



## Ohio Revised Code

### Section 145.038 Acknowledgement of independent contractor status.

Effective: September 29, 2013

Legislation: House Bill 59 - 130th General Assembly

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(A) A public employer who on or after January 7, 2013, begins to receive personal services from an individual it classifies as an independent contractor or another classification other than public employee shall inform the individual of the classification and that no contributions will be made to the public employees retirement system for the services. Not later than thirty days after the services begin, the employer to whom the personal services will be rendered shall require the individual to acknowledge, in writing on a form provided by the system, that the individual has been informed that the employer does not consider the individual a public employee and no contributions will be made to the public employees retirement system for the services. The employer shall retain the acknowledgement for a period of five years after the date the services begin and immediately transmit a copy of it to the public entity responsible for submitting to the system the reports required by section 145.47 of the Revised Code. The public entity shall transmit a copy of the acknowledgement to the system.

(B)(1) Regardless of whether the individual has made an acknowledgement under division (A) of this section and, except as provided in division (B)(2) of this section, an individual may request that the public employees retirement board determine whether the individual is a public employee for purposes of this chapter.

(2) Division (B)(1) of this section does not apply to an individual employed by a business entity under contract with a public employer to provide personal services to the employer.

(C) A request for a determination must be made not later than five years after the individual begins to provide personal services to the public employer, unless the individual demonstrates to the board's satisfaction through medical records that at the time the five-year period ended the individual was physically or mentally incapacitated and unable to request a determination.

(D) On receipt of a request under division (B)(1) of this section, the board shall determine whether the individual is a public employee for the purposes of this chapter. If the board determines that the



individual is not a public employee for the services, for the purposes of this chapter, the individual shall not be considered a public employee with regard to the services in question. The board's determination is final.

The board shall notify the individual and the public employer of its determination. The determination shall apply to services performed before, on, or after January 7, 2013, for the same employer in the same capacity.

(E) The board may adopt rules under section 145.09 of the Revised Code to implement this section and sections 145.036 and 145.037 of the Revised Code.