451 Use of Hand Held Communication Devices

I. Purpose

(1) Faculty and staff are sometimes required to use cell phones and other handheld wireless communication devices in the performance of their jobs. The cost of the business use of these devices can be significant. Such devices provided by employers for business purposes are capable of being used by employees for personal purposes and are considered by the IRS to be "listed property" subject to IRS regulations. These devices have become a focal point in recent IRS audits. This policy addresses the conditions under which a cell phone or other handheld wireless communication device may be provided to an employee.

II. Definition

(1) Listed property includes items obtained for use in the business but designated by Internal Revenue Code Section 280F(d)(4) as lending themselves easily to personal use. Listed property specifically includes cellular phones, and similar handheld wireless communications equipment, as well as other property of a type specified by the IRS.

III. Scope

(1) This policy applies only to equipment defined in "II.1" above and related services paid by the Foley School District from any source.

IV. Business Purpose

(1) The District may issue cell phones or other handheld wireless communication devices to employees if the employee meets the eligibility standards established by this policy. These devices provided by and paid for by the District must be necessary for District business on an ongoing, recurring basis.

V. Eligibility and Approvals

(1) Eligibility for a District-provided cell phone or other handheld wireless communication device is based on the demonstrated and documented need for the employee to use such device frequently in the performance of their job. The device/service plan may not exceed the employee's job requirements and must be ordinary and necessary to enable the employee to:

   i. Remain in touch with others due to the nature of the job, such as frequent business-related travel or work outside the office setting.

   ii. Be available for emergency contact, for instance: police/security, IT support, building and grounds maintenance, health and counseling services, etc.

(2) The Superintendent or his/her designee is responsible for identifying or approving jobs that may require use of cell phones and other handheld wireless communication devices, and for indicating the type of device and service (e.g., number of hours/month, national vs. international service plans, data, texting, etc.) appropriate to meet business needs. All such devices/services paid for by District funds must be approved by either the Director of Operations and Finance or Superintendent and will be based upon availability of funds.

VI. Effect of Termination or Change in Job Requirements

(1) If an employee's duties change over time so that the employee no longer needs a cell phone or other wireless handheld communication device to perform his/her job, or if the employee ceases to be employed by the District after being provided with such equipment, the employee is required to return the equipment to the District's central administration office. The employee's supervisor is responsible for reviewing the necessity of providing such equipment to employees on a periodic basis and taking steps to recall equipment no longer needed by employees for the performance of their duties.

VII. **Effective Date**

(1) Employees of the District should be in compliance with this policy by June 30, 2009. A supervisor may require earlier compliance with this policy.

VIII. **Access to Cell Phone Use for Business Purposes**

(1) When an employee has been issued a cell phone to conduct District business, the employee must make one of three choices regarding the personal use of the cell phone:

i. District-Provided Cell Phone With Employee Reimbursing the District for personal use: In this plan, the allowed service plan must be specified by the District's Central Office. The total cost of the employee's plan is between the District and the employee according to the allocation specified in the attached procedures. The amount that the employee owes the District will be a payroll, after-tax deduction. The District may require that each call be documented as personal or business to assure that the employee is paying his/her share and thus be in compliance with IRS rules.

ii. District-Provided Cell Phone and it will not be used for personal use: If an employee receives a District-provided cell phone where the monthly service charge is paid from District funds, the employee may specify in writing that there will be no personal use of the cell phone. The services allowed will be specified by the District's Central Office. To be in compliance with the IRS, the District will periodically audit the use of the phone to assure that it is being used exclusively for business. If the employee uses the phone for personal reasons, the value of the monthly service charge will be taxable income to the employee and will show up as earned income in the employee's W-2 statement. In order to comply with E-Rate, the District will not accept documentation of personal calls to be paid by the employee.

iii. The employee provides a cell phone and plan to district specifications outlined in the attached procedures.

IX. **Risk Management**

(1) For safety reasons, employees are not allowed to use a cell phone when operating a district owned vehicle except for the purpose of obtaining or rendering emergency assistance.

(2) Employees who are driving their personal vehicles on school business are expected to understand that safety must come before all other concerns including the use of a cell phone. Special care should be taken in situations where there is traffic, inclement weather, or driving in an unfamiliar area. Under no circumstances should you place yourself at risk to fulfill business needs.

(3) If an employee is cited for a traffic violation resulting from the use of the cell phone while driving, the employee will be solely responsible for all liabilities that result from such actions.

Foley Public Schools Adoption Record: 07-18-2016

Procedures for Allocation of Costs for Personal Use of Hand-held Devices

1. By June 1 each year the employee who is eligible for a District-provided cell phone or other hand-held device must specify in writing which choice in VIII they will chose for the next fiscal year.

2. The Reimbursement Pool for Personal Usage:
   a. The employees in the pool will specify their estimated personal use of the phones or hand-held devices
   b. The district reserves the right to examine the records to determine rates independent of self-reports.
   c. The district will determine two personal usage rates based on the usage rates of those in the pool:
      i. Hand-held devices (cell phones) without email or internet capacity
      ii. Hand-held devices with voice, email and internet capacity
   d. Beginning July 1 each year the estimated personal use rate will be deducted from the individuals' payroll who have elected this choice.

3. Employees who supply their own phone pool:
   a. The District specified plan determination will be made by May 1 of each year to provide 30 days for employees to make a choice of plans.
   b. The district specifications for an employee supplied phone are to create the least costly option for intra-district phone calls among district employees with a cell phone for the succeeding fiscal year. For instance, the district's Verizon plan as of May 1, 2009, provides for free cell to cell calls. Therefore the district will specify for 2009-10 that the employee provide a phone on a Verizon plan to continue free cell to cell calls for employees with district issue cell phones.
   c. Should the district not need the physical phone, the employee may use the district phone provided that they pay for plan.
   d. Should the district need the physical phone, the employee must supply both the phone and plan.