



# Employee vs. Independent Contractor Determination Questionnaire

Revised 08/02/2016

Please print or type in black ink. Completed form should be mailed or faxed to PERS. See bottom of form for contact information.

Information gathered on this questionnaire is used to determine whether a worker is an employee under the common-law rules for purposes of mandatory coverage in the Public Employees' Retirement System of Mississippi (PERS) or whether a PERS service retiree who is reemployed is subject to the reemployment limitations as provided in Miss. Code Ann. §25-11-127 (1972, as amended). The employer in question should fully complete sections 1, 2, and 3, and the worker in question should fully complete Section 4. The employer should submit the completed questionnaire with the appropriate documentation to PERS. **If required by the employing employer, submit the completed questionnaire with the appropriate documentation as noted below to the employing employer's department of human resources management for review prior to submitting to PERS.**

## 1 Employer Information

Employer Name: \_\_\_\_\_ Employer No.: \_\_\_\_\_ - \_\_\_\_\_  
Employer Representative's Name: \_\_\_\_\_ Employer Representative's Title: \_\_\_\_\_  
Employer Representative's Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-Mail: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

## 2 Worker Information

First Name: \_\_\_\_\_ MI: \_\_\_\_\_ Last Name: \_\_\_\_\_ Gender:  M  F  
Social Security No.: \_\_\_\_\_ Birth Date mm/dd/ccyy: \_\_\_\_\_ E-Mail: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_  Cellular  Home  Work Phone: \_\_\_\_\_  Cellular  Home  Work  
Position/Employer from which Retired: \_\_\_\_\_ Retirement Date mm/dd/ccyy: \_\_\_\_\_  
Period of proposed engagement From mm/dd/ccyy: \_\_\_\_\_ To mm/dd/ccyy: \_\_\_\_\_

## 3 Questions for the Employer

- Describe in detail the work to be performed or services to be provided by the worker. Or attach a copy of the statement.
- Have the services to be performed by the worker been performed previously by an employee of the employer? .....  Yes  No
- Has the worker ever performed these services as the employer's employee? .....  Yes If yes, list years: \_\_\_\_\_  No
- Is the worker required to perform the services personally?.....  Yes  No
- Describe the worker's daily routine (i.e., schedule, hours, etc.).
- Does the employer set or regulate the hours the worker will work or is required to work? .....  Yes  No
- Does the employer require services be performed by the worker on the employer's premises?.....  Yes  No
- At what location(s) does the worker perform services (e.g., employer's premises, personal office, etc.)? Indicate the appropriate daily percentage of time the worker spends in each location, if more than one.  
\_\_\_\_\_
- Describe any meetings or training the worker is required to attend and any penalties for not attending.  
\_\_\_\_\_

10. How does the worker receive work assignments?

11. Who determines the methods by which assignments are performed?

\_\_\_\_\_

12. If substitutes or helpers are needed, who hires them? If the worker hires the substitutes or helpers, is approval by the employer required?

\_\_\_\_\_

13. Worker paid: *Select one.*  \$ \_\_\_\_\_ Hourly  \$ \_\_\_\_\_ Weekly  \$ \_\_\_\_\_ Monthly  \$ \_\_\_\_\_ Other \_\_\_\_\_

14. Specify what, if any, employer-funded benefits (e.g., sick leave, insurance, vacation, etc.) the worker will receive:

\_\_\_\_\_

15. Will the employer pay or reimburse the worker's expenses? .....  Yes  No


If yes, on what basis?

\_\_\_\_\_

16. List the supplies, equipment, materials, and property provided by each party:

Employer: \_\_\_\_\_

Worker: \_\_\_\_\_

17. Is there a written contract between the worker and the employer to provide these services? .....  Yes  No  
*If yes, please  attach a copy of the contract.*

18. Upon termination of the relationship, is the worker afforded due process rights? .....  Yes  No

19. Does the relationship between the worker and the employer contemplate continuing or recurring work? .....  Yes  No

20. Worker presented to employer customers and employees as: *Select one.*

Employee  Representative  Contractor  Other \_\_\_\_\_

21. Will the worker receive an Internal Revenue Service Form 1099 for payments made by the employer? .....  Yes  No

22. Will the worker's services be fully integrated into the business operations because the services are important to the success or continuation of the employer? .....  Yes  No

23. Check one of the following:

I have made personal inquiry and confirmed that my employer **did not** have a prearranged agreement prior to the retirement with the above-named worker/PERS retiree to return to work in any capacity following his or her retirement.

I have made personal inquiry and confirmed that my employer **did** have a prearranged agreement prior to the retirement with the above-named worker/PERS retiree to return to work in some capacity following his or her retirement.

The above-named worker is not a PERS retiree.

I understand that any person who makes a false statement or shall falsify or permit to be falsified any record of a retirement plan administered by PERS in an attempt to defraud the plan may be subject to criminal prosecution. With that understanding, I certify that the above information is true and correct.

Employer Representative's Signature \_\_\_\_\_ Date *mm/dd/ccyy*: \_\_\_\_\_

4 Questions for the Worker

1. Do you currently, or do you plan to, work for any other PERS-covered employers while you are concurrently working for this employer?....  Yes  No

If yes, list those covered employers and whether you work (will work) as an employee or independent contractor. If needed, continue listing on a separate sheet of paper and attach.

- Employer: \_\_\_\_\_  Employee  Independent Contractor
Employer: \_\_\_\_\_  Employee  Independent Contractor
Employer: \_\_\_\_\_  Employee  Independent Contractor
Employer: \_\_\_\_\_  Employee  Independent Contractor

2. Do you concurrently perform substantially similar services for more than one employer? .....  Yes  No
If yes, list the other employers and services performed on a separate sheet and attach to this form.

3. Do you advertise your services? .....  Yes  No
If yes, attach examples of advertising and list advertising media used.

4. Have you performed services for this employer previously? .....  Yes  No

If yes, list capacity of services (e.g., position, title, job duties, etc.) and whether you were employed as an employee of this employer during this time.

- Capacity: \_\_\_\_\_  Employee  Not an Employee
Capacity: \_\_\_\_\_  Employee  Not an Employee
Capacity: \_\_\_\_\_  Employee  Not an Employee
Capacity: \_\_\_\_\_  Employee  Not an Employee

5. Does the employer have the right to control, supervise, or direct your performance of the services? .....  Yes  No

6. Check one of the following:

- I am a PERS retiree and I did not have a prearranged agreement prior to my retirement that I would return to work in any capacity after retirement with an employer participating in PERS.
 I am a PERS retiree and I did have a prearranged agreement prior to my retirement that I would return to work in some capacity after retirement with an employer participating in PERS.
 I am not a PERS retiree.

If I did have a prearranged agreement prior to my retirement to return to work after retirement with an employer participating in PERS, I have fully disclosed in writing to PERS the details of that agreement. I understand that any prearranged agreement could result in the voiding of my retirement benefit.

I understand that I have a duty now and in the future to disclose in writing to PERS my employment in any capacity with an employer participating in PERS and whether I have accepted employment under a personal services contract (including as an independent contractor) with an employer participating in PERS.

I understand that I have a duty now and in the future to disclose in writing to PERS if I have accepted employment with a private leasing company, temporary staffing agency, or any other such company where employment means I will be performing work for an employer participating in PERS.

I further understand that any person who makes a false statement or shall falsify or permit to be falsified any record of a retirement plan administered by PERS in an attempt to defraud the plan may be subject to criminal prosecution. With that understanding, I certify that the above information is true and correct.

Worker's Signature: \_\_\_\_\_ Date mm/dd/ccyy: \_\_\_\_\_

5 To Be Completed by PERS

After thorough review of the provided information and attachments and for purposes of employment with a PERS-covered employer, the individual listed by name on page 1 of this questionnaire has been determined to be an: .....  Employee  Independent Contractor

PERS Reviewer's Signature: \_\_\_\_\_ Date mm/dd/ccyy: \_\_\_\_\_