



**Riverside Community College District
INDEPENDENT CONTRACTOR/EMPLOYEE CLASSIFICATION QUESTIONNAIRE**

This questionnaire is to be used to help determine if an individual is an independent contractor or employee. The individual should be consulted where necessary to answer all questions.

If the questionnaire indicates that the individual likely qualifies as an independent contractor, submit a requisition, service agreement (if applicable), checklist, and any explanatory attachments. The contract will not be valid until a Purchase Order is issued, and no agreements should be made nor should work commence before that time.

If the questionnaire indicates that the individual likely qualifies as an employee, please contact your Human Resources Liaison to discuss employment options.

If you have any questions regarding this form, please contact Business & Financial Services.

<u>PART I</u>	YES	NO
1. Is the individual already an employee of the district in any capacity?		
2. Is the individual working as an employee as prescribed by the Education Code 8002? <i>California Education Code 88002: Assignments at times other than regular college year and assignments during college year in addition to regular assignments (a) For the purposes of this section, every classified employee shall be deemed to be employed for 12 months during each college year regardless of the number of months in which he or she is normally in paid status. (b) If, during a college year, it is necessary to assign a regular classified employee to perform an assignment or service in addition to his or her regular assignment, a community college district shall pay the classified employee on a pro rata basis for the additional assignment or service, not less than the compensation and benefits that are applicable to the classification of the additional assignment or service during the regular college year, unless the community college district has negotiated a contract that allows for a lesser pay scale. A community college district shall inform a classified employee of the compensation and benefits of the additional assignment or service before the employee commences the additional assignment or service.</i>		

<u>PART I (CONTINUED)</u>	YES	NO
<p>3. Has this category of worker already been classified an "employee" by the IRS?</p> <p><i>Refer to page 6 (Guidelines for Employing Independent Contract Consultants) for categories of jobs listed in IRS Publication SWR 40 and others identified by IRS as workers that have already been determined by IRS to be properly classified as employees.</i></p>		
<p>4. Has the individual performed substantially the same services for the district as an employee in the past?</p> <p><i>Note: Is the individual retired, returning to substitute, or train, etc.?</i></p>		
<p>5. Are there currently employees of the district doing substantially the same services as will be required of this individual?</p> <p><i>If the work being done is basically the same as work that is normally done by your employees, it indicates that the worker is an employee. This applies even if the work is being done on a one-time basis. For instance, to handle an extra workload or replace an employee who is on vacation, a worker is hired to fill in on a temporary basis. This worker is a temporary employee, not an independent contractor.</i></p> <p><i>(Note: If you contract with a temporary agency to provide you with a worker, the worker is normally an employee but may be an employee of the temporary agency.</i></p>		
<p>6. Does the District require the individual providing services to comply with instructions concerning when, where and how the work is done?</p> <p><i>Independent Contractors are free to do jobs in their own way using specific methods they choose. When a worker is required to follow specific district procedure manuals and/or is given specific instructions on how, when and where to perform the work, the worker is generally an employee.</i></p>		

If the answer to any of the above questions is "YES",

--STOP HERE--

Do not complete the rest of the questions. The individual should be classified as an employee and must be paid and reported accordingly. If all of the above are "NO", proceed to Part II.

<u>PART II</u>	YES	NO
<p>7. Must the required services be performed by this individual?</p> <p><i>Consider whether or not the individual may designate someone else to do the work without the district's knowledge or approval.</i></p>		
<p>8. Does the district have a continuing relationship with this individual (year to year)?</p> <p><i>A continuing relationship between the individual and the District is a factor indicating control. If an individual is engaged with the expectation that the relationship will continue indefinitely, rather than for a specific project or period, this is generally considered evidence of their intent to create an employment relationship.</i></p>		
<p>9. Can this relationship be terminated without consent of <u>both</u> parties?</p> <p><i>Independent contractors have contractual obligations to fulfill.</i></p>		

If the answer to question 7, 8 or 9 is "YES", there is a good possibility that an employment relationship exists. Questions 8 & 9 are indicators of district control that, in conjunction with other factors, imply an employment relationship. Go back to PART I and re-evaluate each question. If questions 1-6 are still all "NO" continue.

<u>PART II (CONTINUED)</u>	YES	NO
<p>10. Does the individual operate an independent trade or business that is available to the general public?</p> <p><i>Keep in mind: if the district is utilizing this individual's services on a full-time basis, the individual is not available to the general public. NOTE: Possession of a business license or incorporation does not automatically satisfy this requirement. The determination must be made on the actual relationship between the district and the individual performing services.</i></p> <p><i>This Individual should be able to provide list of previous clients they have served.</i></p>		
<p>11. Does the individual have a substantial investment in his/her business and provide all materials and support services necessary for the performance of this service?</p> <p><i>Independent contractors furnish the tools, equipment, and supplies needed to perform the work. Independent contractors normally have an investment in the items needed to complete their tasks. To the extent necessary for the specific type of business, independent contractors provide their own business facility.</i></p> <p><i>The district should not be providing office space, clerical, secretarial or any other support for this individual such as materials, copying, printing office supplies, etc. Any necessary assistance should be provided by the individual.</i></p>		
<p>12. Does the individual work for a number of individuals, firms or colleges at the same time he/she is working for the RCCD?</p> <p><i>Persons who work for a number of individuals or firms at the same time are generally independent contractors.</i></p>		
<p>13. Is the individual paid by the job OR upon completion and acceptance of the work as a whole OR milestones identified in the contract?</p> <p><i>Performance of a task for a flat fee is generally evidence of an independent contractor relationship especially if the worker incurs expense of performing services.</i></p>		
<p>14. Does the individual bear the cost of any travel and business expenses incurred to perform this service?</p> <p><i>Generally, an employer pays these types of expenses, however, some agreements may be made to provide for payment of airfare, mileage, etc. for consultants.</i></p>		

<u>PART II (CONTINUED)</u>	YES	NO
<p>15. Is the worker free to make business decisions which affect his or her ability to profit from the work?</p> <p><i>An individual is normally an independent contractor when he or she is free to make business decisions which impact his or her ability to profit or suffer a loss. This involves real economic risk, not just the risk of not getting paid. These decisions would normally involve the acquisition, use, and/or disposition of equipment, facilities, and stock in trade which are under his or her control. Further examples of the ability to make economic business decisions include the amount and type of advertising for the business, the priority in which assignments are worked, and selection of the types and amounts of insurance coverage for the business.</i></p>		
<p>16. Is the individual capable of gaining a profit or suffering a loss from the contract with RCCD?</p> <p><i>The person who can realize a profit or suffer a loss as a result of his/her services is generally an independent contractor.</i></p>		

If 10 and 11 are "YES", 12 through 16 should also be "YES" and are items that should be written into the consultant contract. This individual is an independent contractor. A "YES" on questions 13 through 16 supports the district's conclusion and substantiates a "reasonable basis" for treatment as an independent contractor. While there are circumstances where the district might pay contractually provided expenses, these should be kept at a minimum to avoid giving the impression of an employment relationship.

CERTIFICATION	
<p>My signature below indicates that I am an employee of the Riverside Community College District in an Administrative Management position or higher and that I have personally answered all questions, 1 through 16, to the best of my knowledge, and have determined that the individual is an Independent Contractor.</p>	
<p>CONTRACTOR NAME: _____ Requisition #: _____</p>	
<p>RCCD Manager Name: _____</p>	
<p>RCCD Manager Signature: _____ Date _____</p>	

Guidelines for Employing Independent Contract Consultants

(Related to Question #3)

IRS Publication SWR 40, "Public Schools and Employment Taxes", list workers that the IRS has already determined to be **employees**. These are individuals **performing the duties of**:

Administrators	Proctors
Teachers/Instructors	Librarians
Substitutes	Nurses
School bus drivers	Psychologists
Clerical staff	Intern psychologist
Athletic coaches	Individuals "filling in" on an interim basis
Tutors	Specialty teachers (art, poetry, music, etc.)
Cafeteria workers	
Counselors	
Examination Monitors	

If the individual in question is **not in one of the above categories**, use the guidelines and questionnaire to analyze the employment relationship between the district and the individual.