

## Delta College CHECKLIST: EMPLOYEE VS. INDEPENDENT CONTRACTOR

### INSTRUCTIONS FOR COMPLETING CHECKLIST

Prior to committing to an Independent Contractor relationship, the responsible Delta College manager should complete this Checklist to help ensure that the individual is correctly classified as either an employee or an Independent Contractor. Questions should be completed completely and accurately. All responses are subject to IRS verification and audit. The Manager is not to complete and actual Independent Contractor Agreement, nor obtain signatures, until the final classification is determined by the Director of Business Services.

A copy of this checklist should be retained by the department, with the original forwarded to Business Services, B-116, for final determination.

If you are hiring through a staffing agency, do not use this form – submit a requisition instead.

#### Section 1: Name of Individual or Business

Name (Last, First, Middle Initial): \_\_\_\_\_

Business Name/DBA: \_\_\_\_\_

Business Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

#### Section 2: Relationship with Delta College

Answer all questions completely and accurately. All responses are subject to IRS verification and audit.

		Yes	No
2.1	Has the individual worked for the college as an employee within current calendar year or is the individual currently working for the college as an employee?		
2.2	Does the department want to hire this individual as an employee to provide the same or similar services following a "test period" as an Independent Contractor?		
2.3	Does the individual have a continuing relationship with the department or college, such as by performing the work on a recurring, on-going, or year-to-year basis?		
2.4	Will the individual be required to devote essentially full time hours to perform services for the college, making the individual unable to perform services for other customers during the performance period?		
2.5	Will the individual be expected or required to perform essentially full time work hours at the college or at facilities operated by the college?		
2.6	Will the individual be required to comply with instructions from a college supervisor, as to where, how, and when the work is to be performed?		
2.7	Is the individual required to receive training from a college representative to enable the individual to perform the work in a particular manner?		
2.8	Will the college be responsible for hiring, supervising, and paying workers who will substantially assist the individual in performing the requested services?		
2.9	Will the individual be paid on a recurring basis for a fixed amount? (For example, will the individual be paid every month for several months for a fixed amount, instead of on a per project basis?)		

		Yes	No
2.10	Will the individual work as part of a team of regular employees and will the individual's day-to-day participation be essential to the successful performance of the employee team?		
2.11	Is the individual expected / required to perform work during hours that are set by a college supervisor?		
2.12	Will the individual be required to perform services in a sequence or order that is set by a college supervisor?		
2.13	On a regular basis before the project is completed, will the individual be required to provide progress or status updates to a college supervisor?		
2.14	Will the individual perform services for which the college is concerned with the methods used to obtain the results (and not just with the results)?		
2.15	Will the college provide a significant amount of tools, equipment, or other materials needed by the individual to perform the agreed-upon work?		
2.16	Will the individual be subject to termination by the college for reasons other than non-performance of the <u>Independent Contractor Agreement</u> ? (For example, can the individual be terminated for violating college personnel policy?)		
2.17	Can the individual terminate the <u>Agreement</u> with the college without incurring any liability for a failure to complete the service? (For example, can the individual terminate the <u>Independent Contractor Agreement</u> without notice or reason?)		

If the answer is **YES** to **ANY** of the questions in **SECTION 2**, the individual may be classified as an EMPLOYEE and be paid through Payroll. Final determination will be made by the Director of Business Services.

**Section 3: Evidence of Independent Contractor's Business Operation**

		Yes	No
3.1	In connection with performing the services, could the individual realize either a profit or a loss, such as by incurring expenses?		
3.2	Does the individual perform work (or could perform work) at an office or facility off campus that is maintained at the individual's own expense?		
3.3	Will the individual be paid an amount to complete a specified project (as opposed to on an hourly, weekly, or monthly basis and for on-going, general purposes)?		
3.4	Does individual hold him/her self out to perform these services to the general public?		

If the answer is **NO** to **ANY** of the questions in **SECTION 3**, the individual may be classified as an EMPLOYEE and be paid through Payroll. Final determination will be made by the Director of Business Services.

**Section 4: Need for Individual Within Department**

		Yes	No
4.1	Are the services to be performed by the individual necessary for accomplishment of the mission of the department or college?		
4.2	Is the individual needed because there is no current employee within the department who can satisfactorily perform the work that will done by the individual?		

If the answer is **YES** to **ANY** of the questions in **SECTION 4**, the individual may be classified as an EMPLOYEE and be paid through Payroll. Final determination will be made by the Director of Business Services.

**Section 5: Retirement Status**

		Yes	No
5.1	Individual retired from any MPERS employer after June 30, 2010.		

If the answer is **YES** to the question in **SECTION 5**, the individual may not be classified as an Independent Contractor at Delta College and concurrently receive retirement benefits from MPERS. Delta is responsible for reporting all such independent contract arrangements to MPERS. Retirement information must be certified by the independent contractor and reported to MPERS prior to the independent contractor performing any services for Delta College. Note that these same rules apply to staff retained through a contracted employment services company or temporary agency.

**Section 6: Classification Outcome**

- |                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>IF... All questions in Section 2 = NO<br/>All questions in Section 3 = YES<br/>All questions in Section 4 = NO</p>  | <p>THEN... Individual is an Independent Contractor. It is okay to prepare an Independent Contractor Agreement. Checklist must be submitted to Business Services.</p>                                                                                                                                                                                                    |
| <p>IF... Any question in Sections 2 = YES<br/>Any questions in Section 3 = NO<br/>Any questions in Section 4 = YES</p> | <p>THEN... Individual may be classified as an employee and paid through Payroll. Information will be reviewed and a final determination made by the Director of Business Services.</p> <p>If the department disagrees with the Checklist's determinations, the Checklist and the Checklist's Section 6 &amp; 7 should be submitted to Business Services for review.</p> |
| <p>IF... Question in Section 5 = Yes</p>                                                                               | <p>THEN... Individual cannot be hired as an Independent Contractor. Consult Business Services.</p>                                                                                                                                                                                                                                                                      |
| <p>IF... Answers to questions are unknown or not applicable</p>                                                        | <p>THEN... Consult Business Services before proceeding.</p>                                                                                                                                                                                                                                                                                                             |

**Section 6: Supporting Information**

You may also attach a copy of resume, listing of clients, website information or yellow pages ad to support the position of this individual as an independent contractor.

Description or Scope of Work: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Reason why Department believes the individual should be classified as an Independent Contractor: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Section 7: Signature of Delta College Manager completing checklist**

\_\_\_\_\_  
Signature of Responsible Delta College Manager

\_\_\_\_\_  
Date

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Email

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