WORKSHEET ON WORKER STATUS

I. California Test for Employment

To determine if an worker is an independent contractor or an employee, look at the Main Test and, then, when required, the ten Secondary Factors.

A. Main Test

Does the College (do you) have the right to direct and control the manner in and means by which the worker carries out the duties assigned or job required. Yes ___ No ___

The right of direction and control, whether or not exercised, is the most important factor in determining an employment relationship. The right to discharge a worker at will and without cause is a strong indication of the right of direction and control. Note: When it is not clear (which is often the case) whether you have the right to direct and control the worker, you must look further into the actual working relationship between the worker and the College by considering the following ten (10) Secondary Factors.

B. Secondary Factors

Depending on the type of working relationship and the services performed, each factor can vary in its importance to the final determination of status. Consider each factor independently; then, consider them as a whole in making your determination.

1. Is the worker engaged in a distinct trade or occupation? Yes ___ No ___
   a. Does the worker make their services available to the general public? Yes ___ No ___
   b. Does the worker perform work for more than one entity/company at a time? Yes ___ No ___
   c. Does the worker hire, supervise, or pay assistants? Yes ___ No ___
   d. Does the worker have a substantial investment in his or her own equipment and facilities? Yes ___ No ___

2. Is the work done without supervision? Yes ___ No ___

In the geographic area and in the occupation involved, is the type of work usually done under the direction of a College employee without supervision? Yes ___ No ___
3. **Is the work highly skilled and specialized?**

   a. Does the College train the worker? Yes ___ No___
   b. Does the worker personally perform the services? Yes ___ No___

4. Does the College furnish/provide the tools, equipment, materials, supplies, and place of work? Yes ___ No ___

   Does the worker perform the services on the College's business premises? Yes ___ No ___

5. Are the services provided on a long-term or repetitive basis? Yes ___ No ___

6. Method of payment: Is the worker paid based on time worked (hourly, weekly basis) or upon completion of a specific project? Yes ___ No ___

7. Are the services an integral part of the College's business? Yes ___ No ___

8. What type of relationship do the parties believe they are creating? Employee ___ Independent Contractor___

9. **What is the extent of actual control by the College?**

   a. Does the worker have the right to terminate the relationship without liability? Yes ___ No ___
   b. Does the College provide instructions on how to do the work? Yes ___ No ___
   c. Does the College establish the work hours or the number of hours to be worked? Yes ___ No ___
   d. Does the College require the work to be done in a particular order or sequence? Yes ___ No ___
   e. Does the College require oral or written reports from the worker? Yes ___ No ___

10. Is the work performed for the benefit of the College's business? Yes ___ No ___
II. Federal Test for Employment

To determine if an worker is an independent contractor or an employee, consider the behavioral control, financial control, and relationship of the parties:

**Behavioral Control:** Generally, anyone who performs services for you is your employee if you have the right to control what will be done and how it will be done.

**Financial Control:** Who directs or controls the business aspects of work? Independent contractors are in business for themselves, offer their services to the general public, and have a significant financial investment in the facilities or equipment used in performing services. They can realize a profit or incur a loss.

**Relationship of the Parties:** How do you and the worker perceive your relationship? An ongoing relationship and worker benefits (e.g. health insurance) generally indicate an employer-employee relationship. However, the actual substance of the relationship determines whether your workers are employees or independent contractors, not a job title or written contract.