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## **AP 6450    WIRELESS OR CELLULAR TELEPHONE USE**

### **References:**

Vehicle Code Sections 12810.3, 23123, and 23124;  
Internal Revenue Code (I.R.C.) Sections 274(d)(4) and 280F(d)(4)

The District Chancellor shall determine if it is in the best interests of the District to provide a cellular or wireless telephone at District expense.

Cellular telephones provided by the District for compensatory reasons are classified by the Internal Revenue Service as a fringe benefit, the value of which must be included in an employee's gross income.

The value of a cellular telephone provided by the District primarily for non-compensatory business purposes is excludable from an employee's income. Employees will generally not be required to keep notes of business and personal use of District-issued cellular telephones when the telephones are issued for non-compensatory business reasons.

These rules do not apply to wireless or cellular telephones owned by employees. Any reimbursements to employees for use of their own wireless or cellular telephones may be excluded from wages if the employee accounts for the expense pursuant to the Internal Revenue Service accountable plan.

The District shall provide a District cellular telephone or stipend to eligible employees for certain business communications. Employees shall not drive a motor vehicle or other equipment, while using a cellular telephone unless the device is enabled to allow hands-free listening and talking, and is used in that manner while driving.

### **Stipend**

In lieu of a District-issued cellular telephone, a stipend may be provided to employees on a case-by-case basis determined by the employee's manager and president, vice chancellor, or the District Chancellor, whichever is most appropriate. The determination

shall be based upon the nature of the employee's work assignment, which shall include the need for the employee to maintain contact during the employee's work hours and non-work hours; and can best be accomplished through the use a cellular telephone. The authorization shall be documented via the Cell Phone Stipend Authorization form.

Employees meeting the following criteria shall generally be considered eligible:

- Facilities and critical systems employees subject to after-hours call out.
- Emergency responders (Police, Health Services, and general staff, primary and first alternates only.) Hourly employees considered an emergency responder do not qualify for the stipend.
  
- Employees who spend a considerable amount of time out of the office (more than 50% of the work week) on District business.

Stipend eligibility for a Smart Phone device shall be determined separately based on the need for an employee to have frequent access to District email while out of the office, where using a desktop or wireless computer is not practical.

Employees are responsible for purchasing their own cellular telephone, establishing a service plan, and paying their monthly statement. Employees qualified for a Smart Phone device shall ensure that the device is Microsoft Exchange Active Sync compliant in order to communicate with the District's email system.

When the employee is first determined to be eligible, the employee shall receive a one-time reimbursement for the cost of the cellular telephone upon submission of an itemized receipt. The maximum reimbursement for a basic cellular telephone shall be \$50 and the maximum reimbursement for a Smart Phone device shall be \$200. Accessories for either type of cellular telephone are not subject to reimbursement. Employees are eligible for an upgrade every two years after the first stipend payment is issued upon submission of an itemized receipt. The maximum reimbursement for an upgrade to a basic cellular telephone shall be \$30 and the maximum reimbursement for an upgrade to a Smart Phone device shall be \$125.

Employees may choose any desired service plan with their service provider; however, the District shall only pay \$50 per month and an additional \$30 per month for data service associated with a Smart Phone device in the form of a stipend. The stipend shall be provided to employees via payroll. The stipend is not an increase in base pay and shall not be included in calculations of salary increases or retirement benefits.

Employees shall retain an active cellular telephone while receiving a stipend. The phone number shall be supplied to the District's Telecommunications Systems

Technician within five working days of activation. Since the employee owns the cellular telephone, there is no restriction on personal use. If the cellular telephone is lost or stolen, employees shall notify the District's Telecommunications Systems Technician within five working days of the loss or theft. The District shall not reimburse the employee for the lost or stolen cellular telephone.

If the District makes a decision that results in the need to terminate the stipend (e.g., an employee's duties change that disqualify the employee from stipend eligibility) and the employee decides not to retain the cellular telephone for personal use, the District shall assume financial responsibility to pay for any early cancellation fees associated with the employee's contract with his/her service provider.

Motor vehicle drivers may not use wireless or cellular telephones while operating their vehicles without a hands-free listening device. Drivers may use a wireless or cellular telephone to contact a law enforcement agency or public safety entity for emergency purposes. Drivers of motor trucks or truck-tractors, farm vehicles, tow trucks, a listed or described implement of husbandry, or a commercial vehicle, used in commercial agricultural operations may use a digital two-way radio service that utilizes a wireless or cellular telephone.

There is no expectation of privacy in the use of a District-issued cellular telephone.