

District Guidelines Independent Contractor or Employee Questionnaire

You are required to provide a "yes" or "no" answer for each question. If you feel that further explanation is necessary to support your answer, please provide explanations on page 3.

Describe the skill level required for this engagement:

PART I	YES	NO
1. Has this category of worker already been classified an "employee" by the IRS? * The IRS has held that the following types of workers are employees: (IRS Pub. SWR-40) <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> Administrators Substitute teachers/instructors Driver education instructors Athletic coaches Tutors Custodians Proctors </div> <div style="width: 45%;"> Teachers/Instructors School bus drivers Clerical staff Cafeteria works Counselors Examination monitors Librarians </div> </div>	<input type="checkbox"/>	<input type="checkbox"/>
2. Is the individual already an employee of the District in another capacity?	<input type="checkbox"/>	<input type="checkbox"/>
3. Has the individual performed substantially the same service for the District as an employee in the past? <i>Is the individual retired, returning to substitute, or train, etc.?</i>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
4. Are there currently employees of the District doing substantially the same services as will be required of this individual?	<input type="checkbox"/>	<input type="checkbox"/>
5. Is the District expected to provide detailed instructions to carry out the task? <i>The extent of the District's instructions is to describe the end product and provide the time and the place to perform the engagement. The details of performing the task are left entirely to the discretion of the independent contractor. If any additional instructions are provided, please explain in the comment section.</i>	<input type="checkbox"/>	<input type="checkbox"/>
6. Are the services being provided an integral part of school business? <i>Are the services being provided necessary to the operation of the school, program, project, etc.? This indicates the District has an interest in the method of performance and implies the need for an employee.</i>	<input type="checkbox"/>	<input type="checkbox"/>

If the answer to any of the above questions is "YES,"

STOP HERE

Do not complete the rest of the questionnaire. The individual should be a District employee and must be paid and reported accordingly.

If all of the above are **NO**, continue...

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PART II	YES	NO
7. Must the required services be performed by this individual? <i>Consider whether or not the individual may designate someone else to do the work without the District's knowledge or approval. Need to correlate with required skill level.</i>	<input type="checkbox"/>	<input type="checkbox"/>
8. Does the District have a continuing relationship with this individual? <i>Is this a "one shot deal" or will the District continue to use this individual in the future?</i>	<input type="checkbox"/>	<input type="checkbox"/>
9. Can this relationship be terminated by either party? <i>The contractor is responsible for satisfactory completion of the job and may legally be obligated to compensate the hiring firm for failure to complete.</i>	<input type="checkbox"/>	<input type="checkbox"/>

If the answer to question 7, 8, or 9 is "YES," there is a good possibility than an employment relationship exists. Questions 7 and 8 are indicators of District control that, in conjunction with other factors, imply an employment relationship. Go back to PART I and re-evaluate each question. If questions 1 - 6 are still all "NO," continue...

10. Does the individual operate an independent trade or business that is available to the general public? <i>A determining factor in judging independence is the performance of services to the general public. NOTE: Possession of a business license or incorporation does not automatically satisfy this requirement. Conversely, there are instances where an individual runs a small business and may not perform services on a full-time basis but functions independently and offers services to a wide array of institutions, if needed. Please explain further, as necessary, in the comments section.</i>	<input type="checkbox"/>	<input type="checkbox"/>
11. Does the individual have a substantial investment in his/her business, i.e. maintains a facility, equipment, etc.? <i>This is indicative of <u>economic risk</u> inherent in business enterprises. An independent contractor must be able to make a profit or sustain a loss. Conversely, as in #10, this may be a small business with minimal investment required. Please explain situation further as necessary.</i>	<input type="checkbox"/>	<input type="checkbox"/>

If either 10 or 11 are "NO," there is a strong possibility that the individual does not qualify as an independent contractor and must be paid as a District employee. If this is so, STOP HERE.

If 10 and 11 are both "YES," (as justified in the comments section, if necessary) continue...

12. Does the individual provide all materials and support services necessary for the performance of this service? <i>The District should not be providing office space, clerical, secretarial, or any other support for this individual such as materials, copying, printing, office supplies, etc. Any necessary assistance would be hired by the individual.</i>	<input type="checkbox"/>	<input type="checkbox"/>
13. Is this paid by the job? <i>While a flat rate is descriptive of compensation to Independent Contractors, hourly rates may be used too engage certain professionals such as lawyers.</i>	<input type="checkbox"/>	<input type="checkbox"/>
14. Does the individual bear the cost of any travel and business expenses incurred to perform this service? <i>Generally, these types of expenses are paid by an employer, however, some contracts provide for payment of airfare, mileage, etc. for consultants.</i>	<input type="checkbox"/>	<input type="checkbox"/>

If 10 and 11 are "YES," 12 through 14 should also be "YES" and are items that should be written into the contract. This individual is an independent contractor.

Name & Title of Person Completing Questionnaire

Date

Reviewed by (Division Dean or Director)

Date

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Provide additional information (if necessary), referencing the question #.