

Who is an employee?

The business relationship between you and the person performing the services must be evaluated to determine whether or not he or she is an employee. Anyone who performs services for you is an employee, IF you have the right to control what will be done and how it will be done. You generally have to withhold and pay income taxes, social security, Medicare and unemployment taxes on wages that you pay to an employee.

If you have control only to direct the result of the work and not the means and methods of accomplishing the result, they are not an employee. If not an employee due to lack of control but still performing services, then the relationship is one of an independent contractor and should be paid through accounts payable as contractual services.

To determine whether or not an employee/employer relationship exists, you must examine the degrees of control and independence that exist. Three categories are to be examined: behavioral control, financial control and the type of relationship of the parties.

Behavioral control: facts that show whether the department has a right to direct and control how the worker does the task including instructions that the worker is given: when and where to work, what tools or equipment to use, what work to perform, what order or sequence to follow.

Financial control: facts that show whether the department has the right to control the business aspects of the worker's job: such as whether the worker makes his/her services available to the relevant market, and how the worker is paid. An employee is usually guaranteed a regular wage amount for an hourly, weekly or other period of time.

Type of relationship: Facts that show the parties' type of relationship include: written contracts, employee-type benefits, permanency of relationship and extent to which services are performed are a key aspect of the regular business.

If an employee/employer relationship exists, then payments must be made through the University's payroll system. This ensures that appropriate tax withholding and remitting shall occur as well as the issuance of correct tax documents at the end of the year. Likewise, if an independent contractor relationship exists, payment through accounts payable will ensure appropriate tax reporting and compliance.

An employee must be hired through a search process following HR/EO procedures in order to be on payroll.

Scholarships and Fellowships: (not considered employment unless criteria met above) No prior, current or future services should be required to receive a scholarship/fellowship. Any amount paid that represents payment for teaching, research or other services by the student, as a condition for receiving the payment, is not scholarship/fellowship.

A scholarship is generally an amount paid or allowed to a student at an educational institution to aid in the pursuit of studies. The student may be either an undergraduate or a graduate.

A fellowship is generally an amount paid for the benefit of an individual to aid in the pursuit of study or research. The student is usually a postgraduate. Benefit to the individual means that research being conducted should primarily advance the student's academic endeavors, i.e. not contribute to research projects conducted for the University under the supervision of faculty/principal investigators.