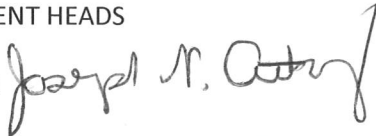




SUNY OLD WESTBURY
DIVISION OF BUSINESS & FINANCE

DATE: JULY 11, 2022

TO: CABINET & ADMINISTRATIVE DEPARTMENT HEADS

FROM: JOE ATHY, INTERNAL CONTROL OFFICER 

SUBJECT: INDEPENDENT CONTRACTOR VERSUS EMPLOYEE CLASSIFICATION (UPDATE)

Policy Statement: It is the policy of the College to properly classify independent contractors and employees for the purpose of meeting Internal Revenue Service (IRS) regulations.

It is a matter of high importance to correctly determine whether individuals providing services to the Campus are employees or independent contractors. Although it may seem that classifying a worker as an independent contractor (rather than an employee) benefits the College due to financial savings and reduced paperwork, these perceived benefits may turn out to be false. Misclassifying an employee as an independent contractor may result in potential penalties from the Internal Revenue Service or New York State Department of Labor, by potential Workers' Compensation or unemployment claims, and by liability or malpractice suits.

To address these risks, the College is establishing policies to ensure that:

- Payments for services by individuals are classified correctly according to IRS Guidelines.
- Independent Contractor services are obtained according to SUNY procurement guidelines, Affirmative Action policies, and applicable Government regulations.
- All payments made to independent contractors are supported by proper documentation regarding selection, scope of work, and payment.
- Services retained are established under a formal agreement or contract.

In the interim, see attached IRS 20-point checklist to help you decide if your hire is an employee or contractor. In addition to that determination, please be sure that all service arrangements are to be authorized by the appropriate Department Official, and all contracts and agreements are to be signed off by the CFO & Vice President of Business and Finance, before any services can start.

Any questions should be directed to Joe Athy (x4220) in Business Compliance.

Thank you.

Cc: Martha Santana
Pat Lettini