



University Policy: Cell Phone (Bring-Your-Own-Device) Allowance

Policy Category: Financial Policy

Responsible Executive: Chief Financial Officer, Vice President & Treasurer

Office Responsible for Review of the Policy: Office of Finance and Treasurer

Related University Policies: Electronic Discovery and Data Preservation Policy, Records Retention and Disposal Policy, Data Security for Mobile Devices, IT Security Policy, Data Classification Policy

Related Local and Federal Laws: The Small Business Jobs Act of 2010 ("Act"), removed cell phones from the definition of listed property for taxable years beginning after December 31, 2009. The Act did not address the treatment of employer-provided cell phones (or other electronic communication devices, hereafter referred to collectively as "cell phones") as taxable fringe benefits. The IRS addressed this matter in Notice 2011-72 (IRB 2011-38) stating that employer-provided cell phones could be treated as excludible fringe benefits, being deemed to have met the Sec. 162 substantiation rules, so long as certain requirements were met.

I. SCOPE

Cell phones are an important and necessary form of communication to fulfill many of the job duties of the employees of American University. This policy is designed both for organizational cost efficiency and to allow employees who have a documented business need for flexibility in choice of cellular service provider and device. However, there are members of the AU community whose responsibilities exempt them from this allowance policy. They will be provided fully paid cell phone or other electronic communication device during their employment. All other forms of ongoing reimbursement for personal cell phone usage must conform to this policy.

II. POLICY STATEMENT

A. Employee Allowance for BYOD Cell Phones

Cell phone allowances are intended to offset an employee's expenses related to business use of a personal device and service plan. Employees must have a demonstrated business need for a mobile device, as defined under Section III. C. "Employee Eligibility", and this need must be regularly reviewed and certified by his or her supervisor and the unit budget manager.

The allowance, which is provided through payroll on a nontaxable basis, is a single flat rate and is determined by the Office of Finance and Treasurer based on average basic cellular costs for the area and benchmark data of other institutions. The allowance is meant to cover business costs only, as reasonably expected, and not the full expense of service for a personal cell phone. American University will not provide funding for the purchase or replacement of a personal cell phone in addition to the monthly allowance amount. Allowances will not be processed retroactively. The university reserves the right to change the allowance amount based on changes in the market.

B. Exempt Personnel

A member of the President’s Cabinet may designate certain AU personnel, based on operational need, to receive fully paid (including international coverage) cell phone or other electronic communication device through their unit’s account. Such personnel will be exempt from the allowance provisions of this Policy. OIT will provide a standard set of cellular phone services to support such personnel.

C. Data Storage and Retention Guidelines

Data, text messages, email or voice messages related to university business on and/or transmitted via cell phone or electronic communication device are university records and subject to all university policies including but not limited to the Records Retention and Disposal Policy, Electronic Discovery and Data Preservation Policy, Data Security for Mobile Devices, IT Security Policy and Data Classification Policy. Storage of confidential data on cell phones is prohibited (e.g., salary information, student grades, etc.).

III. DEFINITIONS

A. Cell phone

For purposes of this policy, cell phone refers only to mobile phones and smartphones used for business purposes. Mobile wireless access devices (“hotspots” or “mifi”), iPads and other tablet form devices are excluded from allowance eligibility under this Policy.

B. Employee Eligibility

Employees of American University, whose supervisor and unit budget manager have certified that they meet one or more of the following requirements:

1. Significant travel on behalf of the university (e.g., admissions, development staff)
2. Need to remain in regular contact with their respective offices while requiring to spend significant time away (30% or more, as determined by the supervisor) from regular work place during normal office hours (e.g., some IT support staff)
3. Job requires employees to be regularly accessible to perform operational tasks before and after normal work hours (e.g., some public safety, facilities, housing, dean of students, media relations, etc.)
4. Other specific requirements with Cabinet level approval

C. Cell Phone Allowance

Cell Phone Allowances are payments to eligible employees with a signed and approved Cell Phone Agreement Form in place. These allowance are made through each regular paycheck (monthly or bi-weekly) on a nontaxable basis.

IV. PROCEDURES

The following roles and responsibilities for the Cell Phone Allowance assignment process is established to ensure due diligence while reducing recordkeeping requirements and expenses.

A. Determination of Eligibility

It is the responsibility of the supervisor and the unit budget manager to make the initial determination of eligibility for the Cell Phone Allowance or Exempt status based on the employee's duties, business need, and the funding availability of the unit. The supervisor should review the employee's duties and business need for a cell phone on an annual basis.

B. Application for Cell Phone Allowance

A Cell Phone Allowance Agreement (the Agreement) must be completed and signed by employee, supervisor, and unit budget manager. The unit budget manager is responsible for keeping the signed agreements in the unit's files and for processing all cell phone allowance payment requests to Payroll.

C. Managing Exemptions

Those exempt from this allowance policy will require written approval of a member of the President's Cabinet and such records will be maintained by the respective unit's budget manager.

D. Changes in Eligibility

1. If upon review it is determined that the employee no longer has a demonstrated business need for a cell phone, it is the responsibility of the employee's supervisor to ensure that the allowance is terminated with appropriate communication to the employee.
2. If the employee separates from the university, the allowance will be terminated automatically by Payroll. The employee is responsible for contacting OIT to remove university content from their personal cell phone.
3. If the employee changes administrative units, the current supervisor is responsible for terminating the allowance. If the employee is determined to be eligible for cell phone allowance based on the new job duties, then it is the responsibility of the employee's new supervisor to process a new Agreement, in accordance with Section IV (B) above.

V. EFFECTIVE DATE AND REVISIONS

This Policy is effective as of March 1, 2015.

