

EEOC Independent Contractor Checklist

The Equal Employment Opportunity Commission (EEOC) administers Title VII of the Civil Rights Act and other federal anti-discrimination laws which generally protect “employees,” as opposed to independent contractors or other non-employees. This EEOC Independent Contractor Checklist can help you determine whether your household worker is an employee or independent contractor.

Whether an employer-employee relationship exists depends on specific facts including whether the employer controls the means and manner of an employee's work performance. The EEOC Independent Contractor Checklist provides 16 factors for distinguishing between an employee and an independent contractor. The status of an employee could be established even if only some criteria are met. The EEOC stresses that these factors are non-exhaustive and other circumstances might influence a given assessment.

Answering “Yes” to some or all of the following items generally indicates that the worker must be classified as an employee as opposed to an independent contractor:

1. The employer has the right to control when, where, and how the worker performs the job.
2. The work does not require a high level of skill or expertise.
3. The employer furnishes the tools, materials, and equipment.
4. The work is performed on the employer's premises.
5. There is a continuing relationship between the worker and the employer.
6. The employer has the right to assign additional projects to the worker.
7. The employer sets the hours of work and the duration of the job.
8. The worker is paid by the hour, week, or month rather than the agreed cost of performing a particular job.
9. The worker does not hire and pay assistants.
10. The work performed by the worker is part of the regular business of the employer.
11. The employer is in business.
12. The worker is not engaged in his/her own distinct occupation or business.
13. The employer provides the worker with benefits such as insurance, leave, or workers' compensation.
14. The worker is considered an employee of the employer for tax purposes (withholding federal, state, and Social Security taxes).
15. The employer can discharge the worker.
16. The worker and the employer believe that they are creating an employer-employee relationship.

Legal Disclaimer: The EEOC Independent Contractor Checklist is intended for informational purposes only, and does not constitute legal information or advice. This information and all HR Support Center materials are provided in consultation with federal and state statutes, and do not encompass other regulations that may exist, such as local ordinances. Transmission of documents or information through the HR Support Center does not create an attorney-client relationship. If you are seeking legal advice, you are encouraged to consult an attorney.