



# ALABAMA ASSOCIATION OF SCHOOL BUSINESS OFFICIALS

## School Business Operations I

September 2021

# Topics

- School Board and Administrative Functions
- Record Retention
- Classifying Independent Contractors

# School Board Administrative Functions

- Duties and Authority of the Board
  - The Board of Education acts as a legislative body in determining general policies for control, operation and maintenance of schools.
  - Set the vision and the goals for the district.
  - Adopt policies that give the district direction to set priorities and achieve its goals.

<b><u>Roles/Responsibilities</u></b>	<b><u>School Board</u></b>	<b><u>Superintendent</u></b>
1. General	Governs the District	Advises the Board – Manages the District
2. Policy	Adopts	Suggests and Implements
3. Board Meetings	In charge of	Serves as resource
4. Budget/Finance/Audits	Adopts and monitors	Prepares, administers, monitors, details
5. Instruction/Curriculum	Establishes criteria, approves, and monitors	Recommends, oversees staffs' efforts
6. Personnel	Establishes criteria, approves, or rejects	Interviews, recommends, hires, evaluates, promotes, trains
7. Community Relations	Creates a positive image for district	Creates a positive image for district, directs communications
8. Labor Relations	Provides guidelines, ratifies contracts	Monitors process within guidelines
9. Student Services	Adopts policies for care and control	Recommends, implements, directs
10. Facilities/Food Service /Transportation	Develops policy on use of	Implements policy, writes procedures, makes recommendations

# Policies and Procedures

- Policies and procedures make the schools and school system a more effective and efficient organization.

# Board Policies

- **Board Policies:**
  - Governing Principles
  - School Board Operations
  - Business Services/Fiscal Management
  - General Administration
  - Personnel
  - Students
  - Instructional Program

# Board Policies

- **Board Policies: Board Operations**
- Board Operations
  - Qualifications
  - Method of Elections/Appointments
  - Duties
  - Regular Meetings
  - Compensation
  - Policy Review

# Board Policies

- **Board Policies: Business Services/Fiscal Management**
- Purchasing and Procurement
  - Financial Procedural Manual
  - Budgeting
  - Purchase Orders
  - Purchasing and Bidding
  - Cooperative Purchasing
  - Procurement Policy
  - Expenditures
  - Inventories



# Board Policies

- **Board Policies: Business Services/Fiscal Management**
- Purchasing and Procurement
  - Acquisition, Use and Exchange of School Property
  - Sale, Transfer or Disposal of Property
  - Inventory Control and Property Management
  - Records Management and Retention

# Procedural Manuals

- Financial Manual
- Procurement Manual

# Connecting the Dots

- Cost Variable
- Student Outcome

# Connecting the Dots

- Strategic Plan
- Board and Superintendents Priorities
- School Improvement Plan
- Capital Plan

# Records Retention

# Alabama Records Law

- Alabama law requires public officials to create and maintain records that document the business of their offices.
- These records must be protected from “mutilation, loss, or destruction,” so that they may be transferred to an official’s successor in office and made available to members of the public.
- Records must also be kept in accordance with auditing standards approved by the Examiners of Public Accounts.

(Code of Alabama 1975, Sections 36-12-2, 36-12-4, and 41-5-23).

# Definition of Public Records

- All records, written, typed, or printed books, papers, letters, documents and maps made or received by the school district in the transaction of public business.
- The Uniform Electronic Transactions Act of 2001 (Code of Alabama Sections 8-1A-1 through 8-1-A-20) established the terms under which electronic records are legally acceptable, provided that both parties to a transaction agree to their use
- The acts states that if a law requires a record to be “in writing,” an electronic record under certain specified conditions satisfies that law. Electronic records may not be denied legal authority simply because they are electronic.

# Custodian of Records

- The board of education superintendent should establish a records manager position at the central office and a records liaison in each board department and each school.
- The records manager and liaisons should be responsible for ensuring the regular implementation of this RDA, maintaining records in compliance with national and state standards, and coordinating the destruction of disposable records.



# School District's Responsibility for Records

- Incorporate efficient and effective systems for classifying and retaining records.
- Provide for the recovery of records in the event of a disaster or emergency
- Provide for the prompt destruction of records that are no longer of significant value for administrative, legal, fiscal, historical, or research purposes upon expiration of the appropriate retention period and that are not legally required to be kept.
- Ensure the continuing accuracy, availability, security, and preservation of records with long-term or permanent value as required by law.
- Ensure confidentiality and security of public records exempt from disclosure.
- Comply with all state and federal laws regarding security of records, record retention and destruction, and response to record requests.

# Records: What Required

- Retain and dispose of records in compliance with the law
- Secure records properly
- Make records available upon request
- Know where and how records are stored
- Know who is responsible for records

# Records Disposition

No county, municipal, or other local government official shall cause any county, municipal, or other local government record to be destroyed or otherwise disposed of without first obtaining the approval of the Local Government Records Commission

**Code of Alabama 1975, 41-13-23**

# Records Disposition Authorities

- The Records Disposition Authorities (RDAs) lists records created and maintained by the local boards of education in carrying out their mandated function and subfunctions. It establishes retention periods and disposition instructions for those records and provides the legal authority for the local boards of education to implement records destruction.
- RDAs or retention schedules constitute authorization for the disposition of agency records as stipulated in the document.
- These RDAs also identify the permanent records that a Board of Education must preserve.

# Alabama Department of Archives

- [archives.alabama.gov](http://archives.alabama.gov)

Google Search our Pages and Digital Collections:

ENHANCED BY Google



## Alabama Department of Archives and History



[Home](#)

[Education](#)

[Museum](#)

[Records Management](#)

[Research](#)

[Search Our Collections](#)

[Visitors](#)

[Alabama Fast Facts](#)

[Shop Alabama Original](#)

[About Us](#)

[Get Involved](#)

Sign up for Email announcements

GO



### [Statement of Recommitment](#)

[Explore Alabama History at Home](#)

[Collecting a Crisis: Alabama During COVID-19](#)



[Hours of Operation](#)

### [Upcoming Events & Announcements](#)

[Virtual Food For Thought Thurs. Sept. 16 at 12:00 CT](#)  
*Food in the Native South & the Curious Case of Coontie*  
Presented by Andrew Frank

[Now Open](#)  
*Justice Not Favor: Alabama Women and the Vote*

[Schedule a research consultation](#)

[2021 Food For Thought Schedule](#)

[Recommendations on Course of Study](#)

[Alabama Women's Suffrage Centennial Committee](#)

[Alabama History D.I.Y.](#)

[Request to Address Board of Trustees](#)

["We tell the story of the people of Alabama by preserving records and artifacts of historical value and promoting a better understanding of Alabama history."](#)

[Contact Us](#) | [Site Index](#) | [Alabama.gov](#)



P.O. Box 300100 / 624 Washington Ave.  
Montgomery, AL 36130  
(334) 242-4435

Click on  
"Records  
Management"

Alabama Department of Archives and History



- Home
- Education
- Museum
- Records Management
- Research

### Records and Information Management

- State Agencies
- Local Agencies
- Nonprofits
- Grants
- Disaster Preparedness & Recovery
- Electronic Records
- FAQs

Staff from the Alabama Department of Archives and History (ADAH) work with state and local agencies on records and information management and on the preservation of permanent records. We also conduct free on-site visits for assistance and training. Check out our regular posts on *For the Record*, the ADAH records management blog.

To learn more about our activities, check out the ADAH Records Management Section's [FY 2020 Annual Report](#).

See quick links and contact information below or explore information available for state and local officials on the left hand tab.

#### For State Agencies:

- **[State Retention Schedules or Records Disposition Authorities \(RDAs\)](#)**  
No state officer shall cause any...records to be destroyed or otherwise disposed of without first obtaining approval of the [State Records Commission \(Ala. Code 1975, § 41-13-21\)](#). Records Disposition Authorities (RDAs) or retention schedules constitute authorization for the disposition of agency records as stipulated in the document.
- **[Annual RDA Implementation Report](#)**  
One condition of this authorization is the submission of an annual report to ADAH by January 15 for the previous fiscal year.
- **[Transfer Permanent Records](#)**  
RDAs also identify the permanent records that a government agency must maintain. ADAH staff are available to work with state agencies on transferring your permanent records to the Alabama Department of Archives and History.

#### For Local Agencies:

- **[Local Retention Schedules or Records Disposition Authorities \(RDAs\)](#)**  
No county, municipal, or other local government official shall cause any...records to be destroyed or otherwise disposed of without first obtaining the approval of the [Local Government Records Commission \(Ala. Code 1975, § 41-13-23\)](#). Records Disposition Authorities (RDAs) or retention schedules constitute authorization for the disposition of agency records as stipulated in the document. These RDAs also identify the permanent records that a local government must preserve.
- **[Local Government Destruction Notice](#)**  
One condition of this authorization is that the responsible official must use the approved RDA to submit a Local Government Records Destruction Notice to the Alabama Department of Archives and History (ADAH) to receive a letter of eligibility.

#### Contact:

Becky Hebert

Click on “Local Retention Schedules or Records Disposition Authorities (RDAs)”

## Alabama Department of Archives and History



[Home](#) | [Education](#) | [Museum](#) | [Records Management](#) | [Research](#)

### Retention Schedules (RDAs)

[Local Agencies  
Retention Schedules  
Records Destruction  
Local Government  
Records  
Commission  
Local Government  
Deposit Agreement  
Repository Database](#)

- [911 Emergency Communications Districts](#) [PDF](#) [WORD](#)
- [Archives and Museums](#) [PDF](#) [WORD](#)
- [Boards of Education](#) [PDF](#) [WORD](#)
- [County Boards of Registrars](#) [PDF](#) [WORD](#)
- [County Commissions](#) [PDF](#) [WORD](#)
- [County Probate Offices](#) [PDF](#) [WORD](#)
- [County Taxation Offices](#) [PDF](#) [WORD](#)
- [Emergency Management Agencies](#) [PDF](#) [WORD](#)
- [Fire Departments](#) [PDF](#) [WORD](#)
- [Health Care Authorities](#) [PDF](#) [WORD](#)
  - [Jefferson Rehabilitation and Health Center](#) [PDF](#)
- [Law Enforcement Agencies](#) [PDF](#) [WORD](#)
- [McClellan Development Authority](#) [PDF](#)
- [Municipalities](#) [PDF](#) [WORD](#)
- [Public Libraries](#) [PDF](#) [WORD](#)
- [Racing Commissions](#) [PDF](#) [WORD](#)
- [Regional Planning Commissions](#) [PDF](#) [WORD](#)
- [Trial Courts](#) [PDF](#)

*"We tell the story of the people of Alabama by preserving records and artifacts of historical value and promoting a better understanding of Alabama history."*

[Contact Us](#) | [Site Index](#) | [Alabama.gov](#)



P.O. Box 300100 / 624 Washington Ave.  
Montgomery, AL 36130  
(334) 242-4435

Click on  
"Board of  
Education"





# Local Boards of Education RDA

## Local Boards of Education



## Functional Analysis & Records Disposition Authority

Revision  
Approved by the  
Local Government  
Records Commission  
April 28, 2021

# Table of Contents

## Table of Contents

<b>Functional and Organizational Analysis of Local Boards of Education .....</b>	<b>3</b>
Sources of Information .....	3
Historical Context .....	3
Agency Organization .....	5
Agency Function and Subfunctions .....	7
<b>Records Appraisal of Local Boards of Education .....</b>	<b>12</b>
Temporary Records .....	12
Permanent Records .....	13
Permanent Records List .....	20
<b>Local Boards of Education Records Disposition Authority .....</b>	<b>22</b>
Explanation of Records Requirements .....	22
Records Disposition Requirements .....	23
Making and Implementing Policy .....	23
Promoting Child Nutrition .....	24
Providing Student Transportation .....	25
Documenting Student Attendance .....	27
Promoting School/Student Safety, Health, and Discipline .....	29
Conveying Knowledge .....	32
Evaluating Performance and Conferring Credentials .....	34
Sponsoring Student Activities .....	37
Administering Internal Operations: Managing the Agency .....	37
Administering Internal Operations: Managing Finances .....	41
Administering Internal Operations: Managing Human Resources .....	44
Administering Internal Operations: Managing Properties, Facilities, and Resources .....	50
Records No Longer Created .....	52
Requirement and Recommendations for Implementing the Records Disposition Authority (RDA) .....	54
Index of Records Series .....	56

# Records Disposition Types

- Temporary
- Permanent
- Records No Longer Created

# Retention Schedule

## ACCOUNTING RECORDS

- **Routine Accounting Records**

- These are records of original entry, such as journals, registers, and subsidiary ledgers; and records of deposits of funds, including cancelled checks, check stubs, deposit slips, and other banking records, receipts books and reports of the Child Nutrition Program, as well as student fundraisers for the school and the school district.

*Temporary Record - Retain 2 years following audit.*

- **General Ledgers and Detailed Year-End Trial Balance**

*Records Created prior to 1975: PERMANENT RECORD*

*Records Created in or after 1975: Temporary Record – Retain 10 years after the fiscal year in which the records were created.*

- **Local School Copies of General Ledger and Trail Balances**

*Temporary Record - Retain 2 years if identical to copy submitted to board of education.*

# Retention Schedule

- **Purchasing Records**
- These records document the requisitioning and purchasing of supplies and equipment, receipting and invoicing for goods, and authorizing payment for products. They may include purchase orders, invoices, purchasing card receipts, and receiving reports. These records also include purchasing records for the Child Nutrition Program.

*Temporary Record - Retain 2 years following audit.*

# Retention Schedule

- **Records of Formal Bids**
- These records document the bid process, including requests for proposals and unsuccessful responses.
  - Records documenting bids or services obtained by local boards of education. These records include requests for bid proposals, successful and unsuccessful bids by product or service vendors, and related correspondence.

*Temporary Record: Retain 7 years after the date bids were opened (Code of Alabama 1975, Section 16-13B-4[d]).*

- Lists of eligible bidders. Boards of education may compile lists of eligible bidders or businesses who have filed requests to be notified of bids on projects, products, or services required by the school system. Note: Requests from bidders to be included in the list may be treated as Routine Correspondence (RDA item 9.09).

*Temporary Record: Retain 3 years after last contact with listed vendors.*

# Retention Schedule

- **Correspondence with vendors slated for removal from the list of eligible bidders.**
- Under Section 16-13B-4(a) of the Code of Alabama, any listed bidder who fails to respond after receiving three solicitations for bids may be stricken from the eligible list. This correspondence documents the school board's efforts to warn unresponsive vendors that they will be dropped from the list unless they ask to remain eligible. It includes forms or letters sent by the board and any responses from the vendors.

*Temporary Record: Retain 2 years after the audit period in which the bidder is removed from the list*

# Retention Schedule

- **Contracts, Leases, Franchises and Agreements**
- These records document the negotiation, fulfillment, and termination of all contracts, leases, franchises and agreements entered into by the board of education, including final contract that are subject to the bid process.

*Temporary Record: Retain 2 years after the audit period in which the bidder is removed from the list*



# Retention Schedule

- **Annual Inventory Records**
- These records document all personal property , equipment, or capital outlay by the board on an annual basis; they also include inventories of textbooks.

*Temporary Record: Retain 2 years following audit.*

- **Receipts of Responsibility for Property**
- These records document school board property that is temporarily in use or possession of an employee or student. They include textbooks issued to students.

*Temporary Record: Retain until return of item to the property manager.*

# Retention Schedule

- **School Construction Project Files**
- These records document all activities pertaining to the planning and construction of educational facilities.
- As-built plans, specifications, and blueprints of buildings of significant historical interest

*PERMANENT RECORD*

# Process for Disposing of Records

- The responsible official must use the approved RDA to submit a Local Government Records Destruction Notice to the Alabama Department of Archives and History (ADAH) to receive a letter of eligibility for authorization to dispose of records.

# Process for Disposition of Records

- Access the Local Government Records Destruction Notice [LG\\_records\\_destruction\\_notice.pdf\(alabama.gov\)](#)
- Identify the Appropriate RDA /Retention Schedule
- Complete the Destruction Notice
- Submit for Approval

# Records Retention Resources

- The period of retention will vary according to the type of record and classification.
- Please use the following resources to determine how to classify a record and assign a retention period.
  - Alabama Department of Archives and History
    - [www.archives.alabama.gov](http://www.archives.alabama.gov)
  - Board of Education: Functional Analysis of Agency and Records Retention

# Classifying Independent Contractors



# Classifying Independent Contractors

- What classification criteria is used to identify an individual/worker as an independent contractor or an employee
- IRS provides classification guidelines to determine whether an individual should be paid as an
  - Independent Contract (Accounts Payable)
  - Employee (Payroll)
- There are some major issues school districts need to be aware of in order to avoid costly IRS penalties.

# Classifying Independent Contractors

- School districts must be aware that when paying an individual, the IRS requires Boards to make the correct worker classification prior to the services being performed.
- If in doubt, payment as employee reduces the risk of future tax problems for the individual and school district.
- The IRS and Department of Labor are teaming up and sharing information.



## Issues with Misclassifications

- School districts increased use of independent contractors is being scrutinized by the federal and state government agencies.
- Misclassifications cost the federal government lost revenue.
- Misclassifications may cost employees substantial sums in lost benefits, overtime and extra payroll tax liability
- State and federal agencies are increasingly auditing employers for compliance with the classification laws, and impose penalties on employers and employees in cases where misclassification is found.

# Legal Considerations

- Various governmental agencies may audit school districts to make sure they do not classify employees as independent contractor
  - IRS
    - Federal Payroll Taxes
    - ACA requirements-Insurance
  - State Government
    - State payroll Taxes, unemployment insurance premiums
  - U.S. Department of Labor
    - (Employees rights, Minimum wage, overtime, etc.)
- Consequences of misclassification may include back taxes, interest, penalties and fines

# Independent Contractors

- A worker who individually contracts with an employer to provide specialized or requested services on an as-needed or project basis.
- This individual is free from the control and direction of the performance of their work, and the individual is customarily engaged in an independent trade, occupation, profession, or business.
- Independent Contractors are generally not covered by laws that apply to the employer-employee relationship.

# Independent Contractors or Employee

- Independent contractor is responsible for delivering a certain result, and he or she decides how to achieve that result
- That level of control is what distinguishes a contractor from an employee.
- Employees are workers who do **what you tell them, when you tell them** and **how you tell them** to do it.

# Classifying Independent Contractors

- Independent contractor determination is required for:
  - Individual
  - Sole Proprietor
  - DBA's
  - Disregarded single member LLC's
- The use of an employer identification number DOES NOT prove independent contractor status
- School system must request a W-9
- Contract and W-9 determines who the payee is, not what is on the invoice

# Classifying Independent Contractors

- Independent contractor determination is not required for:
  - Corporations
  - Partnerships
  - Multimember LLC's
  - Single member LLC's electing to be treated as a corporation for tax purposes

# Classifying Independent Contractors

- If the individual is deemed to be an Independent Contractor, they should be set up in the Accounts Payable vendor master file.
- Payment should not be made without ALL required documentation including a certified FORM W-9.
- Accounts Payable should not withhold taxes from payments made. All amounts exceeding \$600 for a given calendar year will be reported to the IRS as Non-Employee Compensation Box of Form 1099-MISC.
- Independent Contractors are responsible for paying their own income and self-employment taxes and may deduct business related expenses on Schedule C of their income tax return.

# Examples of Professional Services - Independent Contractors

- Sporting officials for athletic events
- Academic program review consultants (accreditation team members)
- Performers, entertainers (DJs, bands, motivational speakers, etc.)
- Guest speakers who provide services for a fee/honorarium
- Custodial Services
- Security Services



# Determining Worker Classification

- One factor that distinguishes an independent contractor from an employer-employee relationship is the degree of control the school system has and the right to exert over the individual performing the services.
- An employer-employee relationship exists when the school system has the right to:
  - Control and direct the individual performing the service
  - The results to be accomplished by the work
  - The means by which the result is accomplished
  - Whether or the rights are exercised

**IRS 3 Factor  
Control Test  
for  
Independent  
Contractors**

**Behavioral  
control**

**Financial  
control**

**Type of  
relationship**

# IRS Control Test for Independent Contractors

- **Behavior Control:**

Behavior Control addresses the issue of the school district to direct and control/instruct how the individual performs the services for which they are hired.

- The individual/worker is an employee if the school system has the right to control/instruct:
  - What will be done?
  - How it will be done?
  - When it will take place?
  - Who provides materials, tools, equipment?

This is true even if the employee is allowed to exercise a great deal of freedom of action.

# IRS Control Test for Independent Contractors

- **Behavior Control:**
- Factors to consider when looking at behavioral control include:
  - the type and degree of instruction given
  - the presence of a formal and regular evaluation process
  - the type and amount of training provided
- Precise instructions, formal evaluations and regular training are standard tools used to exercise control over not just the end product, but also the process involved in achieving that product.

# IRS Control Test for Independent Contractors

- **Financial Control:**

To determine that the employer does not control the business aspects of the job

- Does the individual possess a significant investment in assets or tools required to operate his/her own business?
- Are there expenses related to the performance of the services that the individual is responsible for paying and will not be paid or reimbursed by the school system?
- Does the individual advertise his/her services to the public?
- Will the school system be responsible for paying the individual whether or the work is done properly, or will he/she be paid only if the work is completed according to the specification?
- 
- Will the individual be paid upon completion of services or upon completion of specific milestone or are structured payments required?
- Does the individual/worker have the opportunity to realize profit or loss?

# IRS Control Test for Independent Contractors

- Type of Relationship:

The employer does not control the business aspects of the job

- A written contract describes the relationship that the parties intended to create.
- Employer does not provide the worker with benefits, such as insurance, retirement, vacation or sick pay.
- The relationship's duration is finite and not long-term.
- The services performed by the worker are not part of the school system's regular business/mission.

# Determining Worker Classifications

- There is a common law test for determining whether an individual is an employee for federal tax purposes.
- The common law test to see if an employer-employee relationship exists.

### Common Law Test for Determining Whether a Worker Is an Employee

Employee	Independent Contractor
<ul style="list-style-type: none"> <li>• Required to comply with employer's instructions about when, where, and how to work</li> </ul>	<ul style="list-style-type: none"> <li>• Sets own hours; determines own sequence of work</li> </ul>
<ul style="list-style-type: none"> <li>• Works exclusively for the employer</li> </ul>	<ul style="list-style-type: none"> <li>• Can work for multiple employers; services available to the public</li> </ul>
<ul style="list-style-type: none"> <li>• Hired by the employer</li> </ul>	<ul style="list-style-type: none"> <li>• Is self-employed</li> </ul>
<ul style="list-style-type: none"> <li>• Subject to dismissal; can quit without liability</li> </ul>	<ul style="list-style-type: none"> <li>• A contract governs how the relationship can be severed</li> </ul>
<ul style="list-style-type: none"> <li>• Has a continuing relationship with the employer</li> </ul>	<ul style="list-style-type: none"> <li>• Works by the job</li> </ul>
<ul style="list-style-type: none"> <li>• Work done personally</li> </ul>	<ul style="list-style-type: none"> <li>• Permitted to employ assistants</li> </ul>
<ul style="list-style-type: none"> <li>• Performs services under the company's name</li> </ul>	<ul style="list-style-type: none"> <li>• Performs services under the worker's business name</li> </ul>
<ul style="list-style-type: none"> <li>• Paid a salary; reimbursed for expenses; participates in company's fringe benefits programs</li> </ul>	<ul style="list-style-type: none"> <li>• Payment by the job; opportunity for profit and loss</li> </ul>
<ul style="list-style-type: none"> <li>• Furnished tools, equipment, materials, and training</li> </ul>	<ul style="list-style-type: none"> <li>• Furnishes own tools, equipment, and training; substantial investment by worker</li> </ul>
<ul style="list-style-type: none"> <li>• If an outside salesperson: company provides leads, sets terms and conditions of the sale, assigns a territory, and controls the sales process</li> </ul>	<ul style="list-style-type: none"> <li>• Controls the sales process and terms</li> </ul>



# IRS Control Test for Independent Contractors

	Most likely considered an IC if you:	Most Likely considered an employee if you:
<b>BEHAVIORAL CONTROL</b>		
Factors that show whether a hiring firm has the right to control how a worker performs the specific tasks he or she has been hired to do	<ul style="list-style-type: none"> <li>Do not give him or her instructions on how to perform the work</li> <li>Do not provide training</li> <li>Do not evaluate how the worker performs</li> </ul>	<ul style="list-style-type: none"> <li>Provide instructions that the worker must follow about how to work</li> <li>Give the worker detailed training</li> <li>Evaluate how the worker does the job</li> </ul>
<b>FINANCIAL CONTROL</b>		
Factors showing whether a hiring firm has the right to control a worker's financial life	<ul style="list-style-type: none"> <li>Has a significant investment in equipment and facilities</li> <li>Pays business or travel expenses him or her self</li> <li>Makes his or her services available to the public</li> <li>Is paid by the job</li> <li>Has an opportunity for profit and loss</li> </ul>	<ul style="list-style-type: none"> <li>You provide equipment and facilities free of charge</li> <li>You reimburse the worker's business or traveling expenses</li> <li>The worker makes no effort to market his or her services to the public</li> <li>You pay the worker by the hour or other unit of time</li> <li>The worker has no opportunity for profit or loss – for example, because you pay by the hour and reimburse all expenses.</li> </ul>
<b>RELATIONSHIP OF THE WORKER AND HIRING FIRM</b>		
Factors showing whether you and the worker believe he or she is an IC or Employee	<ul style="list-style-type: none"> <li>You do not provide employee benefits such as health insurance</li> <li>You sign an IC agreement with the worker</li> <li>The worker performs the services that are not part of your regular business activities</li> </ul>	<ul style="list-style-type: none"> <li>You provide employee benefits</li> <li>You have no written agreement</li> <li>The worker performs services that are part of your core business</li> </ul>

IRS 20-FACTOR TEST		√CHECK YES OR NO
1. Instructions	Is the worker required to comply with employer's instructions about when, where, and how to work?	<input type="checkbox"/> YES <input type="checkbox"/> NO
2. Training	Is training required? Does the worker receive training from or at the direction of the employer, includes attending meetings and working with experienced employees?	<input type="checkbox"/> YES <input type="checkbox"/> NO
3. Integration	Are the worker's services integrated with activities of the company? Does the success of the employer's business significantly depend upon the performance of services that the worker provides?	<input type="checkbox"/> YES <input type="checkbox"/> NO
4. Services Rendered Personally	Is the worker required to perform the work personally?	<input type="checkbox"/> YES <input type="checkbox"/> NO
5. Authority to hire, supervise and pay assistants	Does the worker have the ability to hire, supervise and pay assistants for the employer?	<input type="checkbox"/> YES <input type="checkbox"/> NO
6. Continuing Relationship	Does the worker have a continuing relationship with the employer?	<input type="checkbox"/> YES <input type="checkbox"/> NO
7. Set Hours of Work	Is the worker required to follow set hours of work?	<input type="checkbox"/> YES <input type="checkbox"/> NO
8. Full-time Work Required	Does the worker work full-time for the employer?	<input type="checkbox"/> YES <input type="checkbox"/> NO
9. Place of Work	Does the worker perform work on the employer's premises and use the company's office equipment?	<input type="checkbox"/> YES <input type="checkbox"/> NO
10. Sequence of Work	Does the worker perform work in a sequence set by the employer? Does the worker follow a set schedule?	<input type="checkbox"/> YES <input type="checkbox"/> NO
11. Reporting Obligations	Does the worker submit regular written or oral reports to the employer?	<input type="checkbox"/> YES <input type="checkbox"/> NO
12. Method of Payment	How does the worker receive payments? Are there payments of regular amounts at set intervals?	<input type="checkbox"/> YES <input type="checkbox"/> NO
13. Payment of Business and Travel Expenses	Does the worker receive payment for business and travel expenses?	<input type="checkbox"/> YES <input type="checkbox"/> NO
14. Furnishing of tools and materials	Does the worker rely on the employer for tools and materials?	<input type="checkbox"/> YES <input type="checkbox"/> NO
15. Investment	Has the worker made an investment in the facilities or equipment used to perform services?	<input type="checkbox"/> YES <input type="checkbox"/> NO
16. Risk of Loss	Is the payment made to the worker on a fixed basis regardless of profitability or loss?	<input type="checkbox"/> YES <input type="checkbox"/> NO
17. Working for more than one company at a time	Does the worker only work for one employer at a time?	<input type="checkbox"/> YES <input type="checkbox"/> NO
18. Availability of services to the general public	Are the services offered to the employer unavailable to the general public?	<input type="checkbox"/> YES <input type="checkbox"/> NO
19. Right to discharge	Can the worker be fired by the employer?	<input type="checkbox"/> YES <input type="checkbox"/> NO
20. Right to quit	Can the worker quit work at any time without liability?	<input type="checkbox"/> YES <input type="checkbox"/> NO

# Reasonable Basis Test

- When applying the IRS guidelines to the scope of work to be performed:
  - Does the person own and operate a business selling his/her services to the general public?
  - While the person performing the services for the school system, will he/she continue to perform similar services for other customers or would they have the right and ability to do so?
  - Does the school system expect the individual to work full time or virtually full time, or be available when needed by the school system?

# Employee or Independent Contractor?

- The individual is an *employee* if the Board has the right to control the result of the services, the means and the methods of providing it.
- An *employee* is subject to the will and control of the employer not only as to what shall be done but how it shall be done.
- The factor is whether the Board has the right to control, not whether it actually did.
- *Independent contractor* decides the means and methods to get the results. The Board defines the result or outcome expected.

# Warning Signs that your Worker may be an Employee

- The school system defines the work hours
- The school system provides the equipment or supplies
- The relationship is indefinite
- The system does not receive invoices from the worker
- The worker only works for the school system
- The worker provides core business services to the school system

# Employee or Independent Contractor?

- Based upon the finding of the review, an individual classified as an employee will be set up as such in Human Resources.
- The employee will track his or her hours in the employer's time keeping system, receive payments, including proper tax withholdings, through Payroll Services and they will receive a W-2 for their earnings.
- Under an employer and employee relationship, the employer must withhold all applicable income tax and the employer's portion of social security and Medicare taxes. The employer is also required to pay a portion of the Social security, Medicare and unemployment taxes on these wages.
- Employees are issued W-2, Wage and Tax Statements, detailing all taxes withheld from wages.

## Misclassification- What's at Stake?

- If you classify an employee as an independent contractor and you have no reasonable basis for doing so, IRS may hold the school districts liable for employment taxes for that worker.
- The Board may be charged for the employee and employer share of the following taxes on the contracted individuals:
  - Federal Income Tax
  - Social Security Tax
  - Medicare Tax

# School Districts IRS Audits

- School districts are becoming increasingly popular for IRS payroll audits.
- In the past, the IRS audits of school district have focused on whether compensation was properly reported to the government.
- The IRS is now looking at much more.
- There are some triggers for an IRS audit and you should be aware of what you can do to limit your exposure to potential IRS audits.



# School Districts IRS Audits

## Why is the IRS doing audits?

- Money (federal income taxes, Social Security, and Medicare tax plus interest and penalties)
- Non-compliance
- Why would they choose your district to audit?

# School Districts IRS Audits

## What may trigger an audit?

- The issuance of a W-2 and 1099 for an individual in the same calendar year.
- 1099 for only one business
- Hiring a retiree as a independent contractor
- Unemployment request from a worker who received a 1099
- The IRS compliance efforts are generally focused on employment tax and information return reporting because school district are generally exempt from federal income tax

# School Districts IRS Audits

## What does the IRS look for?

- Are completed (name, address, TIN, type of entity) and signed Forms W-9 secured from all contractors prior to the work being performed or prior to payment for services rendered?
- How you determine who receives a Form 1099?
- Who determines and what criteria are used to determine whether a worker should be treated as an independent contractor or employee?

# School Districts IRS Audits

## What does the IRS look at?

- Does the district engage the services of former employees? If so, are they treated as employees or independent contractors?
- What employee fringe benefits does the district provide?
- What classes of employees receive what benefits?

# School Districts IRS Audits

## What does the IRS look at?

- IRS may review the purchased services expenditures - basically object 300's.
- IRS may ask for a electronic file of all the object 300 expenses in the past two years.
- They may review the list of vendors and compare with the list of W-2 employees

# Other Potential IRS Data Request

- Payroll Files
- Chart of Accounts
- General Ledger
- Cash Disbursements Journal
- W-2's
- 1099 's
- Vendor File
- Vendor W-9
- Quarterly 941
- Contracts with Individual Contractors
- Superintendent Contract
- Vehicle Policy
- Inventory
- Employee Handbook
- Employee Fringes
- 125 Cafeteria Plan
- Employee Assistance Program
- Travel Reimbursement Documentation

# Relief Provision

- If a school district has a reasonable basis for not treating a worker as an employee, you may be relieved from having to pay employment taxes for that worker.
- To qualify for relief under Section 530 the school district must satisfy three conditions:
  - Reasonable Basis
  - Substantive Consistency
  - Reporting Consistency
- To get this relief, you must file all required federal information returns on a basis consistent with your treatment of the worker.
- The school district must not have treated any worker holding a substantially similar position as an employee for any periods beginning after 1977.

# Conclusion

- Certain factors will almost always define a worker as an independent contractor in every case:
  - not relying on the business as the sole source of income
  - working at his or her pace as defined by an agreement
  - being ineligible for employer provided benefits
  - retaining a degree of control and independence



# Things to Consider

- Are you giving 1099's to people whose work the school district really do direct and should be considered employees?
- Do you have individuals who receive a 1099 and a W-2 in the same calendar year?
- Are you paying stipends or incentives to "volunteer" coaches from student account funds via accounts payable?
- Are you issuing employees gift cards that should be taxable income but was excluded from their gross income and employee taxes not withheld and paid?
- Are you verifying vendors' classifications in NextGen to ensure accurate classification in the vendor file set-up?

## IRS Publication 15

- IRS Publication 15, the Employer's Tax Guide, explains your responsibilities as an employer.
- The IRS updates this publication annually. You should download a current version at the beginning of each year and review "What's New" for any changes.



[linda@asbo.com](mailto:linda@asbo.com)