compliance purposes with Employer, an Administrator and/or with any other 403(b) provider as may be required or desirable to facilitate compliance with the Plan and all applicable laws and regulations.**

This Appendix is dated: 12/9/08

**APPENDIX 2**

**Only to be completed if Employer has elected to permit exchanges to vendors who are NOT currently authorized to maintain an active 403(b) payroll slot with the Employer (Question 7)**

The following organizations have signed information sharing agreements with the Employer (or Administrator) and are authorized to receive exchanges from Plan Participants.

Name of Organization	Contact Person	Contact Information:
_____	_____	_____
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_____	_____	_____

**Important Note:**

**As provided under the Plan, any organization named above agrees to share information necessary for compliance purposes with Employer, an Administrator and/or with any other 403(b) provider as may be required or desirable to facilitate compliance with the Plan and all applicable laws and regulations.**

This Appendix is dated: \_\_\_\_\_