VIDEO TRANSCRIPT

Independent Contractors: What are the rules?

Welcome to the Nonprofit Labor and Industries Navigator. We make sure you can find your way through worker-related rules to ensure the people delivering your mission are safe, healthy, and secure.

Let's talk about independent contractors. Many nonprofits engage independent contractors. It's important to know what they are in the eyes of the law to make sure you stay compliant and protect your organization.

In Washington, independent contractors must pass a six part test. You must say yes to all parts. Here they are one-by-one:

Are they free from your supervision, direction, or control?

Is the individual's business different and separate from your own?

Does the individual have an established independent business that existed before you brought them on—or—does the individual have a principal place of business that qualifies for an IRS business deduction?

Is the individual responsible for filing a schedule of expenses with the IRS, such as would be part of a business tax return?

Does the individual have all required registrations and licenses for their business?

Does the individual maintain his/her own set of books and records that reflect all income and expenses of the business?

An independent contractor is not one simply because they say they are. You need to see proof.

Nonprofits often struggle with the independent contractor definition, so let's look at some examples:

A nonprofit that wants to hire a volunteer to cover for an employee who will be out for a day. Would that person be an independent contractor? Not according to the definition I just gave. That individual does not have their own business. They are working under your supervision or control. They are a temporary employee.

The board of a small nonprofit has $20,000 to put towards leadership and wants to pay their executive director as an independent contractor. Legal? Probably not. It is unlikely that an executive director would meet the definition of an independent contractor because they don't have their own business. They are not contracting with multiple nonprofits to serve as an executive director.

Finally, an organization hires a cleaner who comes in every afternoon. That person does not have his own business. He is doing informal work on behalf of the organization. Is this person an independent contractor? Go back to those six questions and make sure you can answer "Yes" to all of them. If he doesn't have his own business, he is not an independent contractor.

Throughout the Nonprofit Labor & Industries Navigator series, we talk about recordkeeping. Make sure you have clear records that prove any independent contractors you are working with are truly independent contractors in the eyes of the law.

Learn more about worker-related rules by downloading the Nonprofit Labor & Industries guide at https://www.nonprofitlearning.center/LNI.