

## **Independent Contractor or Employee**

There is much gray area to be had when determining whether or not a worker should be classified as an employee or an independent contractor. The costs to the district of erroneously classifying a worker as an independent contractor are significant, and include back taxes, retirement contributions, interest, and penalties—not to mention the impact on the workers themselves. Therefore, classifying a worker as an employee should be the default—unless the district can make a compelling argument to classify the worker as an independent contractor.

	<b>Examples Indicating Level of Control</b>	
<b>Some Facts to Consider</b>	<b>Greater Control (Indicates Employee Designation)</b>	<b>Lesser Control (Indicates Independent Contractor Designation)</b>
How much control does the district have over how the work is performed?	Employer provides specific instructions and/or training on how to perform the work	Employer specifies only the outcome or work product
Where is the work performed?	Work is performed on the premises of the employer and/or under supervision	Work is performed at home using the worker's equipment and supplies
What is the basis for payment to the worker?	Worker's compensation is determined on an hourly basis and/or is reimbursed for expenses related to the work	Worker is paid for the completion of the work product, and/or is responsible for absorbing related expenses
Is the work being done a key component of the regular work of the district?	Worker is performing duties that support the regular line of business of the district - education	Worker is performing duties unrelated to the district's regular line of business - education
Are these duties performed by other employees in the employer's organization?	Worker is performing duties that have been performed either by existing or previous employees	Worker is performing duties not performed by any employees in the district
Does the worker hold themselves out to the public as a provider of that type of work?	Worker is performing these duties for only the district	Worker has established a business and/or provides these services to other employers