

# **PROVISION OF OR REIMBURSEMENT FOR CELL/SMART PHONE GUIDELINES**

## **Purpose**

This document provides guidance for the California State University, Monterey Bay (University) cell/smart phone direct provision and reimbursement programs for employees that incur cell/smart phone charges for University business purposes. Effective February 1, 2014, the University will offer a program to reimburse qualifying employees for business use of their personally owned cell/smart phone as recommended by the employee's supervisor and approved by the divisional Vice President or Provost. Qualifying employees may choose that the University purchase and provide a cell/smart phone for business use and subsequently directly pay monthly service fees to service providers. Nothing in these guidelines is intended to modify or change any provisions of applicable collective bargaining agreements, including work schedules, callback and standby provisions.

## **Background**

In the not too distant past, the IRS moved to consider cell/smart phones to be "listed property" (IRS Section 274(d) (4)) with a variety of detailed record keeping requirements. The IRS could have declared that all undocumented use of an employer provided cell/smart phone was personal and should be taxed as wages, even if the calls were mostly business calls. Full enforcement was held in abeyance as the higher education community (and others) sought to get a reversal of the new rules.

Per IRS Field Service Memo SBSE-04-0911-093, dated 9/19/2011, cell/smart phones are no longer considered listed property, and reimbursements paid to employees for use of cell/smart phones for business purposes are not taxable under the following conditions:

- The university has substantial non-compensatory business reasons for requiring employees to maintain and use their cell/smart phone for work-related purposes;
- The employee must maintain the type of service plan that is reasonably related to the needs of the university's business;
- The reimbursement must be reasonably calculated so as not to exceed expenses the employee actually incurred in maintaining the cell/smart phone; and
- The reimbursement must not be a substitute for a portion of the employee's regular wages. Further, IRS Bulletin 2011-38 allows employers to apply the exclusion for working condition de minimis fringe benefits to the use of employer reimbursed cell/smart phones.

These changes allow CSUMB to establish a simplified approach to reimburse employees for the business use of cell/smart phones as an alternative to directly providing cell/smart phones to employees. This simplified approach will be consistent with other reimbursements policies. Employees may choose that the University provide, for business use only, a University owned cell/smart phones to employees required to be available by a cell/smart phone and who may not qualify for a personal service plan or who choose not to be reimbursed for business use of an employee owned cell/smart phone.

## Authority

Only the President, Provost or Vice Presidents have the authority to determine if an employee is required to be available by a cell/smart phone.

### **Option 1: University Reimbursement for a Personally Owned Cell/Smart Phone,**

Upon proper approval, the employee will be reimbursed for actual plan and/or device costs incurred up to the maximum rate for the most appropriate type of plan. Plans and “not to exceed” rates are described in the Provision Of or Reimbursement for Cell/Smart Phone Procedures.

### **Option 2: University Provision of a Business Use Only University Owned Cell/Smart Phone,**

Upon proper approval, the employee will be provided a University owned cell/smart phone for business use only. Personal use of a University owned cell/smart phone is strictly prohibited, except for incidental personal use. The University will select the most appropriate type of plan.

## Responsibilities

### **Department Heads and Supervising MPP's:**

- Initiate recommendations for University provided cell/smart phone or for cell/smart phone cost reimbursements for employees. Recommendations shall be processed through each level of the divisional organizational structure to the appropriate Vice President/Provost.
- For reimbursed cell/smart phones, annually review employee provided documentation to verify that costs for which the reimbursement is provided are being incurred, and that the reimbursement is not in excess of the actual plan costs.
- For either provided or reimbursed cell/smart phones, annually review and recommend continuation of, changes to or discontinuation of each employee's existing plan.

In evaluating whether or not an employee should be provided with a University owned cell/smart phone or reimbursed for business use of a personally owned cell/smart phone, the following criteria shall be considered:

- Employees who frequently travel for business purposes or who typically work out of the office and are required to be accessible while away;
- Employees who typically work in the field or at sites where access to other communication devices is not readily available;
- Employees who need to be contacted and/or respond in the event of an emergency or are required to be available during non-business hours; or
- Other justifiable reasons.

### **Employees:**

An employee with a University provided cell/smart phone must:

- Use the cell/smart phone for business purposes only, except for incidental personal use.
- Notify the supervisor if the cell/smart phone is lost or stolen.
- Return the cell/smart phone upon separation from the University.

An employee with a cell/smart phone reimbursement plan must:

- **MUST** enroll in Employee Direct Deposit of Reimbursement
- Maintain an active cell phone contract for the life of the reimbursement period. (While the contract for a particular plan is between the employee and the service provider, information about plans with discounted rates (including AT&T, Verizon, and Sprint/Nextel) is available on the University's IT website.)

- Maintain properly functioning cell/smart phone equipment at their own cost, except as provided in these guidelines.
- Maintain for no longer than twelve months and provide (at least annually) billing documentation from the cell/smart phone service provider that verifies plan cost. Evidence of plan cost may be requested by the University more frequently than annually.
- Provide his or her cell/smart phone number to the University. The employee shall promptly notify the University if the number changes.
- Promptly notify his or her supervisor if the cost of the service plan changes and is less than the reimbursement amount. Any excess reimbursement shall be promptly repaid by the employee.

The employee is expected to avoid using a cell/smart phone under any circumstances where such use might create or appear to create a hazard. Use of a cell/smart phone in a motor vehicle must be in compliance with current University policies, state laws and federal laws.

### **Finance/Accounting**

The Associate Vice President for Finance is responsible for establishing and updating these guidelines and accompanying procedures, and for ensuring that provision of or reimbursement for cell/smart phones conform to the requirements of these guidelines.

The Information Technology, Procurement and/or Accounting offices are responsible for ensuring that purchase/service agreement costs related to the purchase and use of cell/smart phones or departmental payment for reimbursement requests are made in accordance with the procedures set forth in these guidelines and any other procedures that have or may be implemented for the cell/smart phone programs.

### **Data Security and Confidentiality**

All cell/smart phones must comply with the policies, standards and guidelines established by the CSU and the University.

Employees should be aware that all records related to the use and disposal of University reimbursed cell/smart phones may be requested by the University. Billing statements provided to the University are the property of the University and are potentially subject to disclosure under the California Public Records Act.

Any planned disposal of a cell/smart phone must be in compliance with the policies, standards and guidelines established by the CSU and the University.

These guidelines apply only to the University and do not apply to the University Auxiliaries.