Bismarck Diocese

As of: 06/16/2026

Classifying Workers: Employee vs. Independent Contractor

1. Purpose: This paper outlines guidelines to parishes and institutions within the Bismarck Diocese for determining whether paid workers are to be classified as individual independent contractors or church employees. Proper classification of workers is important because substantial penalties can be assessed to the parish/institution for treating workers as contractors if they are later reclassified as employees by the IRS.

2. Reference: -IRS website: [Independent Contractor vs. Employee Update](https://www.irs.gov/newsroom/understanding-employee-vs-contractor-designation), https://www.irs.gov/newsroom/understanding-employee-vs-contractor-designation, and https://www.irs.gov/businesses/small-businesses-self-employed/independent-contractor-defined

3. Definition:

a. **Employee**: Anyone who receives pay through payroll for performing services is an employee if the parish/institution can control what work will be done by the worker and how it will be done. Generally, the following factors indicate "employee" status; however, not all factors need be present:

1) Working for someone else's business.
2) Generally, can only earn more by working additional hours.
3) Typically uses the employer's materials, tools and equipment.
4) Typically works for one employer or may be prohibited from working for others.
5) Continuing or indefinite relationship with the employer.
6) Employer decides how and when the work will be performed.
7) Employer assigns the work to be performed.

b. **Independent Contractor**: Individual workers who operate an independent trade, business, or profession in which they offer their services to the general public and are not subject the factors listed above. Below are indicators of an Independent Contractor.

1) In business for themselves.
2) Can increase profit through business decisions.
3) Typically provides their own materials, tools and equipment and uses them to extend market reach.
4) Often works with multiple clients.
5) Temporary relationship until project completed.
6) Decides how and when they will perform the work.
7) Decides what work or projects they will take on.

4. Background: An employer must withhold income taxes and pay Social Security and Medicare taxes on wages paid to an employee. Employers normally do not have to withhold or pay taxes on payments made to independent contractors. As such, independent contractors are subject to a higher tax rate. In response to employers misclassifying employees as contractors to save money, Federal law was established to protect workers. **If in doubt, parishes/institutions should treat an individual worker as an employee versus an independent contractor**.

5. Procedures:

1) Using the factors outlined above a parish/institution should determine if a worker is an employee or an independent contractor.
2) Employees must receive a criminal background check, provide W4 and I9 completed forms, etc. before added to payroll in accordance with proper Diocesan policies. Independent Contractors must

also receive a criminal background check, provide a W-9 Form, and complete the attached Independent Contractor Service Agreement. Independent Contractors will receive a 1099NEC when required

3) If a worker meets the criteria to be classified as an employee but requests to be treated as an independent contractor, an Independent Contractor Service Agreement, receive a criminal background check, and W-9 Form needs to be completed.

6. Proponent: Questions regarding these guidelines should be directed to the Vice Chancellor of the Bismarck Diocese.

INDEPENDENT CONTRACTOR SERVICE AGREEMENT

Parish: ____

Address: ____

____

Contractor: ____

Address: ____

____

SSN: ______________________

Term: This Contract is effective ___/____/____ and will continue until ____/____/____. Notwithstanding any other provisions of this Contract, either party hereto may terminate this Contract at any time by giving 14 days written notice to the other party.

Services to be rendered: ____

____

____

Payment: ____

1. The relationship between Parish and Contractor is that of independent contractor. Contractor agrees to receive a criminal background check and to provide workers' compensation insurance for Contractor and its employees.

2. Parish agrees to defend, protect, indemnify and hold harmless Contractor against and from all claims arising from the negligence or fault of Parish or any of its agents, officers, employees or volunteers for claims arising from this Contract and arising from Parish negligence.

3. Contractor agrees to defend, protect, indemnify and hold harmless Parish against and from all claims arising from the negligence or fault of Contractor or any of its agents, officers, employees or volunteers for claims arising from the above identified Contract and arising from Contractor negligence.

4. Parish and Contractor agree that this document overrides any insurance or indemnification language in conflict to an existing contract whether the existing contract has been previously signed or will be signed in the future.

Parish:

____ Date: ________________

(sign)

Contractor:

____ Date: ________________

(sign)