

Compliance Alerts!

Independent Contractor

Fayetteville State University is dedicated to promoting transparency and complying with all relevant regulations. In accordance with its policies and procedures, as well as federal laws under the Fair Labor Standards Act (FLSA), the application process for Independent Contractors has been revised.

On January 10, 2024, the U.S. Department of Labor published the issuance of the final rule, [Employee or Independent Contractor Classification Under the Fair Labor Standards Act](#), effective March 11, 2024. This final rule revises the Department's guidance on how to analyze who is an employee or independent contractor under the Fair Labor Standards Act (FLSA).

Is a Worker an Employee or an Independent Contractor?

The Department of Labor has issued regulations addressing how to analyze whether a worker is an employee or an independent contractor under the FLSA (29 CFR part 795, effective [March 11, 2024](#)). Employees receive the protections of the FLSA. Independent contractors are in business for themselves and therefore are not covered by the FLSA.

What analysis guides whether a worker is an employee or independent contractor under this final rule?

This final rule continues to affirm that a worker is not an independent contractor if they are, as matter of economic reality, economically dependent on an employer for work. Consistent with judicial precedent and the Department's interpretive guidance prior to 2021, the final rule applies the following six factors to analyze employee or independent contractor status under the FLSA:

- opportunity for profit or loss depending on managerial skill;
- investments by the worker and the potential employer;
- degree of permanence of the work relationship;
- nature and degree of control;
- extent to which the work performed is an integral part of the potential employer's business; and
- skill and initiative.

The final rule provides detailed guidance regarding the application of each of these six factors. No factor or set of factors among this list of six has a predetermined weight, and additional factors may be relevant if such factors in some way indicate whether the worker is in business for themselves (i.e., an independent contractor), as opposed to being economically dependent on the employer for work (i.e., an employee under the FLSA).

Fayetteville State University Independent Contractor Application and Checklist:

This update aims to streamline the application procedure, clarify eligibility criteria, and ensure that all contracting arrangements are in full compliance with the legal standards necessary to uphold our university's integrity and operational efficiency. [Independent Contractor Application and Checklist](#).

Where to obtain additional information:

For additional information, visit the Department of Labor website: [Fact Sheet 13: Employment Relationship Under the Fair Labor Standards Act \(FLSA\) | U.S. Department of Labor](#) and/ or contact Michelle Donegain at mdonegai@uncfsu.edu.

This document is intended only to provide clarity to Fayetteville State University community regarding existing requirements under the law, and to provide the FSU Independent Contractor Application.