COMPENSATION AND BENEFITS REGULATION
EMPLOYMENT STATUS DETERMINATION

When making a determination as to whether an individual should be classified as an employee or an independent contractor for purposes of receiving district compensation and benefits, and specifically for reporting to the New York State Employees Retirement System, the district shall utilize the factors listed in the Comptroller's Regulations §315.3. Under § 315.2 of those regulations, the following definitions apply:

a. Employee means an individual performing services for the district for which the district has the right to control the means and methods of what work will be done and how the work will be done.

b. Independent Contractor means a consultant or other individual engaged to achieve a certain result who is not subject to the direction of the district as to the means and methods of accomplishing the result.

I. Employees

The following factors shall support a conclusion that an individual is an employee rather than an independent contractor:

a. The district controls, supervises or directs the individual performing the services, not only as to result but as to how assigned tasks are to be performed;
b. The individual reports to a certain person or department at the beginning or during each work day;
c. The individual receives instructions as to what work to perform each day;
d. The individual's decisions are subject to review by the district;
e. The district sets hours to be worked;
f. The individual works at established and fixed hours;
g. The district maintains time records for the individual;
h. The district has established a formal job description;
i. The Board of Education formally created the position with the approval of the local civil service commission where necessary;
j. The district prepares performance evaluations;
k. The district requires that the individual attend training;
l. The district provides permanent workspace and facilities (including, but not limited to, office, furniture and/or utilities);

m. The district provides the individual with equipment and support services (including, but not limited to, computer, telephone, supplies and/or clerical assistance);
n. The individual is covered by a contract negotiated between a collective bargaining unit and the district;
o. The individual is paid salary or wages through the district's payroll system;
p. Tax withholding and employee benefit deductions are made from the individual's paycheck; and
q. The individual is entitled to fringe benefits (including, but not limited to, vacation, sick leave, personal leave, health insurance and/or grievance procedures).

II. Independent Contractor

The following factors shall support a conclusion that an individual is an independent contractor rather than an: employee

a. The individual has a personal employment contract with the district;
b. The district pays the individual for the performance of services through the submission of a voucher;
c. The individual is authorized to hire others, at the expense of the individual or a third party, to assist the individual in performing work for the district;
d. The individual provides similar services to the public;
e. The individual is concurrently performing substantially the same services for other public employers; and
f. The individual is also employed or associated with another entity that provides services to the district by contract, retainer or other agreement.

When an individual is providing services to the district in the capacity of attorney, physician, engineer, architect, accountant or auditor, and is also a partner, associate (including an attorney in an "of counsel" relationship), or employee of another organization or entity that has a contract, retainer or other agreement to provide professional services to the district, it shall be presumed that the individual is an independent contractor and not an employee of the district.

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