

**LOCAL JURISDICTION VOLUNTEERS, CONTRACTORS, EMPLOYEES
GUIDELINES FOR THE USA FIELDS
May 18, 2017**

1.0 Introduction

This document is a guide for mission center and congregational officers in the USA to properly classify service providers and appropriately administer compensation issues. Any questions or concerns about specific situations that do not fit into the descriptions and example categories should be directed to the appropriate Field Support Minister (FSM) and the Office of General Counsel (OGC) at 816-833-1000, ext. 2221 or mbrown@cofchrist.org.

2.0 Volunteers

The first step in classifying a service provider is to determine if the work being done is by a volunteer. Volunteers are not employees, therefore, are not subject to Fair Labor Standards Act (FLSA) or other governmental regulations, requirements or other church compensation policies. Volunteers also are not contractors, so they are not required to carry their own Liability or Workers' Compensation insurance in fulfilling their volunteer service. Note: the volunteer's insurance is primary; however, there may be secondary coverage for volunteers through the church's insurance policy [Voluntary Workers' Insurance](#).

2.1 Important Conditions for a Volunteer

- i. Services performed are entirely voluntary, and volunteer has no expectation of remuneration.
- ii. Services performed do not result in compensation. Nominal gifts (no more than an annual value of \$500) may be given to the volunteer as a token of appreciation, but the gift may not be a condition for the volunteer providing their service. Any cash, gift card or equivalent should be reported as taxable income by the volunteer.
- iii. Out-of-pocket expenses incidental to providing volunteer services may be reimbursed with proper documentation.
- iv. Tuition, travel, books or supplies required in order to provide the service may be reimbursed with proper documentation.
- v. Use of a personal vehicle for service performed may be reimbursed at the rate established by the US Congress for volunteers (presently \$0.14 per mile) without creating taxable income.
- vi. Use of a church-owned vehicle is permitted for church business only.
- vii. A church-owned computer may be provided to the volunteer to assist in their responsibilities.
- viii. Housing, utilities, and incidental meals may be provided if living on-site is a part of the volunteer's responsibilities.

2.2 Conditions for Church Employees Who also Volunteer

- i. Volunteer service is separate from employment responsibilities and volunteers do not contemplate compensation or any other benefits that accompany employment.

- ii. Employees are not coerced to volunteer and there is no penalty for not volunteering.
- iii. No promise of advancement is associated with volunteering.
- iv. Volunteer activities are predominantly for the benefit, particular interest or ministry desires of the employee.
- v. Employee volunteer services must be distinct and different in nature from the employee's employment duties.
- vi. Volunteer activities are not carried out during the employee's regular working or over-time hours.
- vii. Employee's time as a volunteer is minimal in relation to regular work hours.

2.3 Examples of Volunteers

- i. Mission Center officer who receives no compensation
- ii. Congregational officer who receives no compensation
- iii. Bookkeeper or administrative assistant who receives no compensation
- iv. Facilities caretaker who receives no compensation other than housing, utilities, and food and is required to live on-site as part of their volunteer service
- v. Facilities maintenance or cleaner who receives no compensation
- vi. Camp or retreat counselor who receives no compensation
- vii. Childcare provider who receives no compensation
- viii. Event cook or worker who receives no compensation
- ix. Summer camp worker who receives no compensation
- x. Food pantry worker who receives no compensation

3.0 Independent Contractors

Anyone who provides services and does not meet the criteria of a volunteer is an independent contractor or an employee. Independent contractors must have a documented agreement with the Local Jurisdiction of the church that meets the requirements of the OGC. The OGC has a range of agreement templates (<https://www.dropbox.com/s/2gaz12thf74cbkt/List%20of%20Available%20Templates%20for%20OGC.docx?dl=0>) for contract work.

There are two tests that determine whether a service provider may be classified as an independent contractor. If these tests are not met, the worker should be considered an employee. The tests are: (1) "IRS Behavioral, Financial, and Type of Relationship" test; and (2) "Economic Realities" test. These tests should not be applied as a definitive checklist but as important characteristics in determining whether a service provider may be classified as an independent contractor. (see Appendix A for more detail) The following elements of the tests are important points in determining whether a service provider is a contractor.

3.1 IRS Behavioral, Financial, and Type of Relationship

- i. The church does not have the right to control the details of how the service provider performs their work.
- ii. The service provider has significant investment in successfully completing their work.

- iii. The service provider is not reimbursed by the church for their incidental expenses connected with their work.
- iv. The service provider does not receive benefits in addition to the agreed upon compensation for their scope of work.
- v. If all the above (i-iv) are met, the service provider may be an independent contractor. Continue with the next test.

3.2 Economic Realities

- i. The work performed is not an integral part of the church's core business, mission, or purpose.
- ii. The service provider's managerial skill affects their opportunity for profit or loss
- iii. The service provider is not dependent on the church to invest or support their business through the use of church-provided equipment, supplies or insurance.
- iv. The work performed requires specialized business skills, judgment and initiative.
- v. The relationship between the church and the service provider is not permanent or indefinite.
- vi. The service provider controls the meaningful aspects of the work.
- vii. The service provider is not economically dependent on the church as their primary source of income.
- viii. If all the above (i-vii) are met in addition to the Behavioral, Financial, and Type of Relationship test, then the service provider may be viewed as an independent contractor.

3.3 Conditions Applicable for All Independent Contractors

- i. Has a written service agreement and is not reimbursed by the church for additional incidental business expenses
- ii. Responsible for meeting the church's insurance requirements and must indemnify the church from any liability claim connected with the work they perform. (see Appendix B for detail on insurance requirements as of the date of this guideline)
- iii. Responsible for complying with all FLSA, governmental regulations and tax requirements.
- iv. Carries their own workers' compensation insurance according to state requirements (or signs an indemnification waiver in special circumstances approved by the OGC)
- v. Work specifications and standards for service are defined in the service agreement and the church has no managerial authority over the worker
- vi. Typically offers their services to other businesses
- vii. Provides a W-9 form when requested
- viii. The church provides a Form 1099 at the end of the year if the total amount paid to the contractor is \$600 or more during the year

3.4 Examples of Independent Contractors

- i. Note: Mission Center officers, congregational officers, camp/retreat counselors and ministry staff who receive compensation are **not** independent contractors by the nature of the service they provide

- ii. Bookkeeper who receives compensation and meets conditions of the two tests as defined in 3.1 and 3.2
 - Obtains any professional licenses, certifications, and bonding without reimbursement from the church for those expenses
 - Not provided use of church-owned vehicle or equipment
- iii. Property manager who receives compensation and meets conditions of the two tests
 - Not provided housing unless on-site housing is leased to the property manager
 - Generally not provided use of church-owned vehicle or equipment
- iv. Facilities and landscape maintenance, lawn care, snow removal or cleaning business or sole proprietorship that receives compensation and meets conditions of the two tests
 - Not provided use of church-owned vehicle or equipment
 - Uses own tools in completion of the contracted services
- v. Childcare service or medical staff who receives compensation and meets conditions of the two tests
 - Must be a Registered Children and Youth Worker through Community of Christ
- vi. Event caterer, musician or other worker who receives compensation and meets conditions of the two tests
- vii. Major repair or construction work and meets conditions of the two tests
 - Service provider also must meet the church's current insurance and bonding requirements. (requirements also referenced in the first four pages of Appendix B)
 - If service provider is not able to comply with all insurance and bonding requirements, the OGC and appropriate FSM must concur before using this contractor

4.0 Employees

Any service provider who does not meet the criteria for a volunteer or an independent contractor is an employee. The jurisdiction hiring the employee must comply with all federal, state and local government requirements (example: Fair Labor Standards Act (FLSA); Department of Labor rulings; and other local, state or federal employment law). In addition, all eligible employees will be offered the same employment benefits established for their jurisdiction. (Note: the compensation and employment benefits are established by officers of the Local Jurisdiction and mission center officers in consultation with Apostolic field staff, OGC and World Church Human Resources Ministries)

Note, under FLSA:

- ⇒ Most non-exempt employees are entitled to overtime pay. (Employees in exempt campgrounds or under specific state law situations may not be eligible for overtime pay. Confirm with OGC.) Employers must pay them one-and-a-half times their regular rate of pay when they work more than 40 hours in a week.
- ⇒ An exempt employee is excluded from minimum wage, overtime regulations, and other rights and protections afforded nonexempt workers.
- ⇒ For further information on designation of exempt and non-exempt employees, please contact OGC.

4.1 Conditions Applicable for Employees

- i. An employment agreement or offer letter with position description including duties and required competencies, meeting OGC requirements, must be on file with the Local Jurisdiction and the OGC.
- ii. Appropriately documented expenses incurred while providing services may be reimbursed.
- iii. Use of church owned vehicles and equipment is permitted pursuant to church policy.
- iv. Use of personal vehicle to provide services may be reimbursed for mileage not to exceed the IRS business reimbursement rate.
- v. Covered under the church's Workers' Compensation policy.
- vi. The Church is not required to provide unemployment benefits (unless required by state law).
- vii. Current I-9 and W-4 forms must be on file with the Local Jurisdiction.
- viii. Receives a W-2 at the end of the year.

4.2 Seasonal Employees

- i. Performs labor or services on a seasonal basis
- ii. Positions may include: snow removal; landscaping; yardwork; seasonal campground caretakers; camp activity directors, lifeguards, and cooks.
- iii. These employees are not eligible for employment benefits.
- iv. For employees working for FLSA exempt entities, timesheets are not required to be kept and overtime pay is not required.
- v. For employees working for FLSA non-exempt entities, hours worked must be recorded on a timesheet and overtime pay is required. Must be paid at least minimum wage.

4.3 Ministerial Employees

- i. A Community of Christ ministerial employee is an ordained minister who is a Priest or a member of the Melchisedec priesthood and whose position description reflects a significant portion of their duties include one or more of the following:
 - a. Routinely performs at least one of the sacraments of the church
 - b. Preaches and teaches regularly in jurisdictions throughout the church
 - c. Conducts frequent confidential priesthood visits throughout the church
 - d. Writes theological material for priesthood and/or on the sacraments
 - e. Engages (e.g., writes, edits, oversees, participates in senior leadership discussions, etc.) in strategic theological issues of the church which requires a high-level of ministerial confidentiality
- ii. Positions may include: pastors and other Local Jurisdiction ministers (Note: Mission Center Presidents and Financial Officers are World Church ministers and not Local Jurisdiction ministers)
- iii. Eligible for employment benefits as established by their Local Jurisdiction.
- iv. Must be a Registered Children and Youth Worker.
- v. Eligible for a portion of their compensation designated as a ministerial housing (parsonage) allowance. (Note: The World Church default is 75%)

- vi. Not eligible for FLSA overtime pay.

4.4 Non-Exempt Employee

- i. Positions may include: mission center or congregational administrative staff; bookkeeper; facility cleaner; worship musician
- ii. Eligible for employment benefits as established by their Local Jurisdiction.
- iii. Actual time worked is recorded in hours. Records hours worked on a timesheet.
- iv. Must be paid at least minimum wage.
- v. Must be paid overtime (time-and-a-half pay) for each hour worked over 40 hours per week.

4.5 Exempt Employee

- i. Positions may include: campground manager; executive director; accounting supervisor;
- ii. Eligible for employment benefits as established by their Local Jurisdiction.
- iii. Not eligible for overtime pay but may receive other form of compensation as allowed by law.
- iv. For campground employees, value of housing, utilities, and meals during events are not considered compensation if employee is required to live on premises or to be onsite during mealtimes. Employee should be a Registered Children and Youth Worker.

4.6 Non-Exempt Employee of Campground that must meet FLSA Requirements

- i. Positions may include: caretaker; host; manager; maintenance worker; cook; lifeguard; bookkeeper; and other onsite workers.
- ii. OGC determines if the campground must meet FLSA Requirements.
- iii. Must be a Registered Children and Youth Worker.
- iv. Value of housing, utilities, and meals during events are not considered compensation if employee is required to live on premises or to be onsite during mealtimes.
- v. Records hours worked on a timesheet.
- vi. Eligible for employment benefits as established by their Local Jurisdiction.
- vii. Must be paid overtime (time-and-a-half pay) for each hour worked over 40 hours per week.

4.7 Employee of Campground exempt from FLSA Requirements

- i. Positions may include: caretaker; host; manager; maintenance worker; cook; lifeguard; bookkeeper; and other onsite workers.
- ii. OGC determines if the campground is subject to FLSA requirements and how state law applies.
- iii. Must be a Registered Children and Youth Worker.
- iv. Value of housing, utilities, and meals during events are not considered compensation if employee is required to live on premises or to be onsite during mealtimes.

- v. Records hours worked on a timesheet, but is exempt from overtime pay requirements.
- vi. Eligible for employment benefits as established by their Local Jurisdiction.

4.8 Steps for Hiring Employees

- i. Develop a written position description and compensation and benefits package (Note: established by officers of the Local Jurisdiction and mission center officers in consultation with Apostolic field staff, OGC and World Church Human Resources Ministries.)
- ii. Obtain approval in the jurisdictional budget for compensation and benefits package.
- iii. Follow an appropriate hiring process, with concurrence of the associated FSM, including advertising and interviewing for the position. Human Resource Ministries must be contacted to confirm an appropriate list of interview questions. A background check and ability to register as a children and youth worker may be included in this process.
- iv. Obtain approval of the appropriate jurisdictional officer for the position and selected candidate.
- v. Draft and sign an employment contract or position offer letter, meeting OGC requirements, by the appropriate jurisdictional officer and maintain on file at Local Jurisdiction and OGC.
- vi. Keep current I-9, W-4 Forms, and employee records in a secure location.
- vii. Identify the employee's supervisor.
- viii. Set up the employee appropriately in the jurisdiction's payroll system, including sign-up for eligible benefits.

APPENDIX:

- A. Office of General Counsel - Tools for Analyzing Volunteer/Employee/Independent Contractor Choices:
<https://www.dropbox.com/s/lfsnpw0sba2ktln/Service%20Providers%20Appendix%20A.pdf?dl=0>
- B. Office of General Counsel - Quick Reference for Common Job Classifications, Volunteer, Employee, Independent Contractor Requirements:
<https://www.dropbox.com/s/487b1bnqoc94esi/Service%20Providers%20Appendix%20B.pdf?dl=0>