

---

**LAKE-SUMTER STATE COLLEGE  
ADMINISTRATIVE PROCEDURE**

---

TITLE: INDEPENDENT SERVICE CONTRACTORS VS.  
TEMPORARY EMPLOYEES

NUMBER: PRO 5-21

---

REFERENCE: IRS 15-A, FL Administrative Rule 6A-14.073(2g)

PAGE: 1 OF 6

---

**I. GENERAL INFORMATION**

- a. In the attempt to fully comply with Federal IRS rules, LSSC's guiding principal is that service providers will more often than not be classified and hired as Temporary Employees versus Independent Contractors. Although a service provider may consider her/himself to be an Independent Contractor, he or she may not be hired by LSSC as one unless he/she meets IRS criteria for such. Consequently, stringent proof with approval from Human Resources (HR) must exist for the classification and subsequent hiring of Independent Contractors. The burden of that proof rests with the Independent Contractor seeking LSSC employment and the respective LSSC hiring supervisor.

Examples of independent contractor services are professional services provided by, but not limited to, attorneys, auditors, management consultants, architects, engineers, music performers, athletic officials, designers, speakers, seminar presenters, and providers of private lessons in arts, music, sports, and other service areas.

- b. Individuals hired to perform temporary services to LSSC will be classified as either temporary employees or independent contractors following the Federal IRS guidelines and criteria. Classification will be determined by Human Resources before an individual's official temporary hire is made. Acceptance of the classification is a condition of employment. All appropriate and completed HR forms or documentation, as described herein, must be submitted to HR for HR to complete the classification and hiring process.
- c. Hired service providers, classified as either Temporary Employees or Independent Contractors, will be assigned a hiring supervisor. The hiring supervisor is responsible for completing all of the forms necessary for HR to officially classify and hire a service provider. After HR hires the service provider the hiring supervisor then manages or oversees the provider's work. The following information details the classification and hiring process of service providers by LSSC and the responsibilities of the hiring supervisor.

## II. HOW TO BEGIN TO HIRE A SERVICE PROVIDER

Determine from the service provider his or her preference of hire, if hired. Follow either Process A for service providers requesting to be hired as temporary employees or Process B for service providers requesting to be hired as independent contractors.

### a. Process A: Service Providers as Temporary LSSC Employees

1. Service Providers requesting to be hired will complete either an LSSC Temporary Employment Packet or Adjunct Employment Packet which includes the W4 form. A service provider will not be hired and therefore not permitted to work without fully completing either the Temporary Employee or Adjunct Packet. Also, the Employment Action Request for Temporary Employee form (EAR-TE) must be completed (with all appropriate approvals) by the appropriate LSSC hiring supervisor for all classified Temporary Employees except for Credit Course Adjuncts. (Contact or refer to Human Resources, Employment Action Request (EAR) forms on the intranet.) The Adjunct Employment Packet must be completed for classified temporary employees who will be instructors teaching either credit or non-credit courses tied to a CRN. The Temporary Employment packet must be completed for classified temporary Employees who will not be instructing but will be performing specific duties or completing specific assignments/outcomes;
2. Classified temporary employees who are not instructing but performing other duties or completing specific outputs must have either a Job Duties/Task list or Letter of Agreement detailing the services or products for which they will be responsible. Either the Job Duties List or Letter of Agreement must accompany the completed Employment Action Request for Temporary Employee form (EAR- TE);
3. A classified temporary employee may have more than one Employment Action Request for Temporary Employee. This situation can occur when the temporary employee is assigned different duties, or is responsible for different outputs that need to be paid at different rates. The employment engagement period (dates) may be the same or overlap. The justification line on each appropriate form must be completed and must detail the reason for a different rate/multiple rates;
4. In the case where a classified temporary employee is performing different duties or accomplishing different outputs to be paid at different rates, a copy of the respective EAR must accompany the respective timesheet or other documentation. This step is critical for ensuring the temporary employee is paid appropriately for the work;
5. Temporary employees will be paid through the LSSC Payroll process like other LSSC regular employees. As deemed appropriate by HR and Payroll, specific classified temporary LSSC employees will complete monthly timesheets (located on Campus net under Time Sheets: Full Time Employees) or other documentation showing proof of rendered services. Such documentation will be submitted to Payroll by the 20th of each month worked. The hiring supervisor will sign-off on the timesheets or other documentation thus approving the hours to be paid. He or she will also write-in "NA" (Not Applicable) in the Leave Box;

6. For a classified temporary employee of LSSC, LSSC through its Payroll process will be responsible for:
  - i. Withholding Federal Income Tax;
  - ii. Withholding and paying the employer social security and Medicare tax;
  - iii. Paying Federal unemployment tax (FUTA) Issuing Form W-2, Wage and Tax Statement annually;
  - iv. Reporting wages on Form 941, Employer's Quarterly Federal Tax Return.
  - v. Temporary LSSC employees must be assigned a hiring supervisor. (See below: Hiring Supervisors for more information.);
  - vi. When deemed necessary by the hiring department (or LSSC policy) the Temporary Employee must sign and abide by a Non-Compete Agreement.
- b. Process 8: Service Providers as Independent Contractors to LSSC
  1. Service providers will be classified officially and hired as Independent Contractors (either as an individual or company) by Human Resources through the following process:
    - i. The hiring supervisor will complete (with appropriate assistance from the intended service provider) the "Short Test for Determining Service Provider Employee- Type Classification."
      - If the answer to question 3 on the Short Test reveals the service provider does not qualify as an independent contractor, then the hiring supervisor can complete the appropriate forms (packet) to hire the individual as a temporary employee. (Refer back to "A. Service Providers as Temporary LSSC Employees.")
      - If the answer to question 3 on the Short Test reveals the service provider does qualify potentially as an independent contractor, then the hiring supervisor completes #2 (b)1(a) and #2(b)1(b) below.
  2. The hiring supervisor will submit to HR: The Completed Short Test form/document along with copies of other appropriate IRS documentation (1099, W9, 941, K1, SSS with accompanied IRS Determination or Information Letter) as supplied by the service provider;
    - i. HR will notify the hiring supervisor of the official classification/outcome;
      - When providing/submitting copies of a 1099, W9, 941 or K1 IRS document, the service provider must blacken out any amounts, but be sure to leave the TIN, EIN or FIN number. If the service provider does not have any of the above IRS documents to show current proof as an Independent Contractor, then he/she (with the appropriate help from the hiring supervisor) can complete and submit to the IRS an SS-8 "Determination of Worker Status". It is the IRS Determination or Information Letter that must be presented to HR;

- The process of completing the "Short Test" must be used each time the service provider is to be considered for hire. This action is necessary to ensure that the specific work to be completed complies with an Independent Contractor classification. For example: Service Provider ABC was hired as an IC and completed a work project and was paid in Dec. 2004. On Jan. 15, 2005 ABC was being considered for hire for another project. The nature of the work for that project must be assessed using the "Short Test" and appropriate determination then made.
  - ii. The intended service provider must allow ample time for filing the SS-8 with the IRS and receiving a determination. The hiring supervisor is responsible for communicating this policy to the intended service provider;
  - iii. A service provider will NOT be hired and begin work as an independent contractor until that provider has been officially classified by HR and the hiring supervisor has completed a contract and a Purchase Order has been issued and accepted by the independent contractor. Should the service provider not be classified as an independent contractor that provider may elect to apply as a Temporary Employee.
- c. Contract and Accounting Requirements for the Independent Contractors
1. The President or designee is authorized to execute contracts on behalf of the District Board of Trustees for goods or services valued at less than \$10,000 which are to be used in the normal operation of the College.

Consultants contracts over \$999 must be approved by the President.

Service contracts above \$10,000 must go the Board of Trustees for approval.

- i. The college is required by the IRS to report miscellaneous paid to service providers on form 100-misc;
- ii. Documentation of satisfactory performance of a service contract shall be submitted on a RR (Receiving Report) with the request for payment. Such documentation shall be in the form of time sheets, essential portions of output or end product or other information which substantiates satisfactory performance;
- iii. The maintenance of records of all such payments are captured in the accounting records for the completion of the 1099-misc. Information copies shall be mailed to payees for their personal tax records after the end of the calendar year.

### **III. RESPONSIBILITIES FOR HIRING SUPERVISORS OF TEMPORARY EMPLOYEES OR INDEPENDENT CONTRACTORS**

- a. LSSC classified and hired Temporary Employees or Independent Contractors must have an assigned hiring supervisor. As described in detail above, the hiring supervisor is responsible for assisting HR with completing the employee classification of an intended service provider. Once the classification is complete and the service provider officially hired, then the hiring manager is responsible for managing or overseeing the work of the employee as defined below.
- b. For Temporary Employees, the hiring supervisor is responsible for scheduling, assigning and directing the temporary employee's work. The assigned hiring supervisor will control what the provider will do and how it will be done. Even though the intended provider may be given a specific degree of freedom of action to perform the work/service(s), the assigned LSSC supervisor has the right to control the details of how the services will be performed.

- c. The hiring supervisor will also verify hours worked by approving the temporary employee's monthly time sheet and submitting such to Payroll prior to the 20th of each month for payroll processing. In such cases where the temporary employee is paid for completing specific products, the hiring supervisor will document completion of such in a memo which is then submitted to Payroll prior to the 20th of the month for payroll processing. The hiring supervisor must also inform the temporary employee at appropriate times that the employee is not a full-time employee and therefore is not treated as such relative to benefits, etc.
- d. For Independent Contractors, the hiring supervisor will be responsible for contracting, scheduling, assigning and monitoring all activities of the independent contractor for the work defined in the Purchase Requisition and its associated attachment/addendum. The hiring supervisor must submit a completed Receiving Report for the related Purchase Order to Financial Services (thereby verifying that the service was rendered) as payment approval.

#### **IV. SCHEDULE OF AUTHORIZATIONS FOR HIRING CLASSIFIED INDEPENDENT CONTRACTORS**

- a. Directors, assistant directors, coordinators and department chairpersons have the authority with sufficient justification and sufficient funds, to approve the hiring of Independent Contractors at a rate of up to and including \$25.00 per hour or \$400.00 per appointment, plus approved state travel expenses and per diem allowances. (Note: for purposes of this procedure a day equals 7.5 hours.)
- b. Deans, executive directors, and vice presidents have the authority, with sufficient justification and sufficient funds, to approve the hiring of Independent Contractors at a rate of up to and including \$100.00 per hour or \$1,600.00 per appointment, plus regular travel expenses and per diem allowances.
- c. Presidential approval is required for Independent Contractors whose fees exceed \$100.00 per hour or \$1,600.00 per appointment.
- d. HR will review and determine the appropriateness of the pay rate. If HR detects a potential inequitable pay rate situation, HR will:
  - 1. Place a "hold" on the PO in question through the queue process;
  - 2. Notify the hiring supervisor (PO originator) of the "hold";
  - 3. Apprise the President's Cabinet of the situation; and
  - 4. Wait for a resolution from the President's Cabinet before authorizing the PO.
- e. Electronic purchase order requisition approval queues will be used by HR - to confirm receipt of a recent 941, K1 or an IRS Determination or Information Letter approving the provider as an Independent Contractor - and by those persons designated for the above schedule of authorizations.

**V. SUPPORTING FORMS, DOCUMENTS, RESOURCES**

The following documents, forms or packets referenced in this document can be found on the campus forms website.

- a. Employee Packet.
- b. Adjunct Instructor Packet.
- c. Employment Action Request - Temporary Employee.
- d. Short Test for Determining Service Provider (of Employee-Type Classification).
- e. Purchase RQ Manual: <http://admin-campusnet/training/BannerPurchaseRQManual.pdf>.

The IRS SS-8, Determination of Worker Status" form can be found on the IRS internet site: [www.irs.gov](http://www.irs.gov).

Service Provider Name \_\_\_\_\_

Date: \_\_\_\_\_

Reviewed by: \_\_\_\_\_

**SHORT TEST for Service Provider Determination  
(Of Employee-Type Classification)**

All of the following questions must be answered on this Short Test\*. Even if the answers to questions 1 & 2 are negative the intended provider may still qualify as an independent contractor providing Question 3 is answered "definitively yes." The provider may still need to complete as directed by HR a W9, submit to the IRS form SS-8 and subsequently produce the Letter of Determination or Information from the IRS. The completed short test must be submitted to HR with any appropriate IRS documentation as indicated below.

***Specific questions to ask of provider or self about the work to be performed.***

- a. Has this intended service provider performed work for the College as an Independent Contractor before?
  1. No \_\_\_\_\_
  2. Yes (If yes, then answer the following questions:)
    - i. When? \_\_\_\_\_
    - ii. By Whom (hiring supervisor & org)? \_\_\_\_\_
    - iii. Was that work the same as the work now needing to be accomplished? \_\_\_\_\_
- b. Has this intended service provider filed an IRS 941, or K1 or SS8 form for the same work as being requested now?
  1. No \_\_\_\_\_
  2. Yes (If yes, then answer the following questions : )
    - i. Which IRS form specifically? \_\_\_\_\_
    - ii. Will the provider present a copy (with all accounting info blackened out) of a 941, or K1, or SS8 form with IRS Letter of Determination to HR? \_\_\_\_\_ Yes \_\_\_\_\_ No
- c. **As the hiring manager will you be controlling or directing ONLY the result of this person's work (and NOT the means and methods by which the result is accomplished)?**

Before selecting either a. or b. below, answer all the Process Subset Questions which will assist you in making the correct selection.

1. Definitively Yes
2. Definitively No

**Process Subset Questions:**

1. Will you be instructing the person as to:

i. Where and how to work	_____ Yes	_____ No
ii. What tools or equipment to use	_____ Yes	_____ No
iii. What workers to hire or to assist with the work	_____ Yes	_____ No
iv. Where to purchase or acquire supplies from the hiring firm	_____ Yes	_____ No
v. What work must be performed by a specified individual	_____ Yes	_____ No
vi. What order or sequence to follow in performing the work	_____ Yes	_____ No

2. Will you be giving any training to the individual so that he/she can perform the work in a particular manner? \_\_\_\_\_ Yes \_\_\_\_\_ No
3. Will the person be provided employee-type benefits? \_\_\_\_\_ Yes \_\_\_\_\_ No
4. Select the more accurate statement from the following: \_\_\_\_\_

\_\_\_\_\_ Yes, the person will **NOT** realize potential personal loss or gain.

\_\_\_\_\_ No, the person will realize potential loss or gain.

If you answered "Yes" to any of the above 1-4 questions, then return to 3. and check "Definitively No."

AND, therefore, the intended service provider must be classified as a Temporary Employee and not an Independent Contractor.

\* Note: This short test is an excerpt from IRS 15-A SS-8 form. It is designed to 1) assist in determining if the full SS-8 form needs to be completed by the intended independent contractor/service provider and sent to the IRS; or 2) counsel the service provider that this preliminary screen points to a Temporary Employee classification which they should seriously consider. It is not a substitution for a completed SS-8 and its subsequent Letter of Determination from the IRS.

New: 5/2005

Revised: 12/15/2009

Short Test for Service Provider Employee Classification

02/11/2016