

33.04.02 Use of Telecommunication Services

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Regulation Statement

This regulation provides guidelines for members of The Texas A&M University System (system) governing the use of workplace telecommunication services which include land line and system-owned cellular telephones and facsimiles.

Reason for Regulation

This regulation supplements System Policy 33.04, *Use of System Resources*, and provides further guidance to members as it pertains to workplace telecommunication services.

Procedures and Responsibilities

1. GENERAL

In general, workplace telecommunication services used for personal use shall not (1) result in additional expense incurred by the system; (2) be more than incidental in nature; (3) impede normal business functions; (4) be for non-approved private commercial purposes; (5) be used for illegal activity; (6) be used to intentionally access, create, store or transmit obscene or patently offensive materials; or (7) be used to compete unfairly with private sector entities or private consultants. Workplace telecommunication services include land line and system-owned cellular telephones and facsimiles.

If it is necessary for an employee to incur an additional charge from a system telephone or facsimile for non-business use, it is strongly encouraged that a personal calling card, collect or third-party charge be used. If long distance calls are made from member phones, reimbursement shall be made by the individual to the member per Section 2 of this regulation. No non-business collect calls shall be charged to a system telephone (see also System Policy 33.04). If the non-business usage of telecommunication services results in a direct cost to the state for any reason, it is the employee's responsibility to reimburse the member as shown in Section 2 of this regulation. The use of telecommunication services for any illegal activity or to intentionally access, create, store or transmit patently offensive or obscene materials, as defined in Texas Penal Code § 43.21 (other than in the course of

academic research), is strictly prohibited regardless of whether or not it results in an additional charge to the state.

2. Members have the responsibility to monitor telecommunication services usage by each employee. Members will ensure compliance with Section 1 of this regulation including review of the telecommunication services charges by departments and employees. If incidental non-business use of telecommunication services results in a direct cost to the member, the charge shall be identified and the full direct cost shall be reimbursed by the employee. This reimbursement shall include the appropriate charges and any applicable taxes and fees. Texas Ethics Commission Advisory Opinion No. 372 allows for incidental “personal use of telephones or computer services as long as the state is reimbursed for any direct costs incurred” and that the use “does not impede agency functions.”
3. Incidental use of a telecommunication service that meets the above criteria will not be subject to personal income tax under IRS Notice 2011-72 as long as the use is considered a de minimis fringe. Members have the responsibility to document that the personal use of member-issued cell phones is incidental and that it meets the de minimis requirement. Department heads shall certify the business reason for the device.
4. If communication allowances are deemed necessary and appropriate by the member for positions which require use of personal communications devices, the member may develop guidelines for such an allowance as defined in System Regulation 25.99.09, *Cellular Communication Devices and Services*.

Related Statutes, Policies, or Requirements

[Texas Ethics Commission Advisory Opinion No. 134](#)

[Texas Ethics Commission Advisory Opinion No. 372 \(as modified\)](#)

[Texas Penal Code, § 43.21](#)

[Internal Revenue Code, § 132\(e\)](#)

[System Policy 33.04, *Use of System Resources*](#)

[System Regulation 25.99.09, *Cellular Communication Devices and Services*](#)

Prior to the October 2013 version of this regulation, it was published as System Regulation 25.99.08, *Use of Telecommunication Service*.

Definitions

De minimis fringe – any property or service, the value of which is (after taking into account the frequency with which similar fringes are provided by the employer to the employer’s employees)

so small as to make accounting for it unreasonable or administratively impracticable, as defined in 26 U.S.C. § 132(e).

Incidental – time periods comparable to reasonable coffee breaks during the day, as assigned by Texas Ethics Commission Advisory Opinion No. 372.

Obscene – as defined by the Texas Penal Code, § 43.21.

Patently offensive – so offensive on its face as to affront current community standards of decency, as assigned by Texas Penal Code, § 43.21.

Workplace telecommunication services – land line and system-owned cellular telephones, facsimiles and all other workplace-provided services generally thought of as telecommunication services.

Member Rule Requirements

A rule is not required to supplement this regulation.

Contact Office

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