

EMPLOYEE VS INDEPENDENT CONTRACTOR (INSTRUCTIONS FOR CLASSIFYING WORKERS)

PLEASE READ CAREFULLY- BOTH THE CAMPUS/DEPARTMENT ADMINISTRATOR AND WORKER MUST COMPLETE AND SIGN THE ATTACHED QUESTIONNAIRE. SUBMIT THE FORM TO THE APPROPRIATE DEPARTMENT WITH THE REQUIRED DOCUMENTS BEFORE THE WORKER BEGINS THE ASSIGNMENT.

The Internal Revenue Service requires an employer to determine whether an individual is an **employee** or **independent contractor** under the common law. To do so, the relationship of the worker and the business must be examined carefully. All evidence of control and independence must be considered. In an **employee-independent contractor** determination, all information that provides evidence of the degree of control and degree of independence must be considered. The three categories of control are: behavior control, financial control, and the type of relationship of the parties.

1. Behavioral control covers facts that show whether the business has a right to direct and control how the work is done through instructions, training, or other means.
2. Financial control covers facts that show whether the business has a right to control the financial and business aspects of the worker's job. This includes:
 - The extent to which the worker has reimbursed business expenses,
 - The extent of the worker's investment in facilities used in performing services,
 - The extent to which the worker makes his or her services available to the relevant market,
 - How the business pays the worker, and
 - The extent to which the worker can realize a profit or incur a loss.
3. Type of Relationship includes:
 - Written contracts describing the relationship the parties intended to create,
 - The extent to which the worker is available to perform services for other, similar businesses,
 - Whether the business provides the worker with employee-type benefits, including mileage reimbursement,
 - The permanency of the relationship, and
 - The extent to which services performed by the worker are a key aspect of the regular business of the company.

An **employee** is generally anyone who performs services for you, if you can control what will be done and how it will be done. If the individual is an **independent contractor**, you have the right to control or direct only the result of the work done, and not the means and methods of accomplishing the result.

An employer must withhold income taxes, withhold and pay social security and Medicare taxes, and pay unemployment tax on wages paid to an **employee**. An **independent contractor** is responsible for paying their own income tax and self-employment tax. Self-employment tax is a social security and Medicare tax primarily for individuals who work for themselves. An **independent contractor** must also make estimated tax payments.

The tax forms that are usually filed by an **independent contractor** are: Form 1040, U.S. Individual Income Tax Return; Schedule ES (Form 1040), Estimated Tax for current year; Schedule C (Form 1040), Profit or Loss from Business; and Schedule SE (Form 1040), Self-Employment Tax. They are provided with a Form 1099 from the employer; whereas, an employee is provided a Form W-2.

There are financial penalties that can be assessed by the Internal Revenue Service for misclassifying the employment status of an individual working for the district. Attached is a questionnaire that the employee and supervisor have to complete to assist in making a proper decision regarding employment classification for working in Carrollton-Farmers Branch ISD.

**QUESTIONNAIRE
EMPLOYEE VS INDEPENDENT CONTRACTOR**

Employer

1. Did the worker perform services for CFB before getting this position? _____
If yes, what were the dates of the prior service? _____
2. Are there other workers who performed or are performing the same or similar services? _____
3. Are the other workers classified as employees of the CFB? _____
4. Is the work done under a written agreement between CFB and the worker? _____
5. Is CFB providing training or instruction to the worker? _____
6. Does CFB determine the methods by which the assignments are performed? _____
7. Does CFB determine the work schedule and location of the job? _____
8. Does CFB provide the supplies and materials for the job? _____
9. Does the worker receive either a salary or daily wage for the service? _____
10. Can the relationship be terminated by either party without incurring liability or penalty? _____

If most of the answers are “yes”, this person is an employee of the district and should be paid on a VSR through the Payroll Department. A time sheet may be required also. Send this form with your request to hire the worker to Personnel before hiring the employee. The employee will need to go to Personnel to complete the appropriate new hire information before beginning the job.

If most of the answers are “no”, this person is probably an independent contractor and should be paid on a purchase order. This form and a W-9 will be required. Send these documents to the appropriate department prior to hiring the worker.

Name of Administrator _____ Campus/Dept. _____

Signature _____ Date _____

Employee or Independent Contractor

1. Are you in business for yourself? _____
2. Do you perform similar services for other employers? _____
3. Do you send quarterly estimated taxes to the IRS? _____
4. When filing your income tax return, do you file a Schedule C, Profit or Loss from Business? _____
5. Do you file a Schedule SE, Self-Employment Tax? _____
6. Do you perform these services according to instructions given to you by CFB personnel? _____
7. Will you be reimbursed for business expenses connected with the job in CFB? _____
8. Do you stand to make a profit or loss on this job? _____

If most of the answers are “no”, you are an employee of the district and should be paid on a VSR through the Payroll Department. A time sheet may be required also.

If most of the answers are “yes”, you are probably an independent contractor and should be paid on a purchase order. This form and a W-9 will be required.

Name _____ Signature _____

SS# _____ Date _____