Northern Virginia Community College  
Cell Phone Stipend Plan Information

College Cell Phone Stipends are limited to only those who meet at least one of the following criteria:

- The employee’s job requires that they work regularly in the field and need to be immediately accessible
- The employee is responsible for critical infrastructure and needs to be immediately accessible at all times, even when not on an NVCC campus or site
- The employee travels and needs to be accessible or have access to information technology systems while traveling
- The employee frequently makes or receives calls after hours or on weekends

The college preference is for employees who need a cell phone to receive a stipend and not a college-owned phone. Cell phone stipends are only for those employees who meet the criteria and regularly use the cell phone for business purposes as described above. They are not for those who are just on-call or make occasional use of a cell phone. The college will only provide a college-owned Cell Phone (rather than a Cell Phone Stipend) where it is impractical for the employee to use their personal cell phone for college business due to one of the following situations:

- The employee meets one of the criteria above, but is not expected to answer calls after hours or on weekends.
- The employee receives a high volume of vendor phone calls.
- The employee receives a very high volume of after-hours or weekend phone calls.
- Many of the calls are of long duration—especially after hours or on weekends.
- Other special situations require the approval of the VP for Instructional & Information Technology.

Those who receive a Cell Phone Stipend agree to the following:

1. If the wireless communication device is lost, no longer active, or no longer needed for job responsibilities, the employee must notify ITSS and Human Resources.
2. Employees who receive a stipend for a smart phone must use a password to protect the data on the phone, and must notify the cell phone company and ITSS immediately if the phone is lost or stolen.
3. The college reserves the right to modify or remove the stipend at any time.
4. Aspects of the Freedom of Information Act (FOIA) or the Virginia Public Records Act may apply to smart phones, and FOIA requests must be responded to promptly. (See the note at the end of the form.)
5. The monthly stipend allowance covers College business-related costs.
6. The College assumes no responsibility for early termination of cell phone contracts.
7. The employee must follow college Acceptable Use and Social Media policies.
8. The employee must allow the number to be posted on appropriate phone lists.
9. If the college employs mobile device security software, the employee will use that software for connections to NVCC or VCCS systems.

8/25/15
The current amounts for Cell Phone Stipends are as follows:

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<table>
<thead>
<tr>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>Smartphone</td>
<td>$130.00</td>
</tr>
<tr>
<td>Basic Phone</td>
<td>$  92.00</td>
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</tbody>
</table>

The allowable reimbursement for a cell phone device is already included in the monthly stipend amount shown above.

Cell phone providers have modified plan provisions that reduce the cost of monthly service and change how the cost of cell phone devices are paid for; therefore, as of August 25, 2015, the college no longer supports separate reimbursement for cell phone devices, including upfront payments associated with a two-year cell service contract.

Activation fee on a new cell phone line (one time only) will be reimbursed.

Requests for a Cell Phone Stipend must be made on the appropriate request form to the Vice President of Instructional and Information Technology, and must be renewed annually.

Additional Cell Phone Stipend Program Information

- Stipend amounts assume the employee will take advantage of available state employee discounts offered by the cell phone companies.
- Stipend amounts include cell phone plans and devices, fees and taxes, and an amount for the tax due on the stipend.
- The stipend for wireless communication is paid through College payroll.
- Stipend rates will be reviewed regularly.
- The stipend will be considered taxable income.
- If an employee receives a Cell Phone Stipend, the employee is responsible for purchasing the wireless communication device and service plan. The device is the employee’s personal property.
- The stipend is not considered part of base pay.
- All stipends and college-owned cell phone costs are paid from department/unit budgets.
- The choice of phone and carrier for college-owned Cell Phone is at the discretion of IT Support Services. The choice of phone and carrier for those receiving a Cell Phone Stipend is up to the employee. Currently, the college only commits to supporting the Apple iPhone.
- Requests for Cell Phone Stipends and college-owned Cell Phones require the approval of the employee’s supervisor, Administrative Council member, VP of Instructional and Information Technology.

**Freedom of Information Act (FOIA) or the Virginia Public Records Act applicable to personal cell phones used for public business?**

FOIA’s definition for “public records” would most likely not include phone, internet and text bills for personal devices, but it would include actual voice mails, e-mails and text messages stored on those devices if sent or received in the transaction of public business. FOIA defines “public records” broadly as:

All writings and recordings that consist of letters, words or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostatting, photography, magnetic impulse,
optical or magneto-optical form, mechanical or electronic recording or other form of data compilation, however stored, and regardless of physical form or characteristics, prepared or owned by, or in the possession of a public body or its officers, employees or agents in the transaction of public business.

Va. Code § 2.2-3701. Based on this definition, a strong argument can be made that phone bills are not the writings and recordings constituting the transaction of public business; they are instead just information about the transaction of public business. (There is also one AG Opinion that indicates that it generally was not the General Assembly’s intent when passing FOIA to cover records in the possession of private companies. 1995 Op. Va. Att’y Gen. 4. Invoices issued by AT&T, Sprint and Verizon invoices would not be subject to FOIA unless in a public employee’s possession.) However, any stored voice or electronic messages prepared, or in the possession of, a public employee would be subject to FOIA if they are writings and recordings sent or received for transacting public business even if the device used to prepare or receive them is a private device.

Further, the Virginia Public Records Act, which has a comparable definition for public records, states: “Ownership of the hardware, software, or media used to create, store, or access the electronic record has no bearing on a determination of whether such record is a public record.” Va. Code § 42.1-77. That Act also generally requires that records not be deleted until the applicable Library of Virginia record retention and disposition period has ended. See www.virginia.edu/recordsmanagement/Schedules/GS-101.pdf.

Generally, voice mail messages “having a bearing on actions or decisions taken or not taken” should be transferred to another electronic or paper format and kept as long as other electronic or paper records are kept. Thus, if other records exist or are created which essentially mirror the voice mail message, the voice mail message may be deleted in accordance with the Act. Routine voice mail messages only need to be retained as long as administratively necessary, and then they may be deleted.

Regarding e-mail messages, correspondence and subject files contained in an agency head’s e-mail messages should be retained by the agency for 5 years and then transferred to the Library of Virginia’s archives for permanent retention. Like paper records, all other historically significant e-mail messages must be retained by the agency permanently. Correspondence by e-mail must be kept by department heads for 3 years and then destroyed, and by all other employees for 2 years and then destroyed. Routine and administrative e-mails need only to be retained for as long as administratively necessary and then they may be destroyed.

Approved by Administrative Council: February 8, 2011
Reviewed August 25, 2015