



ATHENA LEGAL SOLUTIONS

Approachable. Knowledgeable. Trusted.

Employee
vs
Contractor
CHECKLIST

Congrats!

You are getting ready to grow your business or nonprofit by adding employees or contractors. To ensure you are able to successfully protect and grow your business or nonprofit, you must understand the differences between employees and contractors.

Use these checklists to help you determine which type of worker best meets your needs.

Inaccurate classification of workers can lead to serious consequences for your business including fines in the tens to hundreds of thousands from the government and unnecessarily overpaying for resources as you grow.

Please reach out if you have any questions or are unsure about what is best for your business or nonprofit. You can schedule a free consultation online at www.athenalegalsolutionsllc.com, by email at info@athenalegalsolutionsllc.com or by phone at 608.293.4574.

Disclaimer: This material is provided as a courtesy by Athena Legal Solutions LLC for informational purposes only and does not constitute legal advice. Access or use of this information is not intended to create, and does not constitute, an attorney-client relationship. Please consult with an attorney if you have any questions.

Employee

If you select almost all of these, you likely have an employee

- Bound by schedule set by your business
- Receives additional benefits paid by your business (i.e., 401k, health insurance, vision insurance, disability, paid time off)
- Receives paychecks on routine basis and receives pay for days not worked
- Submits weekly or biweekly timecard
- Follows operational policies and procedures as determined by your business (i.e., dress code, paid time off requests, computer and technology use)
- Uses supplies provided by your business to do work
- Has set time in which to take breaks
- Represents your business and is your business' responsibility in liability situations
- Can be terminated at any time for any nondiscriminatory reason
- Can be stopped from working for competitor (depending on the nature of the job)
- Is responsible for performing work requested
- Relies on work with your business as their primary source of income

Independent Contractor

If you select almost all of these, you likely have an 1099 independent contractor

- Sets their own schedule
- Enters into unique agreement with your business
- Sends invoices to you for payment
- Has freedom to perform services as they see fit (i.e., no directional control from company)
- Owns their own business (sole proprietor or formally recognized entity)
- Has their own business advertisements (i.e., business cards, website, Facebook business page)
- Uses their own supplies to perform services for your company
- Follows regulatory or select policies specific to vendors as determined by you (i.e., sexual harassment, physical security, vendor travel expenses)
- Is responsible for expenses associated with performance of the services
- Has an EIN or files self-employment tax return
- Has opportunity to fix errors in performance of services for reduced payment and before termination of services by your business
- Has recurring business obligations of their own (i.e., insurance, professional liability, commercial rent, memberships, etc.)
- Can be personally responsible for claims by third parties
- Works for other similar businesses and sometimes competitors
- Provides services that are not directly related to the services offered by your business
- May subcontract services they are providing to your business