

HR/LR Policy and Procedure #1423

State Policy: Appropriate Use of Electronic Communication and Technology

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Authority Enterprise Human Resources along with Department of Administration and Office of Enterprise Technology

OVERVIEW

Objective	To set standards for the use of electronic communication and technology by state employees
Policy Statement	<p>The State of Minnesota provides a variety of electronic tools for employees whose job performance requires or would be enhanced by the use of its technology.</p> <p>These electronic tools include, but are not limited to, the following:</p> <ul style="list-style-type: none"> • Desk telephones • Mobile devices (e.g., iPhones, iPads, BlackBerry's, Android phones) • Computers • Facsimile machines and printers • Pagers • Electronic mail (e-mail) systems • Internet access <p>The State faces the challenge of making maximum use of the benefits of such tools, meeting legal requirements for access to information, and providing adequate protection for proprietary information. This policy memorandum governs access to and the appropriate use of State-provided electronic tools and technology at all times, including both work and non-work time, by State employees in the executive branch, consultants and/or contractors.</p> <p>Employee access to and use of electronic tools is intended for business-related purposes. Limited and reasonable incidental use of these tools for occasional employee personal purpose that does not result in any additional costs or loss of time or resources for their intended business purpose is permitted. Incidental use is defined as minimal duration in length and frequency.</p>
Scope	Applies to all state employees
Definitions	N/A
Exclusions	N/A
Statutory References	M.S. 43A.38, Subd. 4; M.S. 43A.39, Subd. 2; Minnesota Statute 169.475

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Department Head Responsibility: Appointing authorities are encouraged to use this policy as a framework for issuing their own departmental policies. Modifications may be made to accommodate individual departmental needs, so long as they do not enlarge or diminish what the statutes allow. In the event that an appointing authority does not promulgate an agency-specific policy, this policy shall be the applicable policy.

Employee Responsibility: Executive branch employees are responsible for appropriate use of all state-owned electronic tools. They are expected to adhere to the highest ethical standards when conducting State business and to follow the Code of Ethics and related State statutes applicable to executive branch employees.

M.S. 43A.38, Subd. 4 provides "Use of state property":

a. An employee shall not use or allow the use of state time, supplies, or state-owned or leased property and equipment for the employee's private interest or any other use not in the interest of the state, except as provided by law.

b. An employee may use state time, property, or equipment to communicate electronically with other persons including, but not limited to, elected officials, the employer, or an exclusive bargaining representative under chapter 179A, provided this use, including the value of time spent, results in no incremental cost to the state or results in an incremental cost that is so small as to make accounting for it unreasonable or administratively impracticable.

c. The commissioners of administration and management and budget shall issue a statewide policy on the use of electronic mail and other forms of electronic communications by executive branch state employees. The policy is not subject to the provisions of chapter 14 or 179A. Appointing authorities in the legislative and judicial branches shall issue policies on these issues for their employees. The policies shall permit state employees to make reasonable use of state time, property, and equipment for personal communications and shall address issues of privacy, content of communications, and the definition of reasonable use as well as other issues the commissioners and appointing authorities identify as necessary and relevant.

M.S. 43A.39, Subd. 2 provides "Noncompliance":

- a. Any employee who intentionally fails to comply with the provisions of Chapter 43A shall be subject to disciplinary action and action pursuant to Chapter 609.

Managers and supervisors are responsible for ensuring that employees appropriately use all electronic tools through training, supervising, coaching and taking disciplinary action, when necessary.

Each agency is responsible for establishing internal policies regarding password management, encryption, data practices, monitoring access, records retention, and the like, and for communicating those policies to staff. Each agency will ensure that the responsible authorities within their agencies know who can access what, using what technology, and under what conditions.

Appropriate Use: State employees need to use good judgment in the use of all State-provided electronic tools and technology. They are expected to ensure that messages conveyed are appropriate in both the types of messages created and the tone and content of those messages. Employee use of all State-provided electronic tools and technology must be able to withstand public scrutiny without embarrassment to the agency or the State of Minnesota.

Examples of inappropriate use include, but are not limited to:

1. Illegal activities
2. Wagering, betting, or selling
3. Harassment, disparagement of others, stalking, and/or illegal discrimination
4. Fund-raising for any purpose unless agency sanctioned

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5. Commercial activities, e.g., personal for-profit business activities
6. Promotion of political or religious positions or activities
7. Receipt, storage, display or transmission of material that is or may be reasonably regarded as violent, harassing, discriminatory, obscene, sexually explicit, or pornographic, including any depiction, photograph, audio recording, or written word
8. Downloading or installing software (including games and executable files) unless agency sanctioned
9. Unauthorized accessing of non-public data
10. Non-State employee use (e.g., family member or friend) at work or away from work
11. Uses that are in any way disruptive or harmful to the reputation or business of the State
12. Purposes other than state business, except incidental or minimal use

Engaging in any of the above listed activities may subject an employee to discipline, up to and including discharge.

The traditional communication rules of reasonableness, respect, courtesy and common sense and legal requirements also apply to electronic communication. Actions that are considered illegal such as gambling and sexual harassment are not up to the discretion of individual agencies or individual managers or supervisors, and such actions will subject the employee to disciplinary action up to and including discharge.

Employees should be aware that they might receive inappropriate, unsolicited e-mail messages. Any such message should be deleted before opening if an employee does not believe the e-mail is coming from a reputable person or organization. If an employee does open an e-mail and discover it to be inappropriate in nature, or a potential security threat such as a virus, they should report it immediately to their agency chief information security officer (CISO), or another designee within the agency. Under no circumstances should an employee either forward or reply to these messages prior to consulting with their CISO or another designee.

While employees may make personal use of State technology such as e-mail and Internet access, the amount of use during working hours is expected to be de minimis. De minimis use is defined as so small or minimal in difference that it does not matter or the law does not take it into consideration. Excessive time spent on such personal activities during working hours will subject the employee to disciplinary action.

Union Use: In the interest of maintaining effective labor management relationships and efficient use of State time and resources, State e-mail systems may be used by employee representatives of the union for certain union activities, in accordance with provisions of applicable bargaining unit agreements.

State-owned property or services including the e-mail system may not be used for political activities, fund-raising, campaigning for union office, union organizing activities, or solicitation of employees for union membership.

Union use of electronic communication technology is subject to the same conditions as employee use of such technology, as set forth in this Policy Memorandum. This includes the conditions set forth in the paragraph below entitled, "Monitoring."

Monitoring: Electronic communication devices such as mobile devices, desk telephones, facsimile machines, pagers, State e-mail systems, Internet access, any and all software, data, or other information stored on a State-owned computer are state property. Like other State-owned resources, they are intended to be used for State business and other agency-sanctioned activities.

State-owned electronic communication devices may be monitored, read, examined, seized, or confiscated as necessary. Accordingly, the State reserves the right to monitor any and all electronic communication device activity. Electronic monitoring of telephone conversations will only occur if proper notice has been given, in accordance with Federal regulations for Stored Wire and Electronic Communications and Transactional Records Access (Federal Wire Tap Regulations) -- see 21 U.S.C. 2701-2711.

Employees should not expect that any state-owned electronic communication device activity will remain

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private. The State reserves the right to monitor any use of these systems, including use of these devices while the employee is on his/her own time, to access any information on these systems, and to take any action it determines to be appropriate with respect to that information.

Data that agencies maintain electronically are government data and, as such, are subject to classification and access under the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13. Employees should understand that electronic data may not be completely secure. They should also understand that e-mail messages and Internet transactions, including those they delete or erase from their own files, may be backed up or recorded and stored centrally for system security and investigative purposes. E-mails and records of Internet activities may be retrieved and viewed by someone else with proper authority at a later date. It is the user's responsibility to use care in communicating information not meant for public viewing.

Because electronic communication systems, such as facsimile, e-mail and Internet systems may not be secure, it is recommended that employees not send any data classified under the Minnesota Government Data Practices Act as not public (private or confidential data on individuals or nonpublic or protected nonpublic data not on individuals) through unsecured facsimiles or over the e-mail or Internet systems unless the data are encrypted or encoded.

Record Retention Schedules: Record retention schedules are the same regardless of the medium used to create or store the record. As a result, many electronic records and e-mail messages are official records of the agency and must be retained in accordance with the agency's approved record retention schedule appropriate for the type, nature and content of the record. Improper disposal may subject the employee and the agency to legal sanctions and other administrative or legal consequences. The same rules that are used to determine if a paper, microform or videotaped record should be retained apply to electronic records or e-mail messages.

This policy memorandum was developed with the assistance of State human resources managers and information technology and policy managers under the auspices of the Departments of Minnesota Management & Budget and Administration. It will be updated and revised as needed. **If you have questions, please contact your agency human resources office or the designated official in your agency.**

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June 26, 2006
January 3, 2012

Mobile Devices Use Addendum to the State Policy Appropriate Use of Electronic Communication and Technology

Business Use Justification Requirements – Mobile devices and service are provided for official state business use and are made available to employees in positions where the associated benefits justify the additional operating costs. Employees who travel or have job responsibilities that include being outside of the office or are continuously on call for extended periods may be good candidates for a state-assigned mobile device.

State agencies shall review and assign mobile devices and services consistent with their internal procedures.

Employees will acknowledge the receipt and acceptance of the conditions for the individual assignment of a state-owned mobile device using an agency or a State of Minnesota form developed for this purpose. See: [Acknowledgement of Receipt, Mobile Device Services and Equipment form.](#)

The agency is responsible for keeping the Acknowledgement of Receipt form on file for the duration of the individual assignment of a mobile device to an employee. When the employee leaves his/her position or is no longer an authorized user, the state mobile device must be returned to the employee's supervisor or other

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designated official.

Public Information – Call detail (e.g., time, number called, date, duration) of calls appearing on the state mobile device billing account is public information, except when exempt by statute.

Use of State Mobile Device for Personal Calls – The use of state-owned mobile device equipment and service is intended for state business. Personal use of state-owned mobile devices is allowable only for incidental use.

Potential Disciplinary Action – Employees are expected to use state mobile devices responsibly and in accordance with this policy and any applicable work rules. Personal use of a state mobile device in violation of this policy or agency work rules may result in revocation of the mobile device assignment and possible disciplinary action against the employee. The State reserves the right to seek reimbursement for excessive personal use of any state-owned mobile device.

Monthly Mobile Device Billing Review and Annual Service Reviews – Agencies are responsible for reviewing monthly mobile device billings, not unlike any other type of billing it receives. Agencies may use their discretion in determining who performs this review.

Agencies are encouraged to conduct an annual review of the individual cellular telephone assignments to determine if there is a continuing need and if it remains cost-justified.

Use of a Personal Mobile Device for State Business – Without authorization given through their agency, employees should not use their personal devices to conduct state business. Agencies that authorize such use must do so in accordance with the Office of Enterprise Technology's Enterprise Security Portable Computing Device Standard:

http://mn.gov/oet/multimedia/pdf/SEC_S_Enterprise_Security_Portable_Computing_Devices.pdf

Number Portability – In the event of a change of vendors for the state's cellular contract, in most cases cellular numbers may be ported (transferred) from one vendor to another.

Porting a personal cellular number to a state billing account is prohibited, as is porting a state cellular number to a personal billing account. This will avoid commingling personal and business calls.

Employee Safety – State employees are highly discouraged from using a mobile device to make a phone call while operating a motor vehicle in the conduct of state business, except for the purpose of making a phone call to obtain or render emergency assistance. Further, the use of a mobile device is prohibited in all contracts the state has entered into with rental car agencies, with the only exception being its use in an emergency situation only. Additionally, employees are reminded that the use of a mobile device for non-telephone communication (e.g., texting) is illegal in Minnesota while operating a motor vehicle. Minnesota Statute 169.475 states:

169.475 USE OF WIRELESS COMMUNICATIONS DEVICE.

Subdivision 1. Definition.

For purposes of this section, "electronic message" means a self-contained piece of digital communication that is designed or intended to be transmitted between physical devices. An electronic message includes, but is not limited to, e-mail, a text message, an instant message, a command or request to access a World Wide Web page, or other data that uses a commonly recognized electronic communications protocol. An electronic message does not include voice or other data transmitted as a result of making a phone call, or data transmitted automatically by a wireless communications device without direct initiation by a person.

Subd. 2. Prohibition on use.

No person may operate a motor vehicle while using a wireless communications device to compose, read, or send an electronic message, when the vehicle is in motion or a part of traffic.

Subd. 3. Exceptions.

This section does not apply if a wireless communications device is used:

- 1) solely in a voice-activated or other hands-free mode;

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- 2) for making a cellular phone call;
- 3) for obtaining emergency assistance to (i) report a traffic accident, medical emergency, or serious traffic hazard, or (ii) prevent a crime about to be committed;
- 4) in the reasonable belief that a person's life or safety is in immediate danger; or
- 5) in an authorized emergency vehicle while in the performance of official duties.

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RESPONSIBILITIES

Agencies are responsible for:	Implementing agency policies and procedures to supplement this statewide policy as necessary
MMB is responsible for:	Administration and maintenance of the this policy in conjunction with the Department of Administration and Office of Enterprise Technology

FORMS AND INSTRUCTIONS

Contacts	Enterprise Human Resources, Department of Administration, Office of Enterprise Technology
References	Administrative Procedure 1.2 -- Harassment Prohibited HR/LR Policy and Procedure #1329 -- Zero Tolerance for Sexual Harassment Minn. Stat. 1.50 -- Freedom From Violence Minn. Stat. 15.86 -- State Agency Actions Minn. Stat. Chapter 13 -- Government Data Practices Minn. Stat. 43A.38 -- Code of Ethics for Employees in the Executive Branch Minn. Stat. 138.17 -- Government Records; Administration Minnesota Management & Budget Policy and Procedure No. 0807-04 -- Cellular Phone Purchase, Payment and Reimbursement