

Suffolk University Policies and Procedures Manual	
Functional Area: Finance & Accounting and Office of the General Counsel	Procedure No:
Policy/Procedure Name: Worker Classification Policy	Revision No: 3
Latest Revision Date: September 3, 2015	Page 1 of 5
Approved for Use by:	

1.0 POLICY & PURPOSE

The purpose of this policy is to provide guidance and establish a procedure for determining the proper classification of individuals hired to perform services on behalf of the University. The guidance contained herein should be consulted prior to any commitment to pay for such services, in order to determine whether an individual should be hired as an employee or classified as an independent contractor (self-employed individual). The policy applies to faculty, staff, and others duly authorized to hire individuals paid with Suffolk University funds.¹

2.0 OVERVIEW

2.1 Worker Classification

Massachusetts law presumes that all individuals providing services to the University are deemed to be employees unless the individual meets certain, specific criteria. The analysis is inherently fact-specific, and therefore, the information contained below is intended *only as a guide* in determining the proper worker classification. The failure to properly classify an individual could result in fines and civil or criminal penalties assessed against the University and is a violation of Federal and state tax and wage law. For questions regarding specific determinations, please contact the Office of the General Counsel.²

3.0 INDEPENDENT CONTRACTOR DETERMINATION

3.1 Massachusetts Three-Part Test

Under Massachusetts law, for an individual to be hired as an independent contractor, the individual must meet **all** of the following criteria:

¹ The policy does not apply to the hiring of full-time students of Suffolk University. For student hiring, please consult Human Resources.

² If the proposed contractor is a current or former University employee, please contact the Office of General Counsel for guidance.

3.1.1 Freedom from Control. The individual must be free from the control and direction in connection with the performance of the desired service, both under the individual's contract for the performance of such service and in fact. Many factors can satisfy this prong of the test, including (a) whether the individual has to comply with instructions about how, when and where to perform the work; (b) whether the individual receives any direct training; (c) whether the services must be performed personally; (d) whether the individual has a continuing relationship with the University; (e) whether the individual's work hours are fixed; (f) whether the work is performed on the University's premises or elsewhere; (g) whether the individual works for multiple clients; and (h) whether the individual markets his or her services to the public.

3.1.2 Work Outside the Usual Scope of Employer. The services provided by the individual are not generally available within the University and are not comparable to those services regularly performed by employees at the University. Services integral or necessary for the University's proper operation must be performed by employees and not by independent contractors. If the scope of services involves teaching or the instruction of students in any manner, the individual must be classified as an employee.

3.1.3 Independent Trade, Occupation or Business. The individual must establish that the contemplated services are typical or similar to services offered to other customers and offered as part of the individual's own independent endeavor for which he or she is at risk for profit or loss. Integral to this prong is whether the individual holds him or herself out to the public as providing such services for hire. The individual must not be dependent entirely on the University for work and should be able to demonstrate the provision of similar services to other clients.

Failure to meet all three factors necessitates that the individual be treated as an employee and not an independent contractor. An individual's hiring preference is not relevant to the proper classification determination.

4.0 PROCEDURE

4.1 Independent Contractor Checklist

Before engaging an individual to perform services on behalf of the University, the hiring department should complete the attached questionnaire to determine that the individual is properly classified as an independent contractor. The checklist is intended only as a guide. Specific questions should be directed to the Office of General Counsel.

4.2 Template Agreements

Once it is determined that the classification as an independent contractor is appropriate, a contract to govern the relationship should be executed.³ The Office of General Counsel has prepared a standard independent contractor agreement. A copy is available upon request.

³ If only reimbursable expenses are involved, no contract is needed.

4.3 Contract Review

The University's Contract Policy requires that all contracts be reviewed by the Office of the General Counsel prior to the execution by the University. Please submit (1) the Independent Contractor Checklist, (2) the Agreement signed by the contractor with the appropriate contract intake sheet, and (3) a Purchase Order for contracts with a total value of \$1,000 or greater to the Office of the General Counsel for review and countersignature by the University. All proposed contracts should be submitted at least fourteen (14) days in advance of the commencement of any services.

4.4 Purchase Order

For contracts with a total value of \$1,000 or greater, a Purchase Order is required. The Business Office is available to assist you in the preparation of the appropriate Purchase Order.

4.5 Payment

For payments against a contract that includes a Purchase Order (contracts with a total value of \$1,000 or greater), submit an approved invoice from the vendor (contractor) with the Purchase Order number noted to the Business Office for payment.

For payments against a contract that does not include a Purchase Order (contracts with a total value under \$1,000), submit an invoice with a Check Request to the Accounts Payable office for payment. Note, per the requirements of a Check Request, two approval signatures are required and a copy of the contract signature page and payment schedule section must be attached. Refer to the [Check Request](#) section Business Office website for further instructions.

The information provided below will assist the University in determining whether the individual performing the services should be classified as an independent contractor or as an employee of the University. The questions are intended as a guide in making this classification determination. Further evaluation may be necessary based on specific individual circumstances.

Name of Individual: _____

DBA (Doing Business As): _____

Hiring Department: _____ Suffolk Contact: _____

Description of Services being provided:

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CHECKLIST: Click the Appropriate Box		YES	NO
1.	Does the individual perform similar services for other clients and/or businesses outside of the University?		
2.	Does the individual engage in an independent trade or business, at risk for profit or loss?		
3.	Will the individual receive little or no training, supervision, or instruction from the University other than conveying the scope of services desired?		
4.	Will the individual be responsible for determining the means and methods used to perform the services?		
5.	Will the individual provide his or her own supplies, equipment, and materials that are necessary to perform such services?		
6.	Will the individual set his or her own priorities on time, amount of effort, and hours of work to accomplish services within the stated timeframe?		
7.	Will the individual be providing services that are not part of the University’s mission or normally performed by employees in the ordinary course of business?		
8.	Will the individual maintain insurance coverage* to protect against work-related injuries and damage to the University?		

If you answered “YES” to **all** of the above questions, the individual is properly classified as an independent contractor. If you answered “NO” to any of the questions above, please contact the Office of the General Counsel.

INDEPENDENT CONTRACTOR: YES NO

*Please see the attached list of required insurance limits and coverages. For questions, please contact Karen Kruppa.



OFFICE OF RISK MANAGEMENT
Certificate of Insurance Requirements for Vendors and Contractors

The following insurances must be evidenced:

- General Liability - minimum limit \$1,000,000/2,000,000 (including a Per Project Aggregate endorsement)
- Umbrella Liability - minimum limit \$5,000,000
- Business Automobile Liability, Including Hired & Non-owned Automobiles - minimum limit \$1,000,000
- Workers Compensation – Statutory limits and Employers Liability

The above policies should include the following:

- * **Suffolk University** must be added as Additional Insured to the General Liability, Excess Liability and Umbrella Liability policies.
- * The certificate of insurance should state "All policies are written on a Primary and Non- contributory basis, and any insurance carried by **Suffolk University** are non-contributing with these policies"
- * The General Liability policy should include a "Per Project or Per Location Aggregate" endorsement
- * All Policies should include a Waiver of Subrogation in favor of **Suffolk University** Certificate of insurance must state not less than thirty (30) days prior notification will be provided to **Suffolk University** in the event of cancellation, non-renewal or material change in policies
- * All policies must be written by a carrier with a minimum A.M. Best rating of A - or better AND a financial size classification of VIII or higher.

Please submit Certificate of insurance to:

Suffolk University
Attention: Karen Kruppa, Risk Manager
8 Ashburton Place
Boston, MA 02108

Or by email: Kkruppa@suffolk.edu
Fax: 617-305-1767