



## MARICOPA COUNTY COMMUNITY COLLEGE DISTRICT

2411 West 14<sup>th</sup> Street, Tempe, AZ 85281-6942

### INDEPENDENT CONTRACTOR ANALYSIS WORKSHEET

When seeking someone to perform services for MCCCCD, it is important to make the right decision about whether he or she should provide the services as an independent contractor or as an employee. That decision is key because it has legal implications.

For instance, the U.S. Internal Revenue Service has rules and standards that establish whether someone should be an employee, thus requiring the employer to deduct and pay Social Security and income tax from compensation to the individual. If a person has been made an employee, including through a special services or a request for personal services arrangement with MCCCCD, there are legal hurdles that make it difficult for him or her to provide services as an independent contractor. See the discussion of contracting with current or former employees at:

<https://district.maricopa.edu/legal/business-law-contracts/contracting-current-former-mcccd-employees>

*Please note that, if you are related to the person being or potentially being hired, whether as an employee or as an independent contractor, you need to complete either the "Updated Hiring of Relatives Disclosure" on-line form (when there is a possibility of hiring a relative as an employee) or the "Updated Conflict of Interest Disclosure" on-line form (when there is a possibility of hiring a relative as an independent contractor) available at: <https://hr.maricopa.edu/professional-development/training-learning/mandatory-training-and-disclosures> (Every board-approved MCCCCD employee is also required to file an online annual disclosure naming any relatives who also are an employee of MCCCCD. See Paragraph A14 of the All Employee Groups Manual. Additionally and to comply with law, MCCCCD requires an annual on-line disclosure from employees regarding their or their relatives' financial or ownership interests in matters that may affect their decision-making on behalf of MCCCCD.)*

If the person is providing the services as one of the following, he or she should be considered an independent contractor (unless he or she is already an employee), and you probably don't need to complete this worksheet:

- a corporation or other business entity with a federal tax employer identification number
- a guest lecturer visiting a campus or the District for less than two weeks
- a performer giving a limited number of performances

**Specific Services Requested:** (Describe all the types of service requested.)

There are many factors which applicable law may use to determine whether an employee-employer relationship exists. Here are some factors that characterize an independent contractor, but not one of them is conclusive. A "yes" answer indicates that the person is more likely to be an independent contract. A "no" answer suggests that the person is more likely to be an employee. Keep in mind, however, that this worksheet is not a scoreboard and that a 5-4 tally does not necessarily give you a firm answer. For example, two to three strong "yes" answers may override several weak "no" answers or vice versa.

- *If you determine that you or the person you are hiring is not an independent contractor, complete the paperwork necessary to employ the person through payroll.*
- *If you determine that you or the person you are hiring is an independent contractor, contact your fiscal agent about the procedures for contracting for services with an independent contractor.*

For questions about these matters, please contact Ken Meek at 480-731-8945.

**Does or will the person:**

- Currently provide similar services to other clients or businesses?  Yes  No
  - ❖ Employees generally have only one employer. Independent contractors usually have multiple clients or customers and are free from control by any one client.
  
- Receive little or no direction or supervision from the District?  Yes  No
  - ❖ Independent contractors usually have the right to decide how to do their work, and the order or sequence in which they work. Employees are generally given oral or written instructions about when, where and how to work, and may be required to perform their work in a sequence established by their employer.
  
- Have an established business, at risk for profit or loss?  Yes  No
  - ❖ Independent contractors take the risk of earning a profit or suffering a financial loss from the work they perform in their business. Employees are usually are paid only for time worked, and generally are reimbursed for any expenses.
  
- Provide his or her own stationary, telephone, clerical services, equipment, or other supplies?  Yes  No
  - ❖ Independent contractors furnish their own equipment and supplies. Employers generally supply their employees with the equipment and supplies necessary to perform the work.
  
- Perform the services where he or she chooses?  Yes  No
  - ❖ Independent contractors are generally not required to work on their clients' premises. Employees usually work where their employers tell them to work.
  
- Determine the manner or means to use in delivering the services?  Yes  No
  - ❖ Independent contractors may hire and supervise others to do the work they contract. Employees are required to personally perform the services.
  
- Set their own priorities on time, effort, and hours of work?  Yes  No
  - ❖ Independent contractors are generally free to work the hours they choose and set their own work hours. Employers generally establish work hours for employees, and may require employees to work overtime.
  
- Have insurance for work-related injuries?  Yes  No
  - ❖ Independent contractors with more than one employee are required to have insurance for injuries on the job. Employees are supplied that coverage by their employers.
  
- Have liability insurance covering his or her business?  Yes  No
  - ❖ Independent contractors purchase their own liability insurance to cover them for any claims or lawsuits arising out of their activities. Employees acting within their job descriptions are insured for their actions by the employer's liability policy.