

Employee vs. Independent Contractor Determination “20 Questions” Form

Why do I need to fill out this form?

The purpose of this form is to provide a guideline for determining whether an individual contracted for services is classified as an “employee” or “independent contractor.” The Internal Revenue Service (IRS) presumes that an individual who provides a service is an employee unless there is evidence to support the classification of the individual as an independent contractor.

How is the determination made?

The questionnaire presented in this document is designed to assist in determining the appropriate classification of an individual. The resolution of whether an individual providing services to the University is an employee or an independent contractor is based on the facts and circumstances of each case. The degree of importance of each factor varies depending on the occupation and the factual context in which services are performed.

What is the difference between an employee and an independent contractor?

Employee – If the University has the legal right to control both the method and the result as to where, when, who and how the service is to be performed, the individual should be classified as an employee.

Independent Contractor – If the University has the legal right to control or direct only the results of the work but not the means and method used in accomplishing the result, the individual should be classified as an independent contractor. Independent contractors generally hold themselves out in their own names as self-employed and make their services available to the public. Also, independent contractors generally carry their own worker’s compensation insurance.