

SECTION: Administration

SUBJECT: Mobile Communication Devices

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**Background:** This policy sets forth the procedures and rules governing departmental use of mobile communication devices at Lewis-Clark State College. Mobile communication devices (MCD) include cellular phones, Blackberries, smart phones, and similar devices. This policy does not address laptop computers, ipads, or other equipment that does not have a phone component.

**Point of Contact:** Administrative Services (Controller's Office)

**Other LCSC offices directly involved with implementation of this policy, or significantly affected by the policy:** Purchasing

**Date of approval by LCSC authority:** 11/5/2012

**Date of State Board Approval:** N/A

**Date of Most Recent Review:** N/A

**Summary of Major Changes incorporated in this revision to the policy:** N/A

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**Policy:** In limited circumstances, as described below, and with approval from the responsible administrator(s) and Vice-President or President, an LCSC department may determine that an employee's official duties require use of a mobile communication device (MCD). To facilitate this requirement, LCSC may a) purchase MCD's and related service plans, or b) provide a non-taxable reimbursement (allowance) to employees to cover a portion of the cost of maintaining a personal MCD and a related service plan.

**Authority:** The IRS considers MCD's to be "a working condition fringe benefit, the value of which is excludable from the employee's income (IRS Memo Control Number SBSE-04-0911-083)." As such, the IRS requires that the employee must maintain the type of MCD coverage that is reasonable related to the needs of the employer's business, and that the reimbursement must be reasonably calculated so as not to exceed expenses the employee actually incurred in maintaining the MCD. The reimbursement for business use of the employee's personal MCD must not be a substitute for a portion of the employee's regular wages or a method to provide additional compensation to an employee.

**Employee MCD Allowance:** Where an employee allowance is chosen to satisfy the need for a MCD, the level of reimbursement shall reflect the type of device and service level that is necessary for the employee to perform their duties. The allowance shall not be higher than the cost of an equivalent MCD plan if purchased by the College, or higher than the actual cost of the employee's personal device.

**A. MCD Eligibility**

1. The College may provide a MCD allowance to an employee if at least one of the following criteria is met:

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- a. The employee has a documented business purpose for frequent use of an MCD, such as their job requires considerable time outside the office, and use of the MCD facilitates the effective conduct of business operations.
  - b. The employee is required to be accessible, at any time of day, to the public, faculty, students, or staff by telephone.
  - c. The employee has the need to receive or initiate communications in emergency situations and/or after business hours.
2. The employee's supervisor, Dean, and Vice President or President must approve the MCD allowance.
  3. The allowance will be charged to an account specified by the employee's supervisor, who must ensure availability of funding. Departmental eligibility criteria can be more (but not less) restrictive than the College criteria stated above.

**B. MCD Allowance Amount**

1. The employee allowance is intended to reimburse an employee for the average business use of the MCD, not necessarily to pay the entire bill. The amount of the allowance should be commensurate with the requirement for business use and reviewed annually by the approving supervisor for appropriateness.
2. In addition to the allowance for the service plan, the College may assist with paying the purchase cost of an MCD device itself, but no more than once every two years. Employees must present an MCD purchase receipt or similar documentation in order to receive this allowance. The MCD will belong to the employee, who can choose an MCD with more features and pay the difference if desired. The College will not pay for activation fees or insurance.
3. All employees are subject to paying back their MCD purchase reimbursement if they resign within the first year of purchase. The recovered amount will be prorated based on the actual amount of time employed.
4. Eligibility for the allowance or level of the allowance provided is subject to change or cancellation as determined by the employee's supervisor.
5. The MCD allowances are not considered an entitlement, or part of base pay used for calculating percentage salary increases.
6. Approved allowances will be submitted for payment via departmental requisition, and are subject to renewal each fiscal year. Allowances will be paid quarterly. Departments are ultimately responsible for employee repayment of any prepaid allowance should separation from employment occur.
7. Administration and/or supervisors may periodically request a copy of a monthly bill that includes the total amount paid for the MCD service, and an indication of the business and personal use to determine the appropriateness of eligibility for, and level of, the allowance amount.

**C. Employee Responsibilities**

1. Complete and sign the Mobile Communication Device Agreement form thereby certifying that he/she will provide the phone number within five days of activation and will be available for calls ( in possession of the phone and have it turned on) during time periods specified by the approving supervisor.

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2. Select any MCD carrier whose service meets the requirements of the job responsibilities as determined by his/her supervisor.
3. Inform the College to discontinue the MCD allowance when the eligibility criteria are no longer met or when the service is cancelled. If such notification is not submitted within 30 days, of no longer meeting criteria, or service cancellation, the employee must repay any allowance received.
4. Pay all charges on his/her personal MCD plan. If the employee leaves their position, he/she continues to be responsible for the contractual obligations of their MCD plan. Early termination fees may be paid by departments if the employee is involuntarily separated from the College and the plan is over and above what his/her normal personal plan requires. Documentation from the MCD provider of early contract cancellation and applicable fees must be provided for such a reimbursement.
5. Comply with applicable laws regarding the use of MCD's while driving and avoid MCD use that may jeopardize the safety of the employee or others.
6. Acknowledge that MCD transmissions are not secure and that employees should use discretion in relaying confidential information over MCD's.

**College-owned devices:** Purchase of an MCD by the College is typically limited to situations where an employee is required to be in contact at all times, and a) where the employee may not be able to purchase a personal device, b) where the device is likely to be damaged due to the nature of the employee's work (ex: grounds, maintenance), c) where the devices are checked out and/or are interchangeable among department employees, or d) where it is more cost effective to the College to purchase the device and service plan. MCD's and related service agreements are to be purchased from a State-contracted vendor only.

**A. Eligibility**

A College-owned MCD must be used primarily for conducting official business, and departments are responsible for monitoring employee use.

1. The College may purchase MCD's and pay for service in certain limited circumstances-e.g., phones that rotate among on-call staff, or for maintenance personnel. All equipment purchased remains the property of the College.
2. The employee's supervisor, Dean, and Vice President or President must approve college-owned devices.
3. Supervisors or their designee must review the monthly bills of College-owned MCD's to ensure compliance with MCD usage.

**B. Employee Responsibility**

1. Complete the Mobile Communication Device Agreement to acknowledge MCD policies, procedures, and receipt of College-owned MCD.
2. Employees will restrict use of College-owned device for personal use unless all of the following criteria are met:
  - a. The employee's personal use is infrequent and short in duration **and**
  - b. The employee's personal use does not result in addition charges to the College **and**
  - c. The employee's use does not count as work time

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3. Employees shall comply with applicable laws regarding the use of MCD's while driving and avoid MCD use that may jeopardize the safety of the employee or others. Such use may include texting, emailing, or verbal communication.
4. Employees are prohibited from text messaging while driving a vehicle, during official business, or from using government-supplied electronic equipment to text message or email when driving.
5. Employees recognize that MCD transmissions are not secure. Employees must use discretion in relaying confidential or sensitive information over MCD's.
6. Employees shall not engage in inappropriate use of the MCD (illegal downloads, harassing calls, etc.).

**Miscellaneous:** Both the nature of electronic communications and the public character of the College may make certain MCD use less private than users may anticipate. As such, employees should be aware that federal and state laws and College policies, guidelines, and regulations may limit the protection of certain aspects of individual privacy in connection with the use of a MCD under this policy. For example, in certain circumstances, the College may permit the inspection, monitoring, or disclosure of phone records and text messages, consistent with applicable laws, by College personnel or law enforcement officers. The College and its employees may be required to disclose phone records, text messages, and other electronic data and documents pursuant to the Idaho public records laws or court order.

Employees are expected to take reasonable care of the devices. In the event that a MCD is lost, damaged, or destroyed, the employee may be required to replace it at his/her expense based upon the situation and at the supervisor's discretion.

It is the department's responsibility to review MCD needs annually to determine whether the MCD program is still applicable and should be maintained, changed, or discontinued. The employee must provide, when requested by administration, a monthly bill that includes total taxes and fees paid by the employee for the MCD service. The employee is to indicate on the bill which calls are business related in order to assess the amount of business and personal use.

If, prior to the end of the MCD contract period, a College decision unrelated to employee misconduct results in the need to end or change the MCD contract (ex: change in duties), the College will bear the cost of any fees associated with change or cancellation.

Questions, requests for assistance or other issues regarding this policy should be directed to the Controller at X2335 or Purchasing at x2288.

The Mobile Communication Device Agreement form can be found at:

<http://www.lcsc.edu/media/172069/MCDagreementFY13.pdf>