

Individual Evaluated: _____ Position: _____

Below is a 6-factor guide that includes various considerations to help you determine whether your worker is an independent contractor or an employee. While these rules are only intended as a guide, they should be helpful in determining whether the worker is an employee or independent contractor based on all the circumstances of the working relationship in consideration of multiple factors, with no factor or factors having any predetermined weight (i.e., no one factor carries more weight than the other – the totality of the circumstances controls). If you have questions, then please contact the Human Resources department.

Preliminary Questions:

	YES	NO
A. Does the individual currently work in <u>any capacity</u> for Craven Community College as an employee?	Must treat as an employee	Go to "B"
B. During the 12 months prior to the date on which the working relationship is to commence, has the individual worked in <u>any capacity</u> for Craven Community College as an employee?	Red flag that the worker may be an employee	Go through the 6 factors

Factor One: Does the individual have opportunities for profit or loss based on managerial skill that affect the individual's economic success or failure? (If the individual has no opportunity for a profit or loss, then this factor suggests that the individual is an employee). Consider the following to make the determination:

YES NO

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| ☐ | ☐ | • Do you determine the individual's rate of pay (i.e., the individual cannot determine or cannot meaningfully negotiate the charge of pay for the work provided to the College)? |
| ☐ | ☐ | • Do you control the amount of work performed by the individual performs (i.e., the individual does not engage in marketing, advertising, or other efforts to expand their business or secure more work)? |
| ☐ | ☐ | • Do you determine who the individual works with to perform work for the College (as opposed to the individual making decisions to hire others)? |
| ☐ | ☐ | • Does the individual lack opportunity for a profit or loss in their performance of work for the College? |

Total "YES": _____

Total "NO": _____

Factor Two: Does the individual make any investments that are capital or entrepreneurial in nature? (Investments that are capital or entrepreneurial in nature generally suggest that the individual is an independent contractor, while a lack of investments to support an independent business indicates employee status). Consider the following to make the determination:

YES NO

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| ☐ | ☐ | • Do you provide the individual with the equipment, materials, or tools to perform their work (as opposed to the individual purchasing their own equipment, materials or tools to perform their work exclusive of any equipment, materials or tools that are required by the College)? |
| ☐ | ☐ | • Does the individual lack significant capital or entrepreneurial investments to their business (e.g., the individual is not making similar types of investments as the College or investments of the type that allow the individual to operate independently in the individual's industry or field)? |
| ☐ | ☐ | • Do you control the costs or expenditures for the individual to perform work for the college (i.e., does the individual lack the ability to control the costs that will be imposed or the amount of their expenditures to perform work for the College)? |

Total "YES": _____

Total "NO": _____

Factor Three: Does the individual have a degree of permanence in their work relationship with the College? (If the work relationship is indefinite in duration, continuous, or exclusive to the College, then this factor suggests the individual is an employee). Consider the following to make the determination:

YES NO

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|--------------------------|--------------------------|--|
| ☐ | ☐ | • Does the individual have an indefinite or continuous work relationship with the College? |
| ☐ | ☐ | • Does the individual spend all of their time on your job? |

Total "YES": _____

Total "NO": _____

Factor Four: Does the College control or reserve the right to control the individual's work and the economic aspects of the working relationship? (If the College sets the individual's schedule, supervises the individual's performance of the work, or reserves the right to supervise or discipline the individual, then this factor suggests the individual is an employee). Consider the following to make the determination:

YES NO

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| ☐ | ☐ | • Do you set the individual's hours and/or days of the week during which the individual performs the work rather than allowing the individual to set their own schedule? |
| ☐ | ☐ | • Do you limit the individual's ability to work for others, or place demands or restrictions on the individual that do not allow them to work for others or work when they choose? |
| ☐ | ☐ | • Do you provide the individual with instructions on how to complete the work, rather than relying on the individual's judgment and expertise? |
| ☐ | ☐ | • Do you provide the individual with performance evaluations? |
| ☐ | ☐ | • Do you determine the order in which the services are performed? |
| ☐ | ☐ | • Do you provide the individual with periodic or ongoing training on proper procedures, methods, or performance of job duties in order to either begin or continue the work? |
| ☐ | ☐ | • Did you provide the individual with an employee handbook such that the individual is subject to the College's disciplinary policy or does the College reserve the right to discipline the individual? |
| ☐ | ☐ | • Do you invite the individual to participate in department meetings? |
| ☐ | ☐ | • Does the College provide the individual with benefits such as insurance, a retirement plan, vacation, or sick pay? |
| ☐ | ☐ | • Does the individual have a College email address or is the individual listed on the College's website? |

Total "YES": _____

Total "NO": _____

Factor Five: Does the individual perform work for the College that is an integral part of the College's business? (If the individual's work is critical or necessary to the College's principal business, which is a teaching and learning institution that serves curriculum students and individuals in workforce development training programs, then this factor suggests the individual is an employee). Consider the following to make the determination:

YES NO

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|--------------------------|--------------------------|--|
| ☐ | ☐ | • Does the individual perform the same tasks as an existing employee? |
| ☐ | ☐ | • Are the individual's services so important to the College's business that they have become a necessary part of the business? |

Total "YES": _____

Total "NO": _____

Factor Six: Does the individual use any specialized skills to perform work for the College and do those skills contribute to business-like initiative? (If the individual does not use specialized skills in connection with business-like initiative, then this factor suggests the individual is an employee). Consider the following to make the determination:

YES NO

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| ☐ | ☐ | • Is it true that the individual does not possess a specific skill or special training (like a license, degree, or certification) to complete their work for the College? |
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Total "YES": _____

Total "NO": _____

Calculate the number of "Yes" and "No" checks for each factor. If you checked "YES" to the majority of the questions under any factor, then that individual factor indicates the worker should be considered an employee.

If you checked "NO" to the majority of the questions under any factor, then the individual's employment classification requires additional review and Human Resources should be consulted.

This checklist is designed to provide guidance and assistance in many cases, however, the evaluation of an individual's status as an independent contractor is based on the facts and circumstances which sometimes are not quantifiable or absolute. **When in doubt, the individual should be classified as an employee.** All questions should be directed to the Human Resources Department.