



## Independent Contractor (IC) Policy

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It is Clark University's policy that an individual who is paid to provide services to the University must be hired as an employee unless the engagement satisfies the three-part Independent Contractor test defined in Section II below.

An Independent Contractor (IC) is generally an individual who is in an independent trade, business, or profession and offers services to the general public. An IC may work as an individual or through a business entity such as a sole proprietorship or limited liability corporation. ICs are sometimes also referred to as consultants, 1099s, contractors, or vendors.

A worker's preference is not relevant to the classification determination, nor is that of the department wishing to engage the individual.

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Under Massachusetts and federal law, the University is required to meet a number of obligations with respect to the treatment of employees, including wage and hour requirements, payroll tax withholding, and provision of workers compensation and unemployment benefits.

Unlike employees, ICs are not paid through the payroll system, do not receive W-2s, are not enrolled in the University's benefits plans, are not covered by the University's workers compensation program, and are not eligible for unemployment benefits following the contract performance period.

The consequences of misclassifying workers as ICs instead of employees may cause the University to fail to meet its legal obligations and give rise to significant liability, including taxes and related penalties, criminal sanctions, and civil liability. The University has adopted this Policy to guide departments seeking to engage ICs and to establish procedures to ensure that individuals are properly classified as employees unless the strict requirements of the IC test are met.

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All University departments must comply with this Policy. This Policy applies to any individuals engaged directly to perform any service for the University. This Policy does not apply to the following:

Vendors with an Employer Identification Number ("EIN") for tax purposes

When the University is contracting with a third-party entity (e.g., managed services provider, temp agency, IT staffing firm) to obtain personnel who are classified by those firms as employees or contractors to perform services. However, certain third-party entities are not considered managed service providers and do not go through a formal classification process, but rather act as "freelancer marketplaces" (e.g., TaskRabbit, freelancer.com). This Policy does apply to individuals contracted through freelancer marketplaces, meaning that the procedures set forth below must be followed as part of the engagement.

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Under the following circumstances, the completion of an ICQ is not required. However, the department must still ensure that the classification satisfies the three-part IC test set forth above, and a written contract is still required.

March 2021

Policy Implemented

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