

## MEMORANDUM

**To:** Employees participating in FPPA's 457 Deferred Compensation Plan

**From:** FPPA

**Re:** Retirement Committee and Unforeseeable Emergencies

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### ■ **Requesting a withdrawal due to an Unforeseeable Emergency**

**NOTE:**

- **The loan option for the 457 Deferred Compensation Plan must be used prior to requesting an Unforeseeable Emergency withdrawal.**
- **If an Unforeseeable Emergency withdrawal is approved, any ROTH assets will be distributed prior to pre-tax contributions.**

Participants may request a withdrawal due to an Unforeseeable Emergency by submitting a written request to their employer. The employer will then select a Retirement Committee" (if one has not already been established) to review the request and supporting documentation associated with the request. The Retirement Committee will determine whether the request meets the definition of an Unforeseeable Emergency as outlined below in the section titled "Unforeseeable Emergency Defined,"

If the withdrawal is approved by the Retirement Committee, the participant then contacts Fidelity Investments at 1-800-343-0860 and requests an Unforeseeable Emergency distribution form. Fidelity will mail or fax the distribution form for completion and signature. Once signed, the distribution form, along with the determination letter from the Retirement Committee and supporting documentation shall be forwarded on to FPPA for review and processing.

### ■ **Retirement Committee**

The Employer may have already assigned a Retirement Committee. If a Retirement Committee does not already exist, the Employer selects a committee of not less than three persons to carry out the discretionary functions of administering the Plan.

### ■ **Unforeseeable Emergency**

1. **Procedure:** A Participant may request a withdrawal for an Unforeseeable Emergency by submitting a written request to the Retirement Committee, accompanied by evidence that his or her financial condition warrants an advance release of funds and results from an unforeseeable emergency which is beyond the Participant's control. The Retirement Committee shall review the request and determine whether payment of any amount is justified. If payment is justified, the amount shall be limited to an amount reasonably needed to meet the emergency. The Retirement Committee shall determine the amount and form of payment.
2. **Unforeseeable Emergency Defined:** "Unforeseeable Emergency" means a severe financial hardship of the Participant or Beneficiary resulting from an illness or accident of the Participant or Beneficiary, the Participant's or Beneficiary's spouse, or the participant's or beneficiary's dependent (as defined in Section 152, and, for taxable years beginning on or after January 1, 2005, without regard to section 152(b)(1), (b)(2), and (d)(1)(B)); loss of the Participant's or Beneficiary's property due to casualty (including the need to rebuild a home following damage to a home not otherwise covered by homeowner's insurance, such as damage that is the result of a natural disaster); or other similar extraordinary and unforeseeable

circumstances arising as a result of a natural disaster; or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant or beneficiary.

This includes: (i) the imminent foreclosure or eviction from the participant's or beneficiary's primary residence; (ii) the need to pay for medical expenses, including non-refundable deductibles, as well as for the cost of prescription drug medication; (3) the need to pay for funeral expenses of a spouse or a dependent (as defined in section 152, and, for taxable years beginning on or after January 1, 2005, without regard to section 152(b)(1), (b)(2), and (d)(1)(B)) of a participant or beneficiary may also constitute an unforeseeable emergency.

Whether a Participant or Beneficiary is faced with an unforeseeable emergency permitting a distribution is to be determined based on the relevant facts and circumstances of each case. A distribution or account of unforeseeable emergency may not be made to the extent that such emergency is or may be relieved: by: (i) through reimbursement or compensation from insurance or otherwise; or (ii) by liquidation of such assets, to the extent that liquidation itself would not cause severe financial hardship; or (iii) by cessation of Deferrals under the Plan.

3. **Unforeseeable Emergency Distribution Standard:** Unforeseeable Emergencies shall not include the payment of college tuition or the purchase of a residence.
4. **Distribution Necessary to Satisfy Emergency Need:** Distributions because of an unforeseeable emergency may not exceed the amount reasonably necessary to satisfy the emergency need (which may include any amounts necessary to pay any federal, state, or local income taxes or penalties) reasonably anticipated to result from the distribution.