

University of Maine System

ADMINISTRATIVE PRACTICE LETTER

Section VII-H
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Effective 5/23/2014

SUBJECT: GUIDELINES FOR DETERMINING EMPLOYEES OR INDEPENDENT CONTRACTOR RELATIONSHIPS

DETERMINATION OF INDEPENDENT CONTRACTOR STATUS CHECKLIST

Although Maine law is not identical to Internal Revenue Service regulations, complying with the more stringent State law should result in meeting both State and Federal standards. Maine law requires that an individual meet all five primary criteria (A through E below) and at least three secondary criteria (F through L below) to qualify as an Independent Contractor. Use the following checklist to determine if an individual meets the test for Independent Contractor status. If the person does not meet all five primary criteria and at least three of the seven secondary criteria, an employee/employer relationship exists and the person must be paid through payroll. **(Attach this form to the Requisition)**

MAINE LAW CRITERIA

All five of the following must be YES to qualify for Independent Contractor status:

	<u>YES</u>	<u>NO</u>
(A) Does the individual have the essential right to control the means and progress of the work except as to final results?	_____	_____
(B) Is the individual customarily engaged in an independently established trade, occupation, profession or business?	_____	_____
(C) Does the individual have the opportunity for profit and loss as a result of the services being performed?	_____	_____
(D) Does the individual hire and pay the individual's assistants, if any, and, supervise the details of the assistants' work?	_____	_____
(E) Does the individual make their services available to some client or customer community even if the individual's right to do so is voluntarily not exercised or is temporarily restricted?	_____	_____

At least three of the following must be YES to qualify for Independent Contractor status:

(F) Does the individual have a substantive investment in the facilities, tools, instruments, materials and knowledge used by the individual to complete the work?	_____	_____
(G) Is the individual free to work for others and not exclusively for the University of Maine System?	_____	_____
(H) Is the individual responsible for satisfactory completion of the work and may be held contractually responsible for failure to complete the work?	_____	_____
(I) Do the parties have a contract that defines the relationship and gives contractual rights in the event the contract is terminated by the other individual or entity prior to completion of the work?	_____	_____
(J) Is payment to the individual based on factors directly related to the work performed and not solely on the amount of time expended by the individual?	_____	_____
(K) Is the work outside the University's usual course of business for which the service is performed?	_____	_____
(L) Has the individual been deemed to be an Independent Contractor by the IRS?	_____	_____