

## College Operating Procedures (COP)



**Procedure Title:** Special Pay Plan  
**Procedure Number:** 04-0502  
**Originating Department:** Office of Financial Services

**Specific Authority:**  
Board Policy **6Hx6: 5.02**  
Florida Statute **§1012.865**  
Florida Administrative Code

**Procedure Actions:** Adopted: 07/1993; 01/20/2021

**Purpose Statement:** The Special Pay Plan is authorized under IRC Section 401(a) of the Internal Revenue Code to provide the maximum tax advantages for vacation and sick leave payouts to employee and the college.

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### Guidelines:

This procedure applies to eligible employees and eligible compensation as defined in the Human Resources College Operating Procedures section titled Sick Leave ([05-0504](#)) and Vacation Leave ([05-0505](#)).

### Procedures:

#### I. ELIGIBILITY

- A. Any employees participating in the Florida retirement system, the local annuity program or other optional retirement plan that receive a combined vacation and/or sick leave pay out in excess of \$5,000 as a result of termination, retirement, enrollment in DROP, as well as other forms of special pay will participate in this program. Contributions cannot exceed the IRS 415(c) annual limits.
- B. Employees classified as Full-Time Executive and Administrative contract employees are required to participate in this Plan for payment of days in excess of the maximum accrued Vacation Leave (referred to as Excess Vacation) at calendar year end up to a maximum of 12 days for administrators and 15 days for executives.

#### II. ENROLLING IN THE "SPECIAL PAY" RETIREMENT PLAN

All eligible employees are enrolled automatically. Due to the tax advantages for this plan, the IRS requires consistent application of enrollment for all eligible participants. Brochures to the 401(a) Special Pay Plan are available in Human Resources.

#### III. VESTING

All Plan contributions are 100% vested when deposited.

#### IV. DISTRIBUTIONS

- A. Distributions from the Plan may be made after an employee terminates employment or upon total disability or death. After severance from employment with Florida SouthWestern State College, the participant may choose to leave money in the Plan or receive a lump-sum distribution. There is no 10% early withdrawal penalty for participants who are at least age 55 in the year of separation from employment.
- B. The College is providing a “make whole provision” to employees who are under age 55 in the year of separation from employment and elect to withdraw funds and are subject to the 10% early withdrawal penalty. The employee will need to submit a BENCOR withdrawal form along with a letter requesting that they want to take advantage of this provision to the FSW Payroll Department within 30 days of separation from employment. The percentage paid to the employee will be 2.35% (10% penalty minus 7.65%) unless he/she has reached the maximum limit for Social Security. In that case, the percentage paid to the employee will be 8.55% (10% penalty minus 1.45%).
- C. The college provides a termination letter detailing payment to the employee with the contact information for Bencor.

#### V. DETERMINE AMOUNT OF COMPENSATION PAY

- A. Terminal Payout due to termination, retirement, and enrollment in DROP refer to the Terminal Pay Policy.
- B. Excess Vacation Pay
  1. Each December the HR Benefits compile a list of employees eligible for the “Special Pay” Plan and their vacation leave balance as of December 31.
  2. HR Benefits sends an email to advise employees of their balances in leave accrual and their payout amounts
  3. Each employee who receives an email from HR Benefits for Excess Vacation Leave Transfer for Executive & Administrative Contract will have a week to review the vacation leave balance and estimate of the balance to be transferred to the “Special Pay” Plan for correctness. If the employee has taken vacation leave that is not reflected in the balance or feels there are otherwise any discrepancies in the balance, he or she should immediately contact the Payroll Office. The Payroll Office will revise the vacation leave balance reflected in the email if it is determined to be incorrect based upon the employee’s review. The corrected leave balances will be used to determine the payment to “Special Pay” Plan.

#### VI. PAYMENTS TO PLAN

The Payroll Office sends a list via email to TSA of all eligible employees and their payout amounts. TSA sets up the file in EPARS Payroll then reviews and submits the file. Payroll makes payment through EPARS on Cash Pro online website.