

POLICY ON THE USE OF INDEPENDENT CONTRACTORS
BY UNIVERSITY EXTENSION

University Extension frequently retains individuals for temporary personal services in connection with Extension courses and programs. In some cases, it is not clear whether individuals performing temporary services should be hired as University employees or retained as independent contractors. This distinction is significant because certain state and federal requirements apply to employees but not to independent contractors. For example, state law requires all University employees to sign the State Loyalty Oath before beginning work. Federal and California labor laws also impose a number of benefit requirements on employers; e.g., employees must be covered by workers' compensation insurance, unemployment insurance, and short-term disability insurance.

In addition, the distinction between an employee and an independent contractor has income tax reporting and withholding implications. Under standards used by both the Internal Revenue Service (IRS) and the courts, the basic legal distinction is that an employee is subject to the employer's right to direct and control the employee's work (whether such right is actually exercised), whereas an independent contractor is retained to render a specified service subject to the control of the principal only as to the end result of the work, rather than as to the means by which the result is accomplished. As a general rule, the IRS leans toward classifying University Extension instructors as employees rather than as independent contractors. However, whether an individual should be paid as an employee or as an independent contractor depends on the applicable facts and circumstances. [Business and Finance Bulletin BUS-77, Independent Contractor Guidelines](#), describes the IRS classification factors and other relevant criteria used in determining a worker's correct classification.

University administrators should use the following basic guidelines to help determine whether an individual who will provide services of a temporary nature to University Extension should be hired as an employee or retained as an independent contractor:

1. University faculty and other academic appointees who provide teaching services to University Extension must be paid as employees regardless of the length of the course or program ([Academic Personnel Manual 662](#)). University employees who do not have academic appointments also must be paid for University Extension teaching services as employees ([Business and Finance Bulletin BUS-43, Materiel Management, Part 7: Employee-Vendor Relationships](#)).
2. Except as provided below, an instructor or other person who is in charge of a University Extension course or program must be hired as a University employee.

This classification applies whether or not course credit is associated with the course or program.

3. Individuals who are not University employees should be treated as independent contractors if they:
 - a. are to participate as a guest lecturer on one or more occasions in a University Extension course or program,
 - b. are to participate on one or more occasions as a panelist or workshop participant in a University Extension course or program,
 - c. are a panelist for a University Extension course or program that consists exclusively of one or more panel discussions, or
 - d. are retained as an instructor to teach a course or courses of short duration, provided that the total number of days that the person teaches does not exceed 12 calendar days in one calendar year. Each day devoted to teaching counts as one calendar day regardless of the number of teaching hours worked in any of those days.

4. An instructor who is retained to teach a course that exceeds 12 days must be hired as an employee unless he or she is either (i) a bona fide employee of a company or organization that provides similar teaching services to others, or (ii) operates an independent business that provides similar teaching services to others. The following factors support independent contractor status:
 - a. The individual will be providing more than de minimis services to other clients during the University engagement
 - b. The individual appears to be operating a bona fide business (the individual is incorporated, has a taxpayer identification number, a business license, business letterhead, a separate business location, etc.)
 - c. The individual receives a flat fee for services performed vs. payment on an hourly basis
 - d. The individual advertises his or her services to the larger community

BUS-77 contains additional criteria that bear on whether a University Extension instructor should be classified as an employee or an independent contractor.

University policy ([Business and Finance Bulletin BUS-63, Insurance Requirements/ Insurance Certificates](#)) requires that individuals retained as independent contractors show evidence of adequate insurance coverage. Locations should contact the respective Risk Manager to determine appropriate levels of coverage for such individuals.

Questions concerning this policy should be directed to the Vice President--Financial Management.