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7530.01 - **CELLULAR TELEPHONE**~~CELL PHONE~~ ALLOWANCE

**Version # 1**

**Eligibility for ~~Cellular Telephone~~Cell Phone Allowance**

Personal communication devices ("PCDs") (as defined by Bylaw 0100) ~~Mobile/cellular telephones, smartphones (e.g., BlackBerry, iPhone, Android devices, Windows Mobile devices, etc.), ( ) telephone paging devices (e.g., beepers and pagers))~~ (collectively, "cell phones") enable communication whenever a situation arises necessitating immediate contact, regardless of the person's location at the time. The Superintendent and the administrators who meet one or more of the following criteria are required as a condition of employment to personally own a **cellular telephone** ("cell phone") and obtain an appropriate service plan so that the cell phone is available for use for business-related communications:

- A. their jobs require them to spend a considerable amount of time outside of their assigned office or work area during regular work hours and have regular access to telephone and/or Internet/data connections while outside their office or assigned work area;
  - B. their jobs require them to be accessible outside of scheduled or regular work hours or to be contacted and respond in the event of an emergency;
  - C. their jobs consistently require timely and business critical two (2) way communication for which there is no reasonable alternative technology;
- (This is not intended to include occasional, incidental access or purely voluntary access such as checking e-mail from home.)**
- D. ☒ safety requirements indicate having a cell phone is an integral part of meeting the requirements of the employee's job description;
  - E. ☒ more than fifty percent (50%) of the employee's work is conducted outside the employee's assigned office or work area;
  - F. ☒ the employee is required to be contacted on a regular basis outside regular work hours;
  - G. ☒ the employee is required to be on-call 24/7.

Administrators who are required to have a personally-owned cell phone as a condition of their employment shall receive a monthly cell phone allowance ("allowance"), up to an amount approved annually by the Board to reimburse them for the costs associated with maintaining and using the personally-owned cell phone for business purposes. Additionally, other staff members who believe that they meet the above-identified criteria may apply for an allowance.

**Amount of the Allowance**

☒ The allowance shall consist of the following:

~~( ) a monthly allowance of up to a specific dollar amount for cellular telephone service;~~

OR

☒ a monthly allowance of up to a specific dollar amount for cellular telephone service and a wireless Internet/data connection;

OR

~~( ) a monthly amount (as set forth in either of the two (2) preceding options) plus a prorated amount (i.e., usually spreading the cost of the device over twenty four (24) months) to cover the cost of the cell phone [Comment: Remember, simple cellular telephones are significantly less expensive than smartphones that include a wireless Internet/data connection];~~



OR

~~( ) a monthly allowance up to a specific dollar amount for cellular telephone service (possibly including wireless Internet/data service) and a one-time stipend to cover the employee's cost of acquiring the cell phone. [Comment: If either of the latter options is selected, include language limiting the equipment allowance to no more than once every two (2) years, or some other reasonable period of time.]~~

The allowance shall not reimburse the employee's dollar-for-dollar costs for the cellular telephone service, and shall not exceed the expenses the employee actually incurs in maintaining ~~the employee's his/her~~ personally-owned cell phone.

The allowance shall not serve as a substitute for a portion of the staff member's regular wages, and does not constitute an increase to base pay and will not be included in the calculation of percentage increases to base pay due to annual raises, job upgrades or benefits based on a percentage of salary, etc. The Board will pay only the Board-approved allowance even if actual monthly costs exceed the allowance. If the amount of the allowance needs to be changed because of documented business purposes, the employee should notify the Superintendent by submitting a new Cell Phone Allowance Request Form (Form 7530.01 F1).

**[NOTE: START OF FIRST SET OF OPTIONS CHOOSE OPTION A OR OPTION B]**

**[X] [OPTION A] Option A**

No allowance will be paid when the employee is on an unpaid leave status, or is on an extended paid leave during which timely, essential business communications are not likely to be necessary.

**[ ] [OPTION B] Option B**

If an employee is absent for more than \_\_\_\_ ( ) **[insert time-frame - e.g. thirty (30)]** days on either a paid or unpaid leave of absence, the allowance will be temporarily discontinued (i.e. it will be prorated during the period of absence) unless:

- A. ( ) the employee can demonstrate ~~the employees/he~~ needs the cell phone for essential business communications during the period of absence, and/or
- B. ( ) the Superintendent approves the continuation of the allowance.

**~~NOTE: END OF FIRST SET OF OPTIONS]~~**

To be eligible to receive the allowance, the employee must maintain the type of cellular telephone coverage **(X)** and wireless Internet/data plan that is reasonably related to ~~the employee's his/her~~ job responsibilities. Beginning no later than **AUGUST** **[insert month]** annually, each covered administrator and staff member making application for the ~~allowance allowance~~, must submit to the Superintendent a Cell Phone Allowance Request Form (Form 7530.01 F1), including a copy of ~~the employee's his/her~~ most recent monthly invoices for ~~the employee's his/her~~ cellular telephone service ~~plan~~ to substantiate the amount of the allowance and a document identifying ~~the employee's his/her~~ cell phone number (including any pin number associated with a BlackBerry device) so that the employee may be contacted as the need arises. ( ) ~~If the employee receives either a one-time equipment allowance or a part of the employee's his/her monthly allowance is attributable to the cost of acquiring the cell phone, the employee must also include documentation of the cost of the cell phone with the Form.~~ **[END OF OPTION]** The employee must maintain an active cellular telephone service contract while the allowance is being provided.

**[ ]** ~~The Superintendent should use knowledge of each employee's duties (e.g., the projected number of minutes of monthly business-related calls, and whether the employee requires wireless Internet/data service) and budget considerations to determine the amount of monthly allowance to recommend to the Board for each employee. In determining the amount of the allowance to recommend to the Board, the Superintendent may take into consideration the cost of the basic equipment, whether wireless Internet/data service is needed, and the cost of the employee's monthly cellular telephone service plan.~~

In order to continue to receive the allowance, administrators are required to answer all business-related calls ~~they receive~~ on ~~their his/her~~ cell phone and promptly respond to any messages. ( ) **[Select this optional language if non-exempt employees (for Fair Labor Standard Act ("FLSA") purposes) receive the allowance. See Policy 6700.]** In order to continue to receive the allowance, non-exempt employees are required to answer during their regular work hours all business-related calls on ~~their his/her~~ personally-owned cell phone and promptly respond to any messages. Non-exempt employees are not permitted to work remotely via their personally-owned cell phone outside regular work hours without prior authorization from their supervisor. In other words, unless they are directed to provide an immediate response, all e-mails/texts/calls should be responded to only during regular work hours. Non-exempt employees must maintain a written record of all time spent preparing and/or responding to e-mails/texts and placing and/or answering calls outside regular work hours. **[END OF OPTION]**

#### **Allowance Is Not Considered Taxable Income**

Provided the employee maintains and uses ~~his/her~~ personally-owned cell phone for business purposes as described herein, the allowance should not be considered additional income to the employee (i.e., the allowance will be treated as a non-payroll reimbursement of a business expense - similar to mileage reimbursements - and no payroll taxes will be withheld from the employee's paycheck for the amount of the allowance and the amount of the allowance will not be reported as wages on the employee's year-end W-2 statement). Additionally, staff members who receive an allowance are not required to submit a log documenting their business-related use of the cell phone; non-exempt employees, however, must comply with the timekeeping requirements set forth above. For determination of individual taxability, employees should check with their tax advisor.



## Employee's Responsibilities

The employee is responsible for choosing the his/her cell phone, the voice and/or wireless data plan, and the service provider. Since the cell phone is the employee's personal property, the cell phone may be used for personal calls (see below concerning the making of personal calls during work time) and be combined or enhanced with other personal plans (i.e., the employee may also, at the employee's his/her own expense, add extra services or equipment features, as desired). The employee is responsible for paying all monthly service charges in full and on time. The Board does not accept any liability for claims, charges, or disputes between the service provider and the staff member. Because the employee is personally responsible for the cell phone, any replacement for loss or damage will be at the expense of the employee. Such replacement or repair must be completed promptly and the Superintendent must be notified if the employee will not be available by the employee's his/her cell phone for a period of time.

Employees should contact the vendor/carrier through which they purchased their cell phone and their cellular telephone service (including wireless Internet/data service, if applicable) for support.

**[X]** Employees may contact the District's IT Department/Support Staff for consultation on the type of equipment to purchase if they are obtaining wireless Internet/data service in order to enable e-mail and calendar support through the District's servers (e.g., through Microsoft Exchange, Google Mail, Novell GroupWise, etc.) and to obtain assistance in setting up their device to connect to the District's servers. The District's IT Department/Support Staff will assist employees who have wireless Internet/data service with e-mail and calendar functionality.

### Changing or Ending a Cellular Telephone Service Contract Early

If prior to the end of a cellular telephone and/or wireless Internet/data service contract, a personal decision by the employee results in the need to end or change the contract, the employee will bear the costs of any fees associated with the change or cancellation.

If prior to the end of a cellular telephone and/or wireless Internet/data service contract, the employee's misconduct, or misuse of the cell phone, results in the need to end or change the contract, the employee will bear the costs of any fees associated with the change or cancellation.

If prior to the end of a cellular telephone and/or wireless Internet/data service contract, the Board determines to reduce or cancel (unrelated to employee misconduct) the employee's monthly allowance, the Board will bear the cost of any fees associated with the change or cancellation. For example, if the employee is reassigned and/or the employee's his/her duties are changed, and the cell phone is no longer needed for business purposes, if the employee does not want to retain the current contract, changes or cancellation fees will be reimbursed by the Board.

When selecting the duration of the employee's his/her cellular telephone and/or wireless Internet/data service contract, the employee should take into consideration the length of the employee's his/her Board-approved employment contract and not select a duration of the service contract that exceeds the employment contract. If the employee is non-renewed or voluntarily resigns while the service contract is still in effect, the Board will not be responsible for any fees associated with the employee's decision to subsequently change or cancel the contract.

Once the allowance is given to the employee to purchase a device, the cell phone remains the employee's personal property. However, upon termination, nonrenewal or resignation, the Board will immediately discontinue the monthly allowance.

### Safe and Appropriate Use of Cell Phones

Employee safety is a priority of the Board, and responsible use of cell phones, requires safe use. See Policy 7530.02 - Staff Use of Personal Communication Devices.

Employees may not use a cell phone in a way that might reasonably create in the mind of another person an impression of being threatened, humiliated, harassed, embarrassed or intimidated.

### Duty to Maintain Confidentiality of Student Personally Identifiable Information - Public and Student Record Requirements

Employees are subject to all applicable policies and guidelines pertaining to protection of the security, integrity and availability of the data stored on their cell phones. See Policy 7530.02 - Staff Use of Personal Communication Devices.

### Potential Disciplinary Action/Termination of the Cell Phone Allowance

Violation of this policy may constitute just cause for disciplinary action up to and including termination. Use of a cell phone in any manner contrary to local, State or Federal laws will constitute misuse, and will result in immediate termination of the allowance.

### [ ] Reimbursement for Business-Related Calls on a Personally-Owned Cell Phone

[ ] If a Board employee's job duties do not include frequent need for a cell phone, the employee is not eligible for a cell phone allowance or a Board provided cell phone. Such employees, however, may request reimbursement for the actual extra expenses of business-related calls that are made/received on their personally owned cell phones. Reimbursement for per minute "air time" charges is limited to the total overage charge shown on the invoice; expenses for minutes included in the employee's personal plan will not be reimbursed. The employee should make personal payment to the provider, and then submit a request for reimbursement, which details the date/time of the call, to whom the call was placed or from whom the call was received, and a brief description of the purpose of the call. A copy of the employee's



cellular telephone service bill must be attached to the request for reimbursement (the employee ~~( )~~ may ~~( )~~ should redact any personal calls from the bill prior to submitting it). Business-related calls made on school property should be made from traditional land-line phones, when readily accessible, and therefore will not be reimbursed if made on a personally owned cell phone.

~~[ ] When authorized in writing by the Superintendent, the cost of using a personally owned cell phone for official business may be reimbursed to the employee. Having a personally owned cell phone is a choice the employee makes, and if the device is used for business purposes, any reimbursement will be for reasonable costs in excess of the base service plan plus any additional charges such as roaming fees or other fees and taxes incurred as a direct result of the business use. In no instances will the employee be reimbursed more than the monthly cost to the employee. To receive the reimbursement, the employee must document the inbound/outbound telephone number, name of person called, texted, or e-mailed or the individual who called, texted, or e-mailed the employee, and the date and purpose of the communication along with the original service plan bill.~~

#### **~~[ ] Employee Use of Board-Owned Cell Phones~~**

~~The Board will provide Board-owned cell phones to certain employees who require specific equipment or similar technology to perform District functions (e.g., school safety, physical plant maintenance, etc.) and expect never to use these devices for personal use. The Superintendent must approve such exceptions. Employees who qualify for this exception must submit to the Treasurer's Office monthly documentation in the form of a copy of their respective cell phone usage logs, verifying business use. The log must note the date/time of the phone call, to whom the call was placed or from whom the call was received, a brief statement of the purpose of the call, ~~( )~~ and if the cell phone has wireless Internet/data service, a statement that all use of the wireless Internet/data service was business-related. The employee's immediate supervisor will be required to approve all charges, attesting that all calls were business-related, by initialing the copy of the usage logs. If an employee fails to keep current with this documentation requirement, ~~the employees/he~~ will be required to return the Board-owned cell phone.~~

#### **~~[SELECT ONE OF THE FOLLOWING]~~**

~~[ ] If a personal call inadvertently occurs, restitution must be made to the District.~~

~~[ ] If the employee uses the Board-owned cell phone for personal business,~~

~~( ) a prorated portion of that month's bill, which is related to the employee's personal use of the device, will be treated as compensation for the employee.~~

~~( ) the employee will be required to reimburse the District for a prorated portion of that month's bill, which is related to the employee's personal use of the device.~~

#### **~~[END OF OPTIONS]~~**

The Board reserves the right to switch an employee to the cell phone allowance program if excessive calls are made or if required documentation is not submitted in a timely manner.

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I.R.S. Notice 2011-72 (effective December 31, 2009)

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