

To be completed by employer.

EDUCATIONAL RETIREMENT BOARD
701 CAMINO DE LOS MARQUEZ
P.O. BOX 26129
SANTA FE, NEW MEXICO 87502-0129
(505) 827-8030
FAX NUMBER: (505) 827-1855

EMPLOYEE VS INDEPENDENT CONTRACTOR (IC) DETERMINATION

Administrative Unit: _____ Position: _____
Name (IC): _____ SS #: _____
Retired Member Name _____ Federal ID No. _____
Address: _____ Phone No.: _____

Common-Law Control Test

An individual is an employee under the common-law control test when he is subject to control by the person for whom he renders services over the way he works—that is, control over when he works, where he works, and how he works.

1. Time of work. Does the employer regulate the hours of work during the day?
(An IC is in their own business and usually sets their own hours.) Yes ___ No ___
2. Does the employer furnish the tools, equipment, manuals or written procedures for accomplishing the jobs? Yes ___ No ___
3. Does the individual make these services available to the general public?
(True IC's make their services available to the public. The employer would not be their only source of income.) Yes ___ No ___
4. Will the individual be paid by the job as opposed to hourly, weekly, or monthly?
(IC's are paid by the job.) Yes ___ No ___
5. Will the employer pay or reimburse the individual's expenses?
(If the employer reimburses the IC's expense with receipts provided on an account, such as, mileage, then reimbursements are not 1099 reportable and the payment for services is reportable.) Yes ___ No ___
6. Must the work (services) be performed on the employer's premises? Yes ___ No ___
7. Does the employer have the right to discharge the individual?
(An IC should require written notification at least two (2) weeks in advance.) Yes ___ No ___
8. Does the employer provide or control the detail of how the work is to be accomplished?
(An IC delivers only the specific end product without detailed work instructions.) Yes ___ No ___
9. Is the individual required to perform the services personally? Yes ___ No ___
10. Does the arrangement between the individual and employer contemplate continuing or recurring work? Yes ___ No ___
11. Are the services provided by the individual a cog in the mission of the employer? Yes ___ No ___
12. Is the individual in a position to realize a profit or loss as a result of his/her services? Yes ___ No ___
13. Are the services to be performed by the individual currently being performed by employees or last performed by an employee? Yes ___ No ___

Signature of Authorized Official: _____

Title: _____

Date: _____

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STATE OF NEW MEXICO

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**DETERMINATION OF EMPLOYEE VS INDEPENDENT
CONTRACTOR**

1. Name of business: _____
2. Describe the business _____

3. Describe the work done by the worker: _____

4. Is the work done by a written agreement? _____ If so, please submit agreement.
5. If there is no written agreement, describe the terms and conditions of the work arrangement? _____

6. Has the worker received training by the employer? _____ If so, please explain: _____

7. Will the worker receive any training by the employer? _____ If so, please explain: _____

8. Is the worker given instructions in the way the work is to be done? _____ If so, please explain: _____
9. Is the worker given written instructions, procedures, guidelines? _____ If so, please explain and attach samples: _____

10. Will the employer change the methods used by the worker to direct the worker on how to do their work: _____ Please explain your answer: _____

11. Does the operation of the workers business require that the worker be supervised or controlled in the performance of the services? Please explain: _____

12. Is the employer engaging the worker to perform and complete a particular job only? Please explain: _____

13. Is the school engaging the worker to work at a job for an indefinite period of time? Please Explain: _____

14. Is the worker required to follow a routine or schedule? Please Explain: _____

15. Is the worker required to report to a supervisor? If yes, please explain and include any schedule and means of reporting: _____

16. Does the worker furnish a record of time for the job? _____ If so, please explain and provide samples of time sheets, etc. _____

17. State, if any, the kind of tools, equipment, supplies furnished by the employer: _____

18. State, if any, the kind of tools, equipment, supplies furnished by the worker: _____

19. What expenses are incurred by the worker in the performance of these services? _____

20. Does the school reimburse the worker for any expenses? _____ If so, please identify the expenses: _____

21. Will the worker perform the services personally _____ . Does the worker have helpers? _____ If yes, who hires the helpers? _____ Who pays the helpers? _____ . If the worker hires the helpers does the employer have to approve? _____
22. At what location are the workers services performed? _____

23. Describe the type of pay the worker will receive: _____

24. Is the worker eligible for pension, bonus, paid vacations, sick pay, etc.: _____

25. Does the employer carry workmen's compensation insurance on the worker? _____
26. Does the employer deduct social security, medicare taxes, and federal income taxes from the amounts paid to the worker? _____

27. How does the employer report the workers income to the internal revenue service?

28. How many hours a day does the worker perform services for the employer? _____
29. Does the employer set the time, hours of the day, the worker works? _____
If yes, please explain: _____
30. Does the worker perform similar services for other employers?: _____
31. Can the employer discharge the worker at any time without incurring liability? _____

32. Can the worker terminate the services at any time without incurring liability? _____

33. Does the worker perform the services under a business name? _____
34. Does the worker advertise or maintain a business listing in a phone directory, trade, or journal directory? _____ Does the worker provide business cards? _____. Please provide samples.
35. Does the worker hold himself/herself out to the public as being in business to perform the services: _____
36. Does the employer represent the worker as an employee of the school? _____
37. How did the employer learn of the workers services? _____

38. Is a license necessary for the services? _____ If yes, what kind of license?
_____ Is there a license fee? _____ Who is responsible
for the fee? _____.
39. Does the worker have a financial investment in the business related to the services
rendered? _____
40. Can the worker incur a loss in the performance of the service for the employer: _____
If so, please explain: _____
41. Has the employer ruled on the status of the worker? _____

42. Does the worker assemble or process a product at home or away from the location
of the services? _____ If so, please explain: _____
Who furnishes the material used by the worker? _____
Is the worker given instructions on assembling or producing the product? _____
If so, please explain: _____
Is the worker required to return the product to the employer? _____