**DETERMINING THE DIFFERENCE BETWEEN AN EMPLOYEE AND AN INDEPENDENT CONTRACTOR**

The information provided below will assist the University in determining whether an individual performing services will be classified as an employee of the University or as an independent contractor for federal, state and FICA tax purposes

**GENERAL INFORMATION**

Provide a brief description of the workers duties and how they obtained the job.

If the work is done under a written agreement between the organization and the worker, describe the terms and conditions of the work arrangement.

**Relationship with the University**

|  |  |
| --- | --- |
| YesNo | Does this individual currently work for the University as an employee? |
| YesNo | Does the University expect to hire this individual as an employee to provide the same or similar services immediately following the termination of his/her independent contractor service? |
| YesNo | During the previous 12 months prior to the date on which the service will start, did the individual have an official appointment (including hourly or temporary) to provide the same or similar service? |
| YesNo | Does the University retain the right to provide the individual with specific instructions regarding the performance of the task rather than only the outcome? |

**Other Factors**

|  |  |
| --- | --- |
| YesNo | Are other Employees at your organization performing the same or similar services? |
| YesNo | is the worker required to contact a University employee(s) if problems or complaints arise and is the employee(s) responsible for their resolution? |
| YesNo | is the worker required to attend meetings with penalties for not attending? |
| YesNoDoes the worker perform these services for other employers as an independent contractor? | |

**For Lecturers/Speakers/Researchers (only)**

|  |  |
| --- | --- |
| YesNo | Is the individual the primary instructor of the course? |
| YesNo | Will the individual use a curriculum or course materials established by the University? |
| YesNo | Will the individual evaluate or grade students for official University academic credit |
| YesNo | Will the individual perform research for the university under an arrangement whereby a University employee supervisor their work (i.e., provide direction, set work hours..., determine how/where work should be performed)? |
|  | |
|  | |

**Opportunity for profit or loss depending on managerial skill:**

Does the worker have a direct interest in or share of any profit or loss of the work accomplished?

Does the worker have a business license to perform the services provided to the University?

Is the worker required to perform the services personally?

If substitutes or helpers are needed, who hires them?

Who pays the substitutes or helpers?

Does the worker establish the level of payment for the services provided?

**Investments by the worker and the potential employer:**

Does UD provide all supplies, equipment, materials and property for the work being done?

Does the worker have a significant investment in facilities or materials (other than computer equipment and education)?

**Degree of permanence of the work relationship:**

Is there a written contract between the worker and the University describing the worker as an independent contractor?

Does the worker devote full time to the business of the University?

Is this a recurring engagement?

What’s the duration of the contract?

Is the worker eligible for benefits of any kind? If so, which?

Describe the extent to which the work performed is an integral part of UD’s business, and the use of the worker’s skill and initiative.

**Nature and degree of control:**

How does the worker receive work assignments?

Who determines the methods by which the assignments are performed?

Who is the worker required to contact if problems or complaints arise and who is responsible for their resolution?

At what location does the worker perform services?

Is the worker supervised by a UD employee?

Describe any meetings the worker is required to attend and any penalties for not attending.