

Independent Contractor Determination

Contractor's Name

Business Name

Brief Description of Services

PART I

Answer to Question 1. 1. Has this category of worker already been classified an "employee" by the IRS or working in a certificated or classified position prescribed by the Education Code?

Yes

No

The IRS predisposes an employer/employee relationship when state law mandates such a relationship.

Example of workers already determined by IRS to be employees:

Administrators	Examination Monitors
Teachers/Instructors	Proctors
Substitutes	Librarians
School Bus Drivers	Nurses
Clerical Staff	Psychologists
Athletic Coaches	Intern Psychologists
Tutors	Cafeteria Workers
Individuals "filling in" on an interim basis	School Counselors

Contact HR if you need additional information

Answer to Question 2. 2. Is the individual already an employee of the County Office in another capacity?

Yes

No

Answer to Question 3. 3. Has the individual performed substantially the same services for the County Office as an employee in the past?

Yes

No

Individual is retired, returning to substitute, or train, etc.

Answer to Question 4. 4. Are there currently employees of the County Office doing substantially the same services as will be required of this individual?

Yes

No

Answer to Question 5. 5. Does the County Office have the legal right to control the method of performance by this individual
Consider whether the County Office has to train this individual or give instruction as to when, where, how, and in what order to work. Does the County Office require the individual to submit reports or perform the services at a COE site? These factors would indicate the County Office maintains control sufficient for an employee relationship. However, it is not necessary that the County Office exercise this right or have the expertise required to do so. In many cases this would not be practical nor advisable.

Yes
No

Answer to Question 6. 6. Are the services, as being provided, an integral part of COE operations?
Are the services being provided necessary to the operation of the program, project, etc.? This indicates the County Office has an interest in the method of performance and implies the maintenance of legal control.

Yes
No

If the answer to any of the above questions is “**YES**”,

STOP HERE

Do **not** complete the rest of the questions. The individual is the County Office’s employee and must be paid and reported accordingly. Work with HR to follow the proper hiring or Personal Services Agreement (PSA) process.

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

PART II

Answer to Question 7. 7. Must the required services be performed by this individual?
Consider whether or not the individual may designate someone else to do the work without the County Office’s knowledge or approval.

Yes
No

Answer to Question 8. 8. Does the County Office have a continuing relationship with this individual? Did you use them in prior years? Other programs?
Is this is a “one shot deal” or will the County Office continue to use this individual in the future? This could be on an infrequent or irregular basis but a continuous relationship exists.

Yes
No

Answer to Question 9. 9. Can this relationship be terminated without the consent of both parties?

Yes
No

If the answer to questions 7, 8, or 9 is “YES,” there is a good possibility that an employment relationship exists. Questions 7 & 8 are indicators of County Office control that, in conjunction with other factors, imply an employment relationship. Go back to PART I and re-evaluate each question. If questions 1-5 are still all “NO” continue . . .

Answer to Question 10. 10. Does the individual operate an independent trade or business that is available to the general public? *A determining factor in judging independence is the performance of services to the general public. In evaluating this criterion, school districts are considered to be separate entities. Keep in mind: if the County Office is utilizing this individual’s services on a full-time basis, the individual is not available to the general public. NOTE: Possession of a business license or incorporation does not automatically satisfy this requirement.* The determination must be made on the actual relationship between the County Office and the individual performing services.*
Attach business license and certificate of general liability insurance.

Yes
No

