

Independent Contractors

and the Employer's Obligation



Hiring an individual to fill an STRS Ohio-covered position through an independent contract or a temporary agency does not necessarily relieve an employer's obligation to make contributions on earnings to STRS Ohio. If the individual's duties are the same as those performed by teachers or administrators under employment contracts, STRS Ohio considers the individual to be an employee and requires contributions to be remitted to STRS Ohio.

Please note that an agreement to be an independent contractor is not the sole indicator of a true independent contract relationship. Primary criterion cited in Attorney General Opinions and IRS Guidelines for distinguishing between an independent contractor and an employee is the right of the employer to control the "mode and manner" of the work performed. In other words, as an employer, you should consider the level of control you have over the service being delivered, how the service is being delivered and if the position is part of your core business as a school.

Some employment relationships are difficult to define. To determine if an independent contractor should contribute to STRS Ohio, you should ask the following questions:

1. Are there other STRS Ohio members on staff who perform the same or similar duties under employment contracts?
2. Is the individual performing the duties of a teacher, administrator, psychologist, tutor or other STRS Ohio-covered position on a full-time or regular basis?
3. Under the agreement, does the school define the hours or days to be worked, regulate how the work is to be performed, or supply the facilities and materials to do the job?
4. Do you, as the employer, treat the individual like an employee?
5. Does the individual have a direct supervisor who is an employee of the school?
6. Is there an element of permanency in the relationship?

Ask these questions to help you determine if individuals under independent contracts should contribute to STRS Ohio.

If the answer to any of these questions is "yes," the individual should be considered an STRS Ohio member and should contribute to STRS Ohio.

In all cases of doubt, it is best to check with STRS Ohio to determine if membership is required. You should send a copy of independent contracts to your STRS Ohio employer advisor for review. The State Teachers Retirement Board has the legal authority to determine who meets the criteria of an STRS Ohio member as defined in Section 3307.01, Revised Code.

On the reverse side are answers to a few frequently asked questions. Please contact your employer advisor toll-free at 1-888-535-4050 if you have additional questions or need assistance.

Frequently Asked Questions

Q: We hire substitute teachers through a private agency and pay the agency via a purchase order, not through payroll. Are STRS Ohio contributions required?

A: Yes. Substitute teachers are STRS Ohio members, regardless of the contractual agreement with a private agency or how the payment is made. Employers are required to remit employee and employer contributions. Paying an agency or an individual through a purchase order instead of payroll does not relieve you of your obligation as an employer to establish STRS Ohio membership and remit contributions on earnings.

Q: We have entered into an agreement with an individual to serve as a part-time special education teacher. The agreement specifies that she is an independent contractor. Are contributions to STRS Ohio required?

A: Yes. It is a common misconception that calling an individual an independent contractor makes that person exempt from STRS Ohio contributions. All teachers are required to be members of STRS Ohio and remit contributions on earnings. In this case, the individual will be performing the same duties on a regular basis as a teacher on staff who is under an employment contract. While there are some true independent contractors who are exempt from STRS Ohio membership, it is best to check with STRS Ohio before determining whether membership is required.

Q: We are contracting with a private business to provide maintenance services for our school. Should we send contributions to STRS Ohio for these types of services?

A: No. In general, STRS Ohio membership is for anyone in a position that requires a teaching license or certification pursuant to Section 3319.22 through 3319.33, Revised Code. This type of service would not be covered under STRS Ohio. You should contact the School Employees Retirement System of Ohio (SERS) for details regarding this type of service and whether contributions to SERS are required.

For More Information

Refer to **Section 3307.01** of the Revised Code.

Call your employer advisor toll-free at **1-888-535-4050**.

Logon to the Employer Web Site at **www.strsoh.org/employer**.

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