



## **Guidelines for the Hiring of Independent Contractors for Coast Community College District**

Coast Community College District must comply with Internal Revenue Service (IRS) regulations in our role as an employer. Failure to do so can result in assessment of additional taxes and penalties for the District. Therefore, it is important to determine whether someone is an employee or an independent contractor.

### **I. What is an Independent Contractor?**

An independent contractor is not an employee and is not under the control of the District. In general, an independent contractor is an individual with a specific skill or technical knowledge hired by means of a written agreement to do a particular job for a designated period of time.

A District employee should not be employed as an independent contractor. The IRS scrutinizes the returns of individuals who receive both a W-2 Form and a 1099 Form in the same calendar year from one employer. If a District employee is hired to perform a service outside the scope of their normal duties, he/she must be paid through the payroll process.

### **II. Determination of Employee vs. Independent Contractor Status**

The following guidelines can assist you in determining whether to pay an individual as an independent contractor or as an employee of Coast Community College District.

#### [Independent Contractor Guide](#)

This flowchart is a good starting point to help determine independent contractor or employee status.

#### [Independent Contractor Checklist](#)

Complete this checklist to help determine if an individual is eligible as an independent contractor or is to be paid as an employee. If further clarification is required, the [EDD Employment Determination Guide](#) is an excellent resource to help determine independent contractor status.

### [EDD Employment Determination Guide](#)

This worksheet is provided by the Employment Development Department, State of California to help determine whether a worker is most likely an employee or an independent contractor. Generally speaking, whether a worker is an employee or an independent contractor depends on the application of factors contained in the California common law of employment and statutory provisions of the California Unemployment Insurance Code. The EDD Employment Determination Guide can be accessed at <http://www.edd.ca.gov/taxrep/de38.pdf>.

### [IRS Common Law Rules](#)

The Internal Revenue Service has established the Common Law Rule to help determine the degree of control and the degree of independence in a worker/employer relationship. The penalties for misclassification under tax laws can be severe and, in some cases, may create liability for the District. Generally, for tax purposes, the key question is the degree of control the employer can exercise over the worker. Further information on the IRS Common Law Rules can be found in IRS Publication 15A under forms and publications at <http://www.irs.gov/pub/irs-pdf/p15a.pdf>.