

**CLASSIFICATION: Business and Noninstructional
Operations****ADOPTED: 3/28/79****REVISED: 9/13/95****SUBJECT: Independent Contractor/Consultant
Contracts****PAGE: 1 of 2**

The County Superintendent of Schools may retain independent contractors/consultants where there is a requirement to obtain special services and/or advice from persons who are specially trained, experienced, and competent to perform the special services required, and only when employees of the County Superintendent of Schools or employees of other public agencies cannot provide the required services at the required time.

It is the intent of the County Superintendent of Schools to assure that contracts for consultant services are proper and in the best interest of the San Diego County Office of Education. It is important to the business operations of the San Diego County Office of Education that all management employees uniformly follow legal guidelines for the determination of a worker's status for services provided. State and federal regulatory agencies make distinction between an employee and an independent contractor. Failure to properly make such distinctions prior to receiving services can result in substantial financial penalties.

Management employees requesting authorization to contract for consultant services shall determine the nature of the employment relationship. This determination shall be made prior to any services being performed and/or issuance of any payment. The document *Independent Contractor or Employee?* shall be used in making the determination and is available in the Personnel Services Section.

Once the legal employment relationship has been established, the method of payment is prescribed by law. A *Performance Agreement*, Form 173, shall be completed for a consultant who is deemed to be an independent contractor. If the consultant does not meet the criteria for independent contractor status, he/she may be hired as a limited-term employee. The management employee shall contact Personnel Services for initiation of the hiring process. The program manager and the assistant superintendent of the division in which the consultant is retained are responsible to assure that the independent contractor/consultant is properly classified, and if there is any doubt, contact should be made with Personnel Services.

SAN DIEGO COUNTY OFFICE OF EDUCATION

**ADMINISTRATIVE
REGULATION NO. 3312**

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The program manager authorizing the independent contractor/consultant utilization shall assure that the provisions of the agreement are being met and satisfactory performance occurs as specified in the agreement.

Derivation: Former Administrative Regulation No. 3765, Amended, Renamed, and Renumbered 3312, 9/13/95.

Former Board Policy and Administrative Regulation Nos. 2311, Adopted 3/28/79 are Repealed 9/13/95.

**Legal Reference: Education Code
1300
Government Code
53060
73-282 Cal Atty. Gen. Opin.
Internal Revenue Service Publication 15, Circular E, Employers Tax Guide
Internal Revenue Service Revenue Ruling 87-41
Internal Revenue Service Publication SWR40, Public Schools and Employment Taxes
STRS Directive 93-01**