

**FINANCIAL AND ADMINISTRATIVE POLICY
PERSONAL SERVICES PAYMENT (235)**

EMPLOYEE/INDEPENDENT CONTRACTOR DETERMINATION QUESTIONNAIRE

I. Please print all information

Individual's Name _____

Social Security Number _____

Department _____

Form Preparer _____

Phone Number _____

II. Current Relationships with the University

Does this individual currently work for the University as an employee?

Yes Treat as an employee
 No Go to Section III

III. Classification Guidelines (Complete only ONE of A, B, or C, depending on the services performed by the individual.)

A. Teacher/Lecturer/Instructor

1. Is the individual a "guest lecturer" (e.g., an individual who lectures at only one or two class sessions during the semester)? Yes Treat as an ind. contractor
 No Go to #2
2. Is the individual the primary instructor of a course, be it for college credit, continuing education credit, or noncredit? Yes Treat as an employee
 No Treat as an ind. contractor

B. Researcher

Researchers hired to perform services for a University department are presumed to be employees of the University. If, however, the researcher is hired to perform research for a particular University professor/doctor, please indicate which of the following relationships is applicable.

Relationship #1: The individual will perform research for a University professor/doctor under an arrangement whereby the University professor/doctor serves in a supervisory capacity (i.e., the individual will be working under the direction of the University professor/doctor). Treat as an employee

Relationship #2: The individual will serve in an advisory or consulting capacity with a University professor/doctor (i.e., the individual will be working with the University professor/doctor in a "collaboration between equals" type arrangement). Treat as an ind. contractor

C. Individuals Not Covered Under Teacher/Lecturer/Instructor/Researcher

1. Does the individual routinely provide the same or similar services to the general public as part of a continuing trade or business with the opportunity for profit or loss? Yes Go to #2
 No Go to 1a
- 1a. Does the individual offer their services to the general public through advertising, solicitations, brokers, or other similar activities? Yes Go to #2
 No Go to 1b
- 1b. Does the individual provide services under a registered or licensed business name? Yes Go to #2
 No Treat as an employee
2. Does the individual have a written contract for a specific period of time or to complete a specific result which also identifies the individual as an independent contractor for federal tax purposes? Yes Treat as an ind. contractor
 No Go to #3
3. Will the department provide this individual with specific instructions regarding performance of the required work rather than rely on the individual's expertise? Yes Treat as an employee
 No Go to #4
4. Will the University set the number of hours and/or days of the week that the individual is required to work, as opposed to allowing the individual to set own work schedule? Yes Treat as an employee
 No Treat as an ind. contractor

BELOW IS FOR HR TO COMPLETE

PROPOSED INDIVIDUAL DETERMINATION

HUMAN RESOURCES REVIEW SIGNATURE

Employee _____

Independent Contractor _____

Name _____

Date _____

Internal Revenue Service 20 point Checklist for Independent Contractor

Mistakenly classifying an employee as an independent contractor can result in significant fines and penalties. There are 20 factors used by the IRS to determine whether you have enough control over a worker to be an employer. Though these rules are intended only as a guide-the IRS says the importance of each factor depends on the individual circumstances-they should be helpful in determining whether you wield enough control to show an employer-employee relationship. If you answer “Yes” to all of the first four questions, you’re probably dealing with an independent contractor; “Yes” to any of questions 5 through 20 means your worker is probably an employee.

1. **Profit or loss.** Can the worker make a profit or suffer a loss as a result of the work, aside from the money earned from the project? (This should involve real economic risk-not just the risk of not getting paid.)
2. **Investment.** Does the worker have an investment in the equipment and facilities used to do the work? (The greater the investment, the more likely independent contractor status.)
3. **Works for more than one firm.** Does the person work for more than one company at a time? (This tends to indicate independent contractor status, but isn’t conclusive since employees can also work for more than one employer.)
4. **Services offered to the general public.** Does the worker offer services to the general public?

5. **Instructions.** Do you have the right to give the worker instructions about when, where, and how to work? (This shows control over the worker.)
6. **Training.** Do you train the worker to do the job in a particular way? (Independent contractors are already trained.)
7. **Integration.** Are the worker’s services so important to your business that they have become a necessary part of the business? (This may show that the worker is subject to your control.)
8. **Services rendered personally.** Must the worker provide the services personally, as opposed to delegating tasks to someone else? (This indicates that you are interested in the methods employed, and not just the results.)
9. **Hiring assistants.** Do you hire, supervise, and pay the worker’s assistants? (Independent contractors hire and pay their own staff.)
10. **Continuing relationship.** Is there an ongoing relationship between the worker and yourself? (A relationship can be considered ongoing if services are performed frequently, but irregularly.)
11. **Work hours.** Do you set the worker’s hours? (Independent contractors are masters of their own time.)
12. **Full-time work.** Must the worker spend all of his or her time on your job? (Independent contractors choose when and where they will work.)
13. **Work done on premises.** Must the individual work on your premises, or do you control the route or location where the work must be performed? (Answering no doesn’t by itself mean independent contractor status.)
14. **Sequence.** Do you have the right to determine the order in which services are performed? (This shows control over the worker)
15. **Reports.** Must the worker give you reports accounting for his or her actions? (This may show lack of independence)

16. **Pay Schedules.** Do you pay the worker by hour, week, or month? (Independent contractors are generally paid by the job or commission, although by industry practice, some are paid by the hour.)
17. **Expenses.** Do you pay the worker's business or travel costs? (This tends to show control.)
18. **Tools and materials.** Do you provide the worker with equipment, tools, or materials? (Independent contractors generally supply the materials for the job and use their own tools and equipment.)
19. **Right to fire.** Can you fire the worker? (An independent contractor can't be fired without subjecting you to the risk of breach of contract lawsuit.)
20. **Worker's right to quit.** Can the worker quit at any time, without incurring liability? (An independent contractor has a legal obligation to complete the contract.)