



Ohio Administrative Code

Rule 3342-6-04.3 Administrative policy regarding independent contractors.

Effective: November 1, 2022

(A) Purpose and scope. The purpose of this policy is to define the process for obtaining the professional services of an independent contractor at Kent state university. It is the intent of the university to classify individuals as independent contractors only when there is a reasonable basis for such determination and in circumstances provided for in this policy.

(B) Eligibility.

(1) Individuals classified as independent contractors are not eligible for any employee benefits, are not covered by worker's compensation, and fees paid for professional services are not subject to income tax withholding.

(2) Individuals who are currently employed with Kent state university may not be engaged as an independent contractor.

(3) Individuals who have been employed with Kent state university may not be engaged as an independent contractor in the same calendar year that they were an employee performing the same or similar duties.

(4) Services performed by an independent contractor shall not replace the work normally performed by a university employee.

(C) Definition of an independent contractor. For the purposes of this policy, an independent contractor is an individual who meets each of the following while performing a professional service for the university: has a degree of skill or area of expertise not normally available within the university; uses their own tools and equipment to deliver the service, performs the service for a limited period of time not to exceed six months; has complete control over the manner in which the work is performed; and normally provides such services in the open marketplace.



(D) Procedure.

(1) Prior to the engagement of professional services of an independent contractor, a unit must initiate the review process administered by the division of human resources and provide any materials as may be requested by the division representative. At time such review is initiated, the parties (i.e. unit or the independent contractor) may negotiate the terms of an agreement. However, such agreement shall not be executed by either party prior to the conclusion of the review process.

(2) The review process by the division of human resources will result in either approval for the unit to proceed, or denial. In the event of denial, the unit may engage the division of human resources to discuss alternatives as may be available.

(3) Upon approval and prior to any services performed or delivered by the independent contractor, the unit is responsible for ensuring that an agreement is executed with the independent contractor in accordance with the process provided in rule 3342-5-04.1 of the Administrative Code. A copy of the duly executed agreement shall be retained by the unit in accordance with the university record retention schedule.

(E) Exemptions and modifications. In rare circumstances, the vice president for human resources may determine that certain engagements are by their very nature representative of an independent contractor relationship. For purposes of expedience and efficiency, in their sole discretion, the vice president for human resources may determine that such engagements are exempt from the review procedure provided in paragraphs (D)(1) and (D)(2) of this rule, or may otherwise engage in a modification to such review as approved by the vice president for human resources.

(1) Exemptions and/or modifications under this rule shall be submitted to the vice president for human resources by the divisional vice president. Notification of any such exemptions and/or modifications shall be posted on the divisions website and further notification shall be provided to the divisional vice presidents prior to the effective date of such exemption.

(2) Any exemptions and/or modifications granted shall be reviewed on or before July first of each year.



(F) Violation. Violations of this policy by units shall be directed to the vice president for human resources for review and enforcement as may be necessary. Violation of this policy by a university employee may subject such employee to disciplinary action including, but not limited to, termination.