

Independent Contractor/Employee Questionnaire

Part I

	Question	Yes	No
1.	Has this category of worker already been classified as an “employee” by the IRS?		
2.	Is the individual working as an employee prescribed by Education Code as a classified or certificated employee?		
3.	Is the individual already an employee of TCOE in another capacity?		
4.	Has the individual performed substantially the same services for TCOE as an employee in the past?		
5.	Are there currently employees of TCOE doing substantially the same services as will be required of this individual?		
6.	Does TCOE have the legal right to control the method of performance by this individual? <i>Consider whether TCOE has to train this individual or give instruction as to when, where, how, and in what order to work. Does TCOE require the individual to submit reports or perform the services at TCOE? These factors would indicate TCOE maintains control sufficient for an employer/employee relationship.</i>		
7.	Are the services, as being provided, an integral part of school operations? <i>Are the services being provided necessary to the operation of the school, program, project, etc. This indicates that TCOE has an interest in the method of performance and implies the maintenance of legal control.</i>		

If the answer to **ANY** of the above questions is “**YES**”,



Do **NOT** complete the rest of the questions. This individual **must be an employee** and must be paid and reported accordingly.

If you wish to employ this individual on a part-time, short-term basis, please request and complete the pink “Request to Employ” form. After obtaining the required signatures, submit the form to Human Resources.

If **ALL** of the above questions are “**NO**”, continue....

Part II

	Question	Yes	No
8.	Must the required services be performed by this individual? <i>Consider whether or not the individual may designate someone else to do the work without TCOE's knowledge or approval.</i>		
9.	Does TCOE have a continuing relationship with this individual? <i>Is this a "one-shot deal" or will TCOE continue to use this individual in the future? This could be on an infrequent or irregular basis, but a continuous relationship exists.</i>		
10.	Can this relationship be terminated without the consent of both parties?		

If the answer to questions 8, 9, or 10 is "YES", there is a good possibility that an employment relationship exists. Questions 8 and 9 are indicators of TCOE control that, in conjunction with other factors, implies an employment relationship. Go back to Part I and re-evaluate each question. If questions 1-7 are still ALL "NO", continue....

	Question	Yes	No
11.	Does the individual operate an independent trade or business that is available to the general public? <i>A determining factor in judging independence is the performance of services to the general public. In evaluating this criterion, school districts are considered to be separate entities. Keep in mind, if TCOE is utilizing this person's services on a full-time basis, the individual is not available to the general public.</i>		
12.	Does the individual have a substantial investment in his/her business, i.e., maintains a facility, equipment, etc.? <i>This is indicative of economic risk inherent in business enterprises. An independent contractor must be able to make a profit or sustain a loss.</i>		

If the answer to **either** 11 or 12 is "NO"



Do **NOT** complete the rest of the questions. This individual **must be an employee** and should be processed as a part-time, short-term employee and paid through payroll.

If 11 and 12 are **both** "YES", continue....

Part II – Continued

	Questions	Yes	No
13.	Does the individual provide all materials and support services necessary for the performance of this service? <i>TCOE should not be providing office space, clerical, secretarial or any other support for this individual such as materials, xeroxing, printing, office supplies, etc. Any necessary assistants would be hired by the individual.</i>		
14.	Is this individual paid by the job? <i>Payment by the hour, week or month generally points to an employer-employee relationship, provided that this method of payment is not just a convenient way of paying a lump sum agreed upon as the cost of a job. The establishment of set hours of work by the person for whom the services are performed is a factor indicating control.</i>		
15.	Does the individual bear the cost of any travel and/or business expenses incurred to perform this service? <i>Generally these types of costs are paid by an employer; however, some contracts provide for payment of air fare, mileage, etc. for consultants.</i>		

If 11 and 12 are “YES”, 13 through 15 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 15 supports TCOE’s conclusion and substantiates a “reasonable basis” for treatment as an independent contractor. While there are circumstances where TCOE might pay contractually provided expenses, these should be kept to a minimum to avoid giving the impression of an employment relationship. Expenses should be estimated by the independent contractor and included in the contract fee calculation.

Person/Agency Providing Service: _____

Tax Identification Number: _____

Certification of Independent Contractor Status

This document certifies that I have reviewed the appropriate legal and procedural guidelines pertinent to determination of Independent Contractor status and have analyzed their application to this individual/agency and have concluded that the hiring of this individual/agency to perform the functions described does indeed constitute correct and legal Independent Contractor status.

Initiator Name/Title

Signature

Date

I agree this individual/agency holds Independent Contractor status.

Jeanne Nava, Assistant Superintendent, Human Resources

Date