

	<b>Florida Gulf Coast University</b> Policy Manual	<b>Policy: 3.015</b>  <b>Approved: 01/27/10</b>
	<b>Title</b>  <b>Special Pay Plan</b>	<b>Responsible Executive:</b> <i>Vice President for Administrative Services &amp; Finance</i> <b>Responsible Office:</b> <i>Human Resources</i>

**POLICY STATEMENT**

The Special Pay Plan is a mandatory 403(b) retirement plan to faculty and staff employees funded through accrued annual, sick and compensatory leave paid out at the time of separation, during DROP participation or when transferring out of an annual leave accruing position.

**REASON FOR POLICY**

To provide the maximum tax advantage on accrued leave payments for both the Employee and the University.

**APPLICABILITY AND/OR ACCOUNTABILITY**

This policy is applicable to all employees eligible to retire.

**DEFINITION OF TERMS**

*Terminal Sick Leave* – Twenty-five percent (25%) of accrued sick leave up to 480 hours.

*Plan Year* – July 1 – June 30

*DROP* – Deferred Retirement Option Program

*Combined Contribution* – Combination of contributions for 403(b) and 457 plans

*Make Whole* – To compensate the employees the difference between the 7.65% FICA Savings and the 10% tax withdrawal penalty (2.35%)

**PROCEDURES**

Eligibility and Contributions:

Faculty, A&P and SP employees who are 40 years or older and receive an annual, sick and/or compensatory leave payment of

\$1,000 or more contributions as a result of termination, retirement, enrollment in DROP, or transferring out of an annual leave accruing position, are compulsory participants in the Special Pay Plan.

Plan Distributions:

Distributions from the plan may be made at the following times (“triggering events”):

- Separation/termination of employment
- Retirement
- After age 70 ½ or retirement, if later, when the IRS requires that minimum distributions be made to the participant each year
- Participant’s total disability
- Participant’s death

Distributions from the Plan can be requested by the participant by contacting the designated Plan Administrator. Such distributions may be made in a lump-sum cash payment to the employee upon one of the triggering events. Alternatively, plan balances may be rolled over to an IRA or other eligible retirement plan with no penalty. Contributions may also remain in the account after separation from the University or taken in periodic payments.

Notwithstanding the foregoing, sick leave will not be paid out when transferring out of an annual leave accruing position, but will remain with the employee until they separate from employment with the University.

DROP Participants:

Employees will continue to have the option to receive a pay-out of annual leave at the time of enrollment in DROP that will be included in the employee’s compensation for FRS retirement benefits calculation purposes. Alternatively, employees may choose to receive payment at the end of their DROP participation. Regardless of the option chosen, payments of annual leave for DROP employees are subject to the Special Pay Plan provisions.

An employee participating in DROP will have a percentage of their accumulated sick-leave pay balance deposited into their account at the beginning of each year of DROP participation. The percentage is determined by the participant’s DROP year.

*Example:* An Employee participating in DROP for a period of (5) years will have terminal-sick-leave-pay deposited as follows:

Year 1 – 20% of the balance of terminal-sick-leave  
Year 2 – 25% of the balance of terminal-sick-leave  
Year 3 – 33% of the balance of terminal-sick-leave  
Year 4 – 50% of the balance of terminal-sick-leave  
Year 5 – 100% of the balance of terminal-sick-leave

*Example:* An employee participating in DROP for a period of two (2) years will have terminal-sick-leave pay deposited into their account as follows:

Year 1 – 50% of the balance of terminal sick leave  
Year 2 – 100% of the balance of terminal-sick-leave

While in DROP, if the yearly sick-pay contribution exceeds the amount of the contribution limit (see *Contribution Limits below*) the excess amount will be rolled into the next Plan year. Employees terminating prior to their preselected DROP-end date will have 100% of their remaining eligible sick-leave balance paid into the Plan, subject to contribution limits. Any excess amount will be paid in cash, subject to all applicable taxes.

Contribution Limits:

Combined contributions to the Special Pay Plan and other 403(b) plans cannot exceed 100% of the Plan Year Salary or \$46,000 – whichever is less. The maximum limit is indexed each year. Leave payments that exceed the maximum contribution limit will be provided to the employee as a cash payment.

Make Whole Provision:

An employee who has separated from employment and requests a withdrawal of funds from Special Pay Plan and is not at least age 55 on December 31 of the year of separation, may be assessed a 10% tax penalty by the IRS on these funds. The University provides a “make whole provision” to offset the 10% tax penalty. The make whole provision is applicable to those participants who receive a distribution from the plan within 90 calendar days of his/her date of termination.

Under the make whole provision, the University will reimburse the participant the 10% IRS tax penalty less the employee’s share of Social Security and Medicare tax savings as a result of the Special

Pay Plan. The percentage paid to the employee will typically be 2.35% of the original contribution amount unless the employee has reached the maximum limit for Social Security taxes. In that case, the percentage paid to the employee will be 8.55% of the original contribution amount. The make whole payment amount is grossed up to cover the applicable taxes related to this payment.

The make whole provision only applies to employees under 55 years of age on December 31 of the year of separation. Employees 55 or older who receive a distribution from the Special Pay Plan are not subject to the 10% IRS excise tax.

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**RELATED INFORMATION**

None

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**HISTORY**

New 07/01/04; Amended 01/27/10

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**APPENDICES**

Appendix A: FGCU Special Pay Plan Document  
Frequently Asked Questions (online)

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**APPROVED**

s/Wilson G. Bradshaw  
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President

January 27, 2010  
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Date