

Is this an Employee or Independent Contractor?

Some factors may indicate that the worker is an employee, while other factors indicate that the worker is an independent contractor. There is no “magic” or set number of factors that “makes” the worker an employee or an independent contractor, and no one factor stands alone in making this determination. Also, factors which are relevant in one situation may not be relevant in another.

The keys are to look at the entire relationship, consider the degree or extent of the right to direct and control, and finally, to document each of the factors used in coming up with the determination.

The general rule is that an individual is an ***independent contractor*** if the payer has the right to control or direct only the ***result*** of the work and not what will be done and how it will be done.

Under common-law rules, anyone who performs services for you is your ***employee if you can control what will be done and how it will be done.*** This is so even when you give the employee freedom of action. What matters is that you have the right to control the details of how the services are performed.

Please complete the next section:

1. Do you control or have the right to control what the worker does and how the worker does his or her job?	<input type="checkbox"/> Yes <input type="checkbox"/> No If no, please continue to question #2
2. Are the business aspects of the worker’s job controlled by Wesley College? (includes things like how the worker is paid, whether expenses are reimbursed, who provides tools/supplies, etc.)	<input type="checkbox"/> Yes <input type="checkbox"/> No If no, please continue to question #3
3. Are there written contracts or employee type benefits (i.e. pension plan, insurance, vacation pay, etc.)?	<input type="checkbox"/> Yes <input type="checkbox"/> No If no, please continue to question #4
4. Will the relationship continue and is the work performed a key aspect of the business?	<input type="checkbox"/> Yes <input type="checkbox"/> No If you answered no, to all of the above, then the individual is an INDEPENDENT CONTRACTOR. If you answered yes to two or more of the questions, the individual is considered an EMPLOYEE.

Consequences of Treating an Employee as an Independent Contractor

If an employee is classified as an independent contractor and there is no reasonable basis for doing so, Wesley College may be held liable for employment taxes for that worker. See Internal Revenue Code section 3509 for more information.

Rate of Pay

When paying an individual, while the person may not be paid hourly, the rate of pay must be at least \$8.25 per hour based on the expected hours worked each week.