

385-4 **Definition**

An independent contractor relationship exists when the University has the right to control only the result of the service, not the manner of performance.

An employer-employee relationship exists when the University has the right (whether or not it exercises the right) to supervise and control the manner of performance, as well as the result of the service.

385-10 **Qualifications**

The attached Presidential letter dated December 9, 1966 addresses the use by University Extension of independent contractors and University employees.

The use of independent consultants, individuals or organizations outside of the University who provide primarily professional or technical advice to the University in an independent contractor relationship, is treated in detail in Business and Finance Bulletin, BUS-34.

Office of the President

December 9, 1966

DEAN OF UNIVERSITY EXTENSION:

Re: Use of Independent Contractors by University Extension

University Extension frequently retains individuals for temporary personal service in connection with Extension courses and programs. The question often arises whether persons performing such temporary services are to be hired as University employees, or whether they are to be retained as independent contractors. The distinction is of significance because State law requires all University employees to sign the State Loyalty Oath before beginning work, and University policy requires the signing of the University Patent Agreement by all new employees. These requirements do not apply to independent contractors. Also, there may be distinctions for income tax withholding purposes.

General Counsel advises that the basic legal distinction between an employee and an independent contractor is that an employee is subject to the employer's right to supervise and control the employee's performance, irrespective of 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 result of the work, rather than as to the means by which the result is accomplished.

To aid University administrators in determining whether persons retained for temporary service in University Extension are to be hired as employee or retained as independent contractors, the following guidelines are issued:

1. An instructor or other person having charge of a University Extension course or program is to be hired as a University employee. This classification applies irrespective of whether credit is given and irrespective of the length of the course or program.
2. A person who is to participate as a guest lecturer on one or more occasions in a University Extension course or program may be retained as an independent contractor if the course or program is conducted under the immediate supervision of a University employee.

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3. A person who is to participate on one or more occasions as a panelist or workshop participant in a University Extension course or program may be retained as an independent contractor if the course or program is conducted under the immediate supervision of a University employee.
4. If a University Extension course or program consists exclusively of one or more panel discussions, the several panelists may be retained as independent contractors if the course or program is under the immediate supervision of a University employee.

If there are other types of temporary personal services to be secured by University Extension which might be performed by independent contractors consistent with the legal distinction between employees and independent contractors as set forth above, the Dean of University Extension should seek advice from the General Counsel on whether a person can be retained as an independent contractor to perform the services in question. In the absence of an authorizing opinion from the General Counsel, and except as otherwise provided in this policy, individuals shall be retained by University Extension to perform personal services only as employees.

Clark Kerr

cc: Chancellors
University-wide Administrative Officers