PRESIDENTIAL POLICY CO-16 – 09/02

TO: University of West Florida Community

FROM: Dr. John C. Cavanaugh, President

SUBJECT: Student Employment FICA Policy

Policy/Purpose:

On January 16, 1998, the Internal Revenue Service issued Revenue Procedure 98-16 (Rev. Proc.98-16) setting forth the new guidelines to use to determine whether student employees are eligible for the student FICA tax exemption.

The Internal Revenue Code imposes a tax that was enacted as part of the Federal Insurance Contributions Act (FICA) on both employers and employees with respect to wages paid to employees. The code, however, contains a number of different exceptions to FICA tax, one of which exempts services performed for a college or university by a “student” who is enrolled and regularly attending classes” at the institution.

The provisions for determining qualifications for the student FICA exception outlined in Rev. Proc. 98-16 are not exclusive. Rather, they serve as safe harbors, which means that the IRS will not challenge any claimed student FICA exception that meets these guidelines. A student situation that does not fall within the safe harbors set forth in the guidelines will be examined based on all the facts and circumstances of the case.

Effective with the Fall Term 1998, in accordance with the provisions of IRS Rev. Proc. 98-16, the following conditions and guidelines apply in determining whether or not the student is exempt from the payment of Student FICA taxes:

1. The student must be enrolled as a degree seeking student in at least half-time status (6 semester hours for both undergraduate and graduate for the Fall and Spring Terms and 5 semester hours for undergraduate and 3 semester hours for graduate for the Summer Term) to be exempt from student FICA taxes.

2. Students with classification as Special Students are not eligible for the student FICA exception.

3. No limit is imposed on the number of hours the student can work during a particular pay period.
4. Whether a student meets the “half-time” test shall be made as of the close of the drop-add period each semester. Determination of “student” status for periods before the end of the drop-add period is based on the number of hours for which the student is registered and enrolled for the current term.

5. It is common for student-employees to begin working shortly before classes begin for an academic term and to continue to work until shortly after the academic term ends. The guidelines provide that services performed during all payroll periods of a month or less that fall either wholly or partially within the academic term are eligible for the student FICA exception.

6. A student who is not enrolled for Summer semester Term A in at least six (6) semester hours is NOT eligible for the student FICA exemption.

Career employees are ineligible from student FICA tax exemption. Student FICA exception is not available to full-time employees of the institution who may also be enrolled in classes. To ensure that such employees are not able to use the exception, the new guidelines are not applicable to “career employees”. The guidelines define a “career employee” as one who meets any one of the following tests:

7. eligible to participate in the institution’s section 403(b) or other retirement plans,

8. eligible to receive tuition waiver benefits as an employee,

9. classified as a career employee by the institution.

The University Controller’s Office shall make a determination of all student employees immediately following the close of the drop-add period each semester. Those students who meet the criteria for exception from Student FICA taxes will not have FICA taxes deducted from the gross pay and the employing department will not pay the corresponding employer share of matching FICA taxes.

Students who fail to meet the criteria set forth in Rev. Proc. 98-16 will be appropriately coded in the University payroll system to deduct the required 7.65% FICA taxes from the gross pay of the student and the employing department will be charged the corresponding 7.65% matching FICA taxes.