

**Office of the Chancellor  
Pennsylvania State System of Higher Education  
Procedures and Standards for University Operations**

**Procedure/Standard Number 2011-10  
Guidelines for University Use of Cell Phones**

Approved by:  Date: 12/19/11  
Chancellor

History:

Revised --

Additional History--

**Related Policies, Procedures or Standards:**

**Key Words/Categories:**

**Additional References:**

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**I. Introduction**

This procedure/standard provides updated guidance for the modification of university policy on the business and personal use of cellular phones and other wireless communication devices (WCDs). These devices include but are not limited to pagers; wireless internet services; and wireless data devices and their associated plans, which may include usage charges for calls, text messages, email or other internet services.

This procedure/standard contains information on the taxability of allowances and reimbursements made by the employer for the employee's business use of these devices. A university policy consistent with Internal Revenue Service (IRS) rules and regulations governing the taxability of these devices is necessary to ensure compliance.

Per the Internal Revenue Service's September 14, 2011, internal guidance to its field examination operations, "[t]he IRS will treat the employees' use of employer-provided cell phones for reasons related to the employer's trade or business as a working condition fringe benefit, the value of which is excludable from the employee's income." Moreover, "any personal use of the employer-provided cell phone will be treated as a *de minimis* fringe benefit, excludable from the employee's gross income under § 132(e) of the [Internal Revenue] Code."

## II. Definitions

- A. **PASSHE/University-Owned WCD–Restricted to Business Call/Activity Only:** PASSHE or the university owns the WCD and restricts the use of the device to business use only. The value of the use is not taxable as compensation to the employee.
- B. **PASSHE/University-Owned WCD–Personal Calls/Activity Allowable:** PASSHE or the university owns the WCD, issues the WCD to an employee primarily for business, but allows the employee to use the device for personal use in infrequent or emergency situations. PASSHE or the university will be considered to have provided an employee with a WCD primarily for substantial, non-compensatory business purposes other than providing compensation to the employee. The employee may be subject to audit for usage of the device.
- C. **Employee-Owned WCD–Employee Receives Monthly Allowance:** The employee owns the device and the employer provides a monthly allowance to the employee for the business use of the device. If business use of the phone is required to support the employee's job responsibilities, then the employer is not required to include the allowance as taxable compensation and is not required to withhold federal income taxes, state income taxes, FICA, Medicare, or Pennsylvania Unemployment Compensation taxes. An employer-provided allowance is not taxable as compensation provided the allowance is not a substitute for a portion of the employee's regular wages.
- D. **Employee-Owned WCD–Employee Reimbursed for Business Calls/Activity:** The employee owns the device and is reimbursed by the employer for the value of business-related calls/activity. The amount of the reimbursement received is not taxable as compensation to the employee provided the following conditions are met.
- The employee paid or incurred expenses on behalf of PASSHE or the university while performing services as an employee.
  - The employee documents the business expense by providing a receipt (the cell phone invoice) that documents each call/activity and its business purpose. Calls/activity itemized on a monthly statement should be identified as personal or business, or the personal calls may be redacted. The employee should retain any supporting evidence of the business calls/activity.

## III. Procedure

- A. Each PASSHE university and the Office of the Chancellor shall maintain an Acceptable Use Policy that is consistent with IRS guidance and PASSHE's *Guidelines for University Use of Cell Phones*, as found in this document. University policies will be reviewed by Legal Counsel.

- B. Although the above definitions address the taxability of the various arrangements, each university is to determine how much personal use of its university-owned WCDs is acceptable. Each university's Acceptable Use Policy should conspicuously state that the use of university-owned property, including WCDs, for personal pecuniary gain is prohibited and could result in discipline, up to and including termination.
- C. Recognizing that each university may approach a policy for the business use of WCDs differently, the above definitions are provided to ensure that university policy is consistent with Internal Revenue Service (IRS) rules and regulations governing the taxability of these devices.
- D. When university policies or business practices on the use of WCDs change, there might be labor relations implications that will need to be addressed at the local level. Decisions to provide an employee with a WCD, to determine who should carry a WCD, to determine how costs should be reimbursed for the business use of a WCD, or to remove a WCD from an employee are management decisions. Other decisions, such as requiring the employee to purchase his/her own WCD for which the employee will receive a monthly allowance based upon the amount of business usage, must be determined at the local level. A proactive approach to sharing information with local unions on compliance with IRS guidelines is recommended.

#### **IV. Implementation**

Immediately