
**MINNESOTA STATE COLLEGES AND UNIVERSITIES
EMPLOYEE CODE OF CONDUCT
SYSTEM PROCEDURE 1C.0.1**

FREQUENTLY ASKED QUESTIONS

System Procedure 1C.0.1 contains the Code of Conduct for Employees of Minnesota State Colleges and Universities. The Code of Conduct is based on statutes and system policies affecting system employees. Employees have a duty to avoid conflicts of interest. Employees and supervisors should consult the Code of Conduct and the appropriate statute or policy when an ethics issue arises.

The following questions and answers cover topics that are frequently raised by employees and supervisors. These are intended as illustrations; each actual situation may include facts or circumstances that affect the analysis of how the ethics rules apply. Employees or supervisors with ethics-related questions should direct them to their human resources office.

I. BOOKS, COURSE MATERIALS

1. Accepting free class materials.

Q. I received a free textbook [or software or other course materials] from a publisher to review for possible use in one of my courses and am not required to return the textbook to the publisher. May I accept the textbook?

A. Yes, you may accept the textbook (or software or other course materials). Instructors “may accept free samples of textbooks and related teaching materials” as provided under Minnesota Statutes section 15.43. However, employees are not allowed to sell such materials for personal gain; see question 2, below.

2. Selling textbooks supplied by publisher.

Q. Am I permitted to sell the free textbook sent to me by the publisher and keep the proceeds from the sale?

A. No. System Procedure 1C.01, Part 3, Subpart B.2 prohibits such sales by an employee. Free course materials are provided by publishers as a way of informing faculty members about available resources, rather than to foster the sale of such materials for individual gain. Minnesota Statutes section 43A.38, subdivision 5(c) prohibits using one’s position “to secure benefits, privileges, exemptions or advantages for the employee or the employee’s immediate family or an organization with which the employee is associated which are different from those available to the general public.” In addition, publishers generally provide textbooks and other classroom materials with the understanding that they are not to be sold by the recipient. If a faculty member receives such materials and has no further use for them, the faculty member is encouraged to give the materials to the college or university either for further use or other proper disposition.

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3. Assigning self-authored class materials.

Q. I have developed a textbook and software specifically tailored to the needs of a class I teach. May I assign these as required materials for my class?

A. Yes, if there is a legitimate pedagogical reason for the textbook or software. Minnesota Statutes section 15.43, subd. 2 provides that:

“Textbooks, software, and other course materials authored by an employee of the Minnesota

State Colleges and Universities... may be used as required course material."

Two year college faculty instructors wishing to use self-authored or created materials must follow the procedure outlined in the MSCF bargaining agreement: "[T]eaching materials authored by a faculty member of the state's education systems including the University of Minnesota may be used as a required course material only upon receipt of written approval from the dean to whom the faculty member, making such requests, reports. This requirement applies only to materials that would result in a profit for the faculty member." 2005-7 MSCF

Bargaining Agreement, Article 23, Section 1 (p. 122).

4. Assigning self-published class materials.

Q. I have authored a textbook for one of the courses I teach and have self-published it. May I assign my self-published textbook in courses I teach?

A. Faculty may be able to require use of their self-authored textbooks or other course materials (see question above), however, state law does not provide a similar exemption for self-published materials. In order to require use of self-published course materials, the instructor must request permission from the college or university. The college or university must determine whether the charge for such materials is permissible under Minnesota Statutes section 43A.38, subd. 5-7.

5. Bookstore sale of faculty textbook.

Q. Our college operates its own bookstore on campus. One of our faculty members has authored and published her own texts for use in her class, and use of the textbook has been approved by her dean. May the bookstore sell the faculty member's textbook?

A. Under the circumstances described, there is not a conflict of interest that would prohibit the bookstore from selling the textbook authored by the faculty member. The college should determine that:

1. The bookstore is applying its usual business analysis to whether the item should be sold by the bookstore--e.g., likelihood of sale, ability to attract interest of people to come in to the bookstore, that the product is consistent with the types of products sold by the bookstore, etc., and the decision is not based simply on the fact that the author is a faculty member.
2. The faculty member/author is not involved in running the bookstore and making the kinds of business decisions noted above or otherwise able to directly influence the decision-making process.
3. The sale is subject to terms consistent with other comparable items. For example, if the bookstore gets a 5% cut on book sales, the bookstore would expect a similar return on sales of faculty-authored books. In this case, the college benefits its students by making available the approved text, and also from its ability to sell and make a profit from the product, which helps fund college activities or reduces other costs for students.

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II. DOOR PRIZES

Conference door prizes.

Q. I attended a conference as part of my job with the college. At the conference, door prizes were given and I won a nice gift, valued at around \$100. May I keep this door prize?

A. More information is needed to answer this question. The fact that the employee is attending the conference or event through state paid or authorized funding is not the sole factor in deciding whether a door prize can be accepted. Of course, it is assumed that the employee and supervisor have determined that the conference/event has value to the employee without regard to the possibility of door prize drawings. Factors to be considered in determining whether a door prize may be retained include, but are not limited to, whether:

1. The employee or immediate family member has any connections with the organization that supplied the prize;
2. The employee or any immediate family member has or anticipates having any contracting, regulatory, or other authority or control over relationship between the college, university, or system, and the donor organization or hosting organization;
3. The employee was involved in planning the event and/or obtaining the items to be used as door prizes;
4. The conference/event was open to other individuals, not just MnSCU or State of Minnesota employees; and
5. The door prize was awarded on a random basis.
6. The door prize is of more than nominal value.

Any questions about whether a door prize may be accepted should be referred to the human resources office.

III. CONFLICTS OF INTEREST—OUTSIDE EMPLOYMENT

1. Outside employment--general information.

Q. I am considering employment outside my employment with the college, university, or system office. May I accept such employment?

A. You may accept outside employment if:

1. The work will not interfere with your responsibilities as a system employee or interfere with your independence of your judgment in the exercise of official duties;
2. You do not use your system position to obtain the outside employment, secure benefits, privileges, exemptions or other advantages for yourself or your immediate family or an organization with which you are associated which are different than those available to the general public;
3. You do not use system resources in furtherance of such outside employment;
4. Acceptance of the outside employment will not affect your independence of judgment in the exercise of your official duties;
5. The outside employment is not in conflict with the interests of the college, university, or Office of the Chancellor; and
6. If you are an administrator, you have received advance approval of the outside employment.
7. Your outside employment does not violate the provisions of your employee plan or collective bargaining agreement.

Minnesota Statutes section 43A.38, subd. 5(b), (c). ***“When an employee believes the potential for a conflict of interest exists, it is the employee’s duty to avoid the situation.”*** Minnesota PER0004 - Page 4

Statutes section 43A.38, subd. 6.

2. Outside employment--private college or university.

Q. I am a faculty member in a highly specialized field. I have been asked by another institution to teach one course per semester in this field, similar to courses I teach at my current institution. Accepting this employment would not interfere with my regular teaching duties at my current institution. May I accept this outside employment?

A. Whether you may accept this outside employment while serving at your current institution must be decided by your current institution. It is up to your institution’s administration to decide whether the outside teaching opportunity creates competition with its own operations which it does not wish to allow.

3. Outside employment—system college or university.

Q. I am a faculty member at a system university. Another system institution has offered me the opportunity to teach one of my specialty courses in the evening, outside of my normal duty hours. May I accept this employment with another system institution?

A. As in the answer to the prior question, it is up to your institution’s administration to decide whether this teaching opportunity creates competition with its own operations which it does not wish to allow.

4. Outside employment—consulting work by non-administrative university faculty.

Q. I am a university professor and have the opportunity to provide consulting services for a fee in my area of expertise to a private business in my community. May I agree to provide these consulting services?

A. University instructional faculty covered by the Inter Faculty Organization bargaining agreement may accept outside employment subject to the limitations in the Code of Conduct (including conflict of interest provisions), and the Inter Faculty Organization bargaining agreement. Under that agreement, a faculty member may not engage in “consulting, employment or other activities which require the faculty member’s absence from the campus for more than an average of one full duty day per week in any academic year.” IFO Agreement, Article 27, Section C., Subd. 1e. Further, faculty members engaging in private practice are not to use official stationery or the address of the university, its buildings or departments, or the Office of the Chancellor. A faculty member serving as a regular paid consultant or staff member of a Minnesota state agency must have “an appropriate leave of absence

and deduction of pay at the university.”

5. Adjunct faculty member.

Q. I am an adjunct faculty member at a system institution and occasionally teach classes at another institution. Does the Code of Conduct apply to me?

A. Yes, the Code of Conduct applies to all employees, including those who are part time or intermittent. Independent contractors are not employees and are not subject to the Code of Ethics for Employees in the Executive Branch, Minnesota Statutes section 43A.38. However, independent contractors may be subject to other parts of the Code of Conduct, such as Board Policy 5.22 and System Procedure 5.221., Acceptable Use of Electronic Resources. Consult with your campus Human Resources Office if you have questions about your employment status.

As with other employees, the college or university may determine whether an employee’s outside employment would compete with the college or university, and may determine whether it is acceptable for an employee to hold another position that might be in competition with the college or university.

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5. Expert witness.

Q. I am a faculty member with expertise in a specialized area. I am occasionally contacted by attorneys asking me to serve as an expert witness for their client in a litigation matter. May I accept this employment?

A. Employees may accept outside employment that does not conflict with their college or university employment. (See above discussion.) In this instance, if your college/university determines that acceptance of this employment does not conflict with your employment responsibilities, you may accept the employment. However, you must be clear with the attorney and others that your testimony represents only your views and you are not appearing in an official capacity as a college/university employee. Further, your outside work must be on your own (non-work) time, unless otherwise provided for in your bargaining agreement. E.g., IFO faculty may “accept remuneration and expense reimbursement from an outside source for outside consulting, employment, or other activities performed on duty days, if such activities are in accordance with Inter Faculty Organization Master Agreement Article 27, Section C.”

6. Self-employment.

Q. I am a faculty member at a community college and teach accounting. I am considering starting a tax preparation service as a part-time business. May I own and operate a private consulting service or other business while employed by a college, university or Office of the Chancellor?

A. As a general matter, System employees are not prohibited by law from owning or operating a business outside their System employment. However, state law prohibits system employees from engaging in activities that conflict with their system employment or are in competition with their college, university, or Office of the Chancellor. The college must evaluate whether this activity is in competition with the college, including whether the college is engaged in tax return preparation services or has plans to engage in this activity in the future. The college determines that the faculty member’s outside business does not create conflicts with his college employment, the faculty member may establish his business as long as the faculty member:

1. Fulfills his employment responsibilities with the college
2. Does not use his college position or the college name to advance his tax preparation service, such as including them in advertising or trying to influence students, employees, or others to use his business; and
3. Does not conduct any of his business from the college or on college time, or use college electronic resources or other college resources to run any aspect of his business.

7. Speaker fees.

Q. I am a college administrator and have been invited to speak at a national conference offered by an industry group related to my field of expertise. The conference organizers have offered to pay me a stipend of \$500 for the speech. May I accept this stipend?

A. You may accept the stipend if: your participation in the conference is not part of your current responsibilities; you take personal leave time (for example, annual leave) for time used during normal office hours; and this outside employment has been approved by your institution’s administration. If

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done on business time, the stipend should be paid over to your college.

IV. CONFLICTS OF INTEREST—STUDENT RELATIONSHIPS

1. Doing business with students—general information.

Q. As a faculty member, may I enter into a business relationship with one or more of my students?

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A. Generally, no. System employees must avoid a business relationship that would create the potential to influence their relationship with a student either in the student role or as a customer of the outside job/business. Under state law, system employees may not use their positions to gain any advantage not available to members of the public. Therefore, the faculty member must avoid any business relationship with a student over whom she or he exercises direct or otherwise significant academic, administrative, supervisory, evaluative, counseling, or extracurricular authority or influence. Minnesota Statutes section 43A.38, Subd. 5(c).

2. Doing business with students—example.

Q. I work with farmers in our college's farm business management program. In my personal capacity I also raise and sell livestock apart from my college employment and am looking for a business partner to assist in his livestock operation. May I enter into such a business relationship with one of my farm management program students?

A. In your role as a farm business advisor you are in a position to be able to exert significant influence over program advisees (regardless of whether you intend to do so). In this instance, even with the best intentions, your personal investment has the potential to influence your advice to your farm business management student for your own personal benefit rather than the sole benefit of your student, or to be perceived as such, and you must avoid the situation.

3. Romantic relationships with students.

Q. I team teach an evening graduate course geared toward secondary teachers wishing to complete a master's degree. All of the students are mature adults. The other instructor in the course is interested in asking one of our students for a dinner date following class some night. Is that permissible?

A. An instructor is not allowed to enter into a sexual or romantic relationship with a student in his or her class even if the instructor views the relationship as consensual (defined as "A sexual or romantic relationship between two persons who voluntarily enter into such a relationship."). Board policy 1B.1, Part 3 states that system employees are prohibited from entering into a consensual relationship with "a student or an employee over whom he or she exercises direct or otherwise significant academic, administrative, supervisory, evaluative, counseling, or extracurricular authority or influence."

IV. GIFTS/COMPENSATION FROM OUTSIDE SOURCES

1. Definition of "nominal."

Q. How is "nominal" defined for purposes of the "gift ban" under Minnesota Statutes section 43A.38, subd. 2(a)?

A. The statute does not provide a definition of "nominal." One dictionary definition of "nominal" includes the description of "being so small, slight or negligible as scarcely to be entitled to the name." *Webster's Third New International Dictionary Unabridged*. Another measure is that something with little or no market value would be considered nominal. Under Minnesota Statutes section 10A.071, public officials are prohibited from receiving a trinket or memento costing more than \$5; while System employees other than the Chancellor are not subject to that law, this provides another useful barometer for determining when something is of nominal value. One purpose of the statute is to prohibit employees from receiving gifts from outside sources that may influence, or be perceived as influencing, their decision-making responsibilities on behalf of their employer. If in doubt, an employee should check with their supervisor or HR director to determine if a gift is considered to be of nominal value.

2. Free golf, tickets, etc.

Q. In the course of my work as a college employee, I work with the local country club to plan an

annual college foundation golf tournament/fundraiser. The country club has offered me 18 free holes of golfing because of my working relationship with staff there. May I use the free round of golf?

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A. You may not accept the free golf for your personal use. This is because the free golf is of greater than nominal value, it was offered to you because of the work you do in your college position, and you are in a position of influence in determining whether the country club will host the event again. See Minnesota Statutes section 43A.38, subd. 2, 5. However, the college is not prohibited from accepting the free holes of golf and may be able to use the free golf in conjunction with the college foundation golf tournament.

3. Free flight for study abroad program.

Q. I am leading a college/university trip abroad to study art history. The number of students participating qualifies the group for a free flight. May I use the free ticket for my spouse or child to accompany me on the trip?

A. Generally, no. The ticket should be used to defray the expenses associated with the trip that would otherwise be paid by the college or other funding source—e.g., for the instructor. The instructor must request authorization from the president to use the free ticket for airfare since it constitutes reimbursement of travel from an outside source. An exception may apply if the family member also is employed by your college/university and has work-related duties for the trip, or is performing authorized volunteer responsibilities in accordance with System Procedure 4.00.1.

4. Gifts to supervisor, co-workers.

Q. Am I prohibited from giving a Christmas or birthday gift to my boss, the staff that I supervise, or co-workers?

A. The primary intent of the gift prohibition is to ensure that employees are not inappropriately influenced by outside parties in doing business on behalf of the state. Accordingly, a seasonal, holiday, birthday or similar gift to a supervisor or supervisee will not be regarded as a violation of the gift prohibition unless such gifts are excessive and are designed to gain a particular advantage for the giver with his or her supervisor or employees. Of course, employees or supervisors may not require other employees to participate in a gift-giving exchange, and supervisors may not use the receipt or absence of such a gift in making employment decisions.

5. Free meal from local officials.

Q. As part of my job duties at the university, I meet frequently with local officials. May I accept a meal provided by the city manager or other city officials with whom I am meeting?

A. As a general rule, employees who are conducting business on behalf of the college, university or office of the chancellor are not allowed to accept meals from an outside source for activities related to the employee's duties. Certain exceptions apply. In this instance, the employee must request approval in advance from the president or chancellor to accept the meal. The president or chancellor must determine whether acceptance of the meal should be authorized as part of the work assignment.

6. Complimentary hotel stay

Q. I arrange conferences and meals for various events sponsored by my college at hotels and resorts. One of the resorts I work with has offered me a free week-end stay. May I accept this?

A. Acceptance of the free week-end stay under these circumstances would be a violation of the gifts and compensation provisions of the ethics statute. Under the ethics statute, an employee is not allowed to accept gifts of more than nominal value from a vendor when that employee participates in decisions to award business to the vendor.

7. Employee recognition gifts.

Q. May a college/university provide gifts or awards to its employees for employee recognition, incentives to participate in surveys or other activities, etc.?

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A. Several factors must be evaluated to determine whether gifts or awards to employees are appropriate.

i. Approved length of service awards are permitted.

ii. Other awards or gifts are subject to Board Policy 5.20 and System Procedure 5.20.1.

Gifts or awards donated to the college or university by other sources (for example, the college or

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university foundation) may be given by the college or university to its employees as awards, gifts or incentives, provided that the gift or award does not violate the terms of the bargaining agreement or personnel plan applicable to the employee.

8. Travel paid by vendor.

I just received a vendor invitation to a February training seminar about their new product line. The vendor is offering to pay all travel and accommodation expenses for three employees; the product is of a type we use regularly. May I accept this travel? If so, what approval process must I go through? Does it matter where the seminar is held?

A. Acceptance of travel and meals from an outside source must be approved in advance and in writing by the college or university president, or the chancellor. Approval request forms are available from your chief human resources officer.

There are a number of factors that a president or the chancellor would consider in deciding whether to grant advance approval of this travel reimbursement. The overarching concern is whether the proposed “free” travel is – or would be perceived to be – interfering with the independence of purchasing decisions. Critical considerations would include: whether the campus has already purchased the product, or is it considering such a purchase; the extent to which the individuals attending the seminar may have influence over any future purchasing decision; and a close review of the entire agenda. The location of such a seminar (especially in February!) may well be a factor in determining whether the seminar is primarily of a technical benefit to the college, university or Office of the Chancellor, or an improper personal benefit to the employees.

9. Participation in professional organization.

I am a registrar and have long been involved in my national professional organization, which I think has been a great benefit to my school over the years. This year I am the president of the organization, which means several trips out-of-town for committee work and the annual conference. The organization pays for my travel expenses since I am an officer. May I accept travel reimbursement from the organization?

A. Participation in professional organizations is often an important way for employees to stay up to date on developments in their field, influence national policy discussions, and network with their professional counterparts. Such activities benefit the system, and help the employee grow professionally. As these activities, at least in part, appear to be on behalf of your school, and perhaps even during your regularly scheduled work hours, the Code of Conduct does have application. This includes obtaining prior approval from your president for any travel expenses that are reimbursed by the organization or any other third party.

Additionally, you may need to decline special meals, excursions or other “more than nominal” benefits that are selectively offered to officers by third party vendors. Are these benefits that are – or would appear to the public to be – calculated to influence your judgment about purchases or recommendations? Is the third party vendor attempting to use your prestige and position for its own promotion? Consult with your supervisor or chief human resources officer if you have questions about accepting benefits not available to regular members.

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V. NEPOTISM

Hiring relatives.

Q. My department hires extra help each summer to perform needed work. My son would like this work and is qualified to do the job. May I hire him for one of these positions?

A. Your son may apply for the position and may be hired if he is the best qualified applicant. However, under the nepotism policy and procedure (4.10 and 4.10.1), hiring and related decisions must be shifted to another supervisor so that candidates know that they are being fairly considered for the position. The ethics statute prohibits using one’s position to get a benefit not available to the general public, and you should have no role in the hiring decision or making salary, promotion, or other employment-related decisions for your son if he is hired. Posting the position and using an open hiring process also furthers the System’s commitment to equal employment opportunity.

VI. SOLICITATIONS

1. Electronic solicitation.

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Q. May I use college/university/system e-mail to solicit purchases of my child's school fundraiser?

A. No. System Procedure 5.22.1, Part 4, Subpart b.6. This provision prohibits use of system electronic resources for "fund-raising, private business, or commercial activity, unless it is related to the mission of the System or its colleges and universities. Mission related activities are determined by the college, university, or Office of the Chancellor, and include activities of authorized campus or System-sponsored organizations. Further, under this provision, "Users must not engage in inappropriate uses, including: ...f. 'spamming' through widespread dissemination of unsolicited and unauthorized e-mail messages."

2. Soliciting from friends.

Q. May I share my child's school/choir/scout group/etc. fundraiser brochure with my co-workers in the office?

A. Sharing fundraising brochures or similar activities is not treated as a violation of state nonsolicitation rules between employees who associate with each other on a regular basis and are not using their employment positions to try to influence another employee to contribute money or purchase a fundraising product. Employees are prohibited from using their positions to obtain contributions or sell fundraising products. Good co-worker relations depend on employees using appropriate judgment in sharing such opportunities with their work associates and not unfairly using their personal relationships to extract donations or sales.

VII. USE OF POSITION, PUBLIC RESOURCES

1. Using college/university equipment.

Q. The college I work for has tables and chairs that are used occasionally for seminars and other large meetings. I'm having a graduation open house at my home next month for one of my children and would like to borrow a few tables and some of the chairs. I know this equipment is not being used at the college during that time. May I borrow the tables and chairs as long as I return them in good condition?

A. No, employees may not borrow college or university-owned equipment even if it is not being used at that time by the college or university and even if the equipment is returned in good condition. Public resources may be used only for public purposes. Further, employees may not use their employment with the college or university (or Office of the Chancellor) to obtain a benefit not available to the general public. If the college or university rents out equipment to the general public during

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times that the equipment is not being used by the college (see System Procedure 7.6.1, Competition with Private Sector), an employee may rent the equipment on the same terms as members of the public.

2. Frequent flyer miles.

Q. I frequently travel in my position with the university. I often put in extra hours on these trips, and I have earned enough frequent flyer miles to get a free trip to Hawaii. May I use the frequent flyer miles I've earned through my job to take a trip to Hawaii with my family?

A. No. Frequent flyer miles earned through your job-related travel may not be used for personal purposes. This is true even if your air travel was paid by an outside source (such as a nonprofit association or the federal government). Instead, the frequent flyer miles you've earned through business travel should be used to pay for future business trips. See Minnesota Statutes section 15.435.

3. Raising funds for outside organizations.

Q. My supervisor is actively involved with a community organization that raises funds for good causes. She has made it clear to my co-workers and me that she expects each of us to buy tickets to the organization's annual community fundraising event. I cannot afford to buy the tickets, and do not really like the community organization. What can I do?

A. The supervisor is not allowed to use her position to require her employees to support her organization. Regardless of their position, employees may not use their position to get a personal advantage for themselves, their family or an organization in which they are involved. You should contact your Human Resources director to explain the situation and the Human Resources director must take appropriate steps to ensure that the supervisor stops this activity, and that the supervisor does not retaliate against employees for bringing the issue forward. Or you may file a confidential

report with the System's Office of Internal Auditing or the Minnesota Office of the Legislative Auditor.

4. Receiving awards.

Q. As part of my position with the university I belong to a national association for professionals in my field. Because of work I have done in my field, the association intends to honor me with a plaque. May I accept the plaque, which will cost about \$50.00 to make?

A. Yes, you may accept the plaque. The ethics statute has certain exceptions to the gift ban, and acceptance of a plaque recognizing an individual's contribution in their field is allowed.

5. Discounts for government employees.

Q. Am I allowed to take advantage of a special discount offered by a local business to "government employees"?

A. Generally, yes. The Department of Employee Relations PERSL #1332 states that "Special discounts or offers made generically to 'government employees' are generally not a violation of the Code of Ethics prohibition on gifts. Employees may generally take advantage of these offers, unless a conflict of interest is involved in that the work responsibilities of the state employee directly concern the private business that is making the offer." Further detail is provided in DOER PERSL #1332, available at: <http://www.doer.state.mn.us/cmr-prsl/1332-mmo.htm>.

6. Personal use of business cell phone.

Q. Because my position frequently requires me to be away from my office, my college provides me with a cellular phone. May I use my business cell phone for personal calls during the "free call" periods under the plan or if I reimburse the college for the personal calls I've made?

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A. Employees of system colleges, universities, and the Office of the Chancellor generally are not allowed to use their business cell phones for personal calls, whether or not the cell phone plan provides "free" minutes or the employee reimburses for the cost of calls made. System Procedure 5.22.1, Acceptable Use of Computers and Information Technology Resources, at Part 4, Subpart B.1.d prohibits such use unless it is specifically authorized by System or State policy or procedure.