



Ohio Administrative Code Rule 145-1-41 Membership determination.

Effective: January 1, 2019

(A) In making any determination as to whether an individual is a contract employee or independent contractor under section 145.036 of the Revised Code, the public employees retirement board shall review, including but not limited to, the elements described in paragraphs (A)(1) and (A)(2) of rule 145-1-42 of the Administrative Code to determine the degree of control or independence in the relationship between the employer and the employee or contractor based on the facts and circumstances of the relationship.

(B) If the employer fails to request a determination and the retirement board determines the individual should be a member, then the employer shall be liable for employee and employer contributions pursuant to section 145.483 of the Revised Code if no deductions have been made.

(C) If the employer fails to request a determination and the retirement board determines the individual shall not be a member, then any employee contributions received prior to the determination are unauthorized and shall be returned to the employer. Any employer contributions shall be credited against future employer liabilities.

(D) A public employer who engages or contracts with a business entity as defined in section 145.037 of the Revised Code is not required to perform the acknowledgment provisions described in section 145.038 of the Revised Code with regard to the business entity.
