

General Policy - Communication Equipment & Services

Objective:

NDCC Section 54-06-26 restricts use of state telephones by employees to business use and only such personal use that is for “essential personal purposes to the extent that use does not interfere with the functions of the officials’ or employee’s agency, department or institution.”

Under Internal Revenue Service (IRS) regulations, cellular phones are considered “listed property”. The cost of communication equipment and services used by employees, either off-premises or at home, is excludable from the employee’s gross income to the extent that its use is substantiated as business related. To the extent that the use is personal, the cost is includable in the employee’s gross income (and therefore subject to tax).

This policy has been constructed to comply with all state and federal regulations to protect the College and its employees and to minimize the administrative burden on the College and the employees.

Policy:

For any employee a department identifies as having an ongoing business need for mobile communication equipment/services (See “Business Need” later in this policy for guidance in making these determinations.), the department may choose between three options. Please note that the department is not required to choose the same option for all departmental employees. ***The employee has no authority in this election.***

Option 1: Employee-Provided Equipment/Service

Departments may provide a stipend that will cover the business use of communication equipment and services. The stipend will be in the form of continuous payments. It is understood that the employee’s stipend is sufficient to cover the business use of the equipment/service. There is no additional reimbursement for business use (e.g., occasional roaming charges). This arrangement allows for personal use of the equipment/service. The equipment remains the property of the employee. Departments may provide only the rate plan appropriate for the business use associated

with the employee's college function. Employees wanting to enhance the rate plan for personal use may do so at their own expense. Technical support will be provided only for PDAs approved by the Information Technology Solutions and Services (ITSS) department (see "Exclusions and Other Arrangements")

Advantage: No record-keeping is required. Permits mixed business/personal use. Employee has flexibility to choose the equipment and plan that meets their personal needs.

Disadvantage: The College is unable to share minutes.

Option 2: College-Provided Equipment/Service, Individually Assigned

The College acquires the communication equipment/service and assigns it to a specific *individual* who may use it for business use only. The employee must submit a record of business and personal use. Any personal use will be reimbursable by the employee to the College (see "Reimbursement of Personal Use"). The equipment remains the property of the College. At the request of the supervisor or at employee's separation, the employee must return the equipment (this is also the case when changing from this option to Option 1). (Examples: custodial staff, residence supervisors, mail services staff)

When the College is providing the communication equipment/service, ***the lowest cost option available to accommodate the particular business need shall be utilized***. College-paid calling plans must provide call detail to enable monitoring of business use.

Advantage: If the device is never used for personal purposes and the quarterly report of personal use is completed in a timely manner, the employee incurs no cost. Device is College property and is supported by College purchasing and ITSS departments. The College can leverage the shared minutes.

Disadvantage: Requires signed agreements, employee and departmental recordkeeping, filing and review of personal use reports, and reimbursement if the device is used for personal purposes.

Option 3: College-Provided Equipment/Service, Departmentally Assigned

The College acquires the communication equipment/service and assigns it to a specific *department* who may use it for business use only. Shared devices present special challenges since they are not continuously controlled by one person. These are typically assigned to a group of persons on a rotating or shift basis, or to individuals for a specific period of time (e.g., travel or off-campus events). In this case, a supervisor must review all bills and complete a certification of business-only use. If personal use is

discovered, employee must reimburse the college (“see “Reimbursement of Personal Use” below). (Examples: CE, ITSS, Allied Health, Athletics)

When the College is providing the communication equipment/service, ***the lowest cost option available to accommodate the particular business need shall be utilized.*** College-paid calling plans must provide call detail to enable monitoring of business use.

Advantage: If the device is never used for personal purposes the employee incurs no cost. Device is College property and is supported by College purchasing and ITSS departments. The department can leverage shared minutes.

Disadvantage: Requires departmental recordkeeping, supervisory review of quarterly activity, and reimbursement if the device is used for personal purposes.

The three options above should be applied to groups, but in special circumstances may be applied individually. In other words, a work unit should normally select one option for all of its members. This recognizes that departmental business needs may vary within the college. When choosing an option, it is recommended that campus units consider the administration effort for each option.

Exclusions & Other Arrangements:

Based on staffing and the operating system environment, the ITSS department will determine brand(s) and or model(s) of PDA devices for which they will provide technical support. The employee has the option to choose any device, but support will be provided for only the device(s) approved by ITSS.

Business Need:

The department, with approval from the divisional Associate Vice President or Vice President, is responsible for determining and documenting the business need for any communication equipment/service under this policy. Cell phones or PDAs should not be selected as an alternative to other means of communication -- e.g., land-lines, pagers, radio phones, laptops -- when such alternatives would provide adequate but less costly service to the college.

Only cabinet members (and others as individually approved by the Executive Council), can be reimbursed for data service for PDA devices.

Examples of business needs for mobile equipment/service include:

- A requirement to travel frequently to do business, across a geographic area away from the home office, and great amounts of time are spent in transit.(ex. recruiters)
- A requirement for communication about College business when the employee is away from his/her office or worksite during the day or after hours. (ex. cabinet members)
- A requirement for communication regarding College business when the employee's job responsibilities require him/her to be away from a land-line during the day. (ex. maintenance workers, custodians, mail services, etc.)
- A requirement for frequent, immediate or emergency communications throughout the day or after hours regarding critical programs, services or systems. (ex. ITSS, physical plant)

Use of College-provided communication equipment/service in any manner that is contrary to local, state, or federal laws constitutes misuse and may result in disciplinary action, up to and including confiscation of communication equipment/service, and termination of employment.

Plan Rates for Stipends (Option 1):

The rates for mobile communication device stipends are produced by Finance & Operations on an annual basis. They include plans that recognize geographic communication requirements (i.e., local, regional, national) and the volume requirements (i.e. number of minutes per month) of employee job responsibilities. The amounts included in the rates include taxes. These amounts will inform the departments as they consider the appropriate stipend for individuals or groups. This leaves the determination of how much business use is anticipated to the departments by allowing a percentage of the rates to be applied. For example, if a department determines that an employee's responsibilities would require one fourth of the minutes allowed for the least expensive local calling plan, it could decide to apply 25% of that rate as a stipend. There is a benefit to the employee of not having to maintain detailed records of calls, and for unlimited personal use.

The stipend is not intended to cover the actual cost of the service selected, by the employee. Employees are thereby free to choose services and equipment that exceed their business needs (i.e., upgrade for personal reasons).

Reimbursement of Personal Use (Option 2 and 3):

Employee use of a state or institution cellular phone or device is subject to applicable state law restrictions, including prohibition of use for political purposes as stated in NDCC section 16.1-10-02. Use of a state or institution cellular phone or device generally must be limited to business use, subject to limited use for essential personal purposes as permitted by NDCC section 54-06-26. In addition to one personal phone call each day authorized by section 54-06-26 when an employee is traveling away from the employee's residence for official business, reasonable and appropriate personal use of a state phone or device authorized under section 54-06-26 includes use at any time in connection with an emergency requiring

immediate communication, incidental or unsolicited incoming calls or texts, and occasional communication with family members or others when use of a personal phone or other personal device is impractical. Reasonable and appropriate personal use of a state phone or device must be limited in time and scope, not interfere with NDUS operations, and not interfere with an employee's job duties and responsibilities.

When an employee is required to reimburse the College under Option 2 or 3 due to unallowable personal use, the amount is calculated by dividing the minutes used for personal calls by the total minutes used, then multiplying the result by the total service charges. Any additional costs incurred for personal use, such as roaming charges, should be added to the amount computed.

If under Option 2, the employee does not report personal use by the deadline below, the entire cost of the service/equipment for those three months will be treated as a reimbursement from the employee to the College via payroll deduction.

Under Option 3, the supervisor must review activity and complete a report on a quarterly basis to assure business-only use and to assure reimbursement is made for any personal use.

The quarterly reporting deadlines and their related period of activity are shown below. The activity is included in the bills received during the months listed.

April 30 (January-March)
July 31 (April-June)
October 31 (July-September)
January 31 (October-December)

The supervisor must review and approve the reports submitted. Monthly reporting is encouraged in the place of required quarterly reporting. Exceptions to the quarterly reporting requirement must be approved by the Associate Vice President for Finance & Operations.

Department Responsibilities:

Department heads are ultimately responsible for the use of communication equipment/services, including:

- Making the initial recommendation on whether equipment is provided to an employee and on what basis.
- Selecting appropriate services based on business use.
- Monitoring usage on a regular basis for policy compliance, continued business need, and appropriate use by reference to the documentation necessary to prove the business use of the equipment/service.

- Annually reviewing existing equipment/services to ensure they are needed and represent the best options (most economical) given the business use.
- Reviewing and approving reports for personal use of business equipment/service.

At the request of a supervisor or upon the employee's separation, all BSC-owned equipment (including chargers, extra batteries, hands-free devices, etc.) is returned to the department or purchasing agent and service is cancelled.

Applicability:

This policy applies to all BSC faculty, staff, and student employees who require use of a mobile communication device to perform their job responsibilities.

References:

NDCC 54-06-26
NDCC 16.1-10-02

History of This Policy:

First policy drafted on October 30, 2009, reviewed by the Operations Council on November 9, 2009 and approved by the Executive Council on December 3, 2009.

Revisions – January 5, 2012; July 30, 2013, October 18, 2016.