

**Trinity Valley Community College  
Worker Classification Guidelines  
Employee or Independent Contractor?**

Internal Revenue Service (IRS) regulations require that all employers classify workers as either employees or independent contractors for payroll tax purposes. The IRS uses the factors outlined below to assist in classifying workers although not all factors apply in every case. To assist in making the determination, the IRS has grouped the factors into three categories: Behavioral Control, Financial Control, and Relationship of the Parties.

However, no single category or factor provides the correct answer. Generally speaking, workers at TVCC are most commonly employees (either full or part-time) vs. independent contractors, but it is important to consider all the facts and circumstances in each case prior to making the determination.

**A. BEHAVIORAL CONTROL**

1. **Instructions** - If a worker receives extensive instructions on how work is to be done, this suggests that they are an employee. Examples of instructions are:
  - a. How, when or where to do the work
  - b. What tools or equipment to use
  - c. What assistants to hire to help with the work
  - d. Where to purchase supplies or services
2. **Training** - If an employer provides training about required procedures and methods, this indicates that the employer wants the work done in a certain way, suggesting a worker be classified as an employee.

**B. FINANCIAL CONTROL**

1. **Worker's Investment** - If a worker has a significant investment in facilities or tools used in performing services for an employer, they would not be considered an employee.
2. **Reimbursed Business Expenses** - If a worker is reimbursed for business expenses such as travel, meals, etc., he or she would be considered an employee.
3. **Free to Seek Other Business Opportunities** - A worker who advertises, maintains a visible business location, and are available to work in the relevant market would not be considered an employee.
4. **How the Employer Pays the Worker** - An employee is generally guaranteed a regular wage amount for an hourly, weekly, or other period of time. An independent contractor is usually paid a flat fee for the job.

5. **The Extent to Which the Worker Can Realize a Profit or Loss** - If a worker can realize a profit or incur a loss, this suggests that they are in business for themselves, and may be considered an independent contractor.
6. **Length of Work Period** - An independent contractor is hired for a specific project or period.

**C. RELATIONSHIP OF THE PARTIES**

1. **Written Contract** - A written contract describing the relationship the parties intend to create can assist in deciding if a worker is an employee or an independent contractor.
2. **Employee Benefits** - If an employer provides the worker with benefits such as health insurance, a retirement plan, vacation pay or sick pay, the worker is an employee.
3. **Permanency of the Relationship** - If an employer hires a worker with the expectation that the relationship will continue indefinitely, rather than for a specific project or period, this is generally considered to be an employer/employee relationship.
4. **Key Aspect of Regular Business Activity** - If a worker provides services that are a key aspect of an employer's regular business activity, it is more likely that the employer will have the **right** to direct and control the worker's activities. Having the **right** to direct and control is the same as directing and controlling the worker's activities.