



Delaware State University Procedure

Title: Employee versus Independent Contractor Determination	Administrative Council approval date: 10/11/06
Related Policies and Procedures: Ethical Standards of Professional Behavior Procedure	

Whether a person is an independent contractor or an employee is controlled by six basic factors. If the person is an employee, then we are responsible for withholding taxes, providing workers' compensation coverage, and an environment that is safe from violations of laws such as those covering discrimination/harassment, safety, etc. When in doubt based on the factors, a person should be considered an employee. Misclassification can result in fines by the federal government.

The factors are as follows:

1. If the person does not have the right to exercise control over their own work (when, where, and how it is performed) they are more likely to be an employee;
2. If the person is performing work that is a normal part of our business at the University then they are more likely to be classified as an employee;
3. If the person is not ordinarily engaged in a private trade, occupation, profession or business then they are more likely to be classified as an employee;
4. If the University provides the tools/equipment and/or location for the work then the person is more than likely to be classified as an employee;
5. If the person is to receive payment directly from the University and not through a third-party, then they are most likely to be classified as an employee;
6. If the person does not have an ownership interest in the third party company providing services then they are more likely to be classified as an employee

If the position is found to be that of an independent contractor, then purchase of these services is subject to the contracting/purchasing procedures of the University. Independent contractors are NOT covered by this procedure.