



# New York Medical College Policy and Procedure Manual

<b>Section: HUMAN RESOURCES</b>	<b>No.: HR.212</b>
	<b>Date: 02/26/1993</b>
<b>Subject: INDEPENDENT CONTRACTOR CLASSIFICATION</b>	<b>Page 1 of 3</b>
	<b>Supersedes:</b>

## I. Purpose

To establish guidelines distinguishing College employees from independent contractors.

## II. Scope

This policy applies to all College faculty and staff.

## III. Definitions

- A. The employer-employee relationship generally exists when the business or individual paying for the services directs and supervises the performance of the person rendering the services.
- B. A purchaser-independent contractor relationship generally exists when the business or individual paying for the services does not direct and supervise the performance of the person rendering the services.

## IV. Policy

It is the policy of New York Medical College to properly classify individuals providing services as employees or independent contractors in accordance with Internal Revenue Service rules and regulations.

## V. Procedure

- A. Assess immediately each "independent contractor" and whether they can be classified as "employees" using the following guidelines. Specific **IRS Common Law Factors Used To Determine A Worker's Classification** are attached as **Exhibit I**.
  - 1. A continuing relationship between an independent contractor and the person for whom work is performed generally indicates that an

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employer-employee relationship exists. A continuing relationship may exist when work is performed at frequently recurring, although irregular, intervals.

2. If an independent contractor provides services on an employer's premises - especially when the services could be performed elsewhere - then there is an indication that an employer-employee relationship may exist.
  3. An employer-employee relationship may be indicated when an independent contractor's services are integrated into the employer's business operations (that is when the work is part of the employer's regular business, e.g., adjunct faculty and temporary office help).
  4. In general, importance is placed on the right of an employer to control the manner in which the services are performed. In questionable cases, it is usually presumed that a person retained to provide services is an employee rather than an independent contractor.
- B. If "Employees," Central Records (HR-31) forms must be generated immediately classifying them as employees, taking particular care to classify them properly as regular full or part-time, temporary full or part-time or per diem employees using the definitions contained in **Policy HR.201 - Employment Categories/Benefit Eligibility**. Appropriate hiring procedures must be adhered to as detailed in **Policy HR.104 - Recruitment of Non-Faculty Personnel**.
- C. If "Independent Contractor," the proposed agreement must be in writing and within the departmental budget. Department Administrators must work with the appropriate Dean or Vice President to advance proposed contracts to the Vice President Administration and Finance. It is the policy of the Board of Trustees that the following authorizations are required to perform consulting services or studies regardless of the source of funds:

Up to \$25,000 - President

Over \$25,000 - Finance Committee

Over \$50,000 - Executive and Finance Committees

**VI. Responsibility**

**A. Supervisor/Administrator**

Ensure that all individuals providing services are assessed appropriately as either "Employee" or "Independent Contractor."

**B. Vice President Administration and Finance**

Upon the recommendation of the appropriate Dean or Vice President or their designees, follow the Board policy outlined in Section V.C. to grant approval to contracts for services.

**C. Human Resources Department**

Provide advice and guidance with respect to the interpretation and administration of this policy.