
**JOINT ENFORCEMENT TASK FORCE ON MISCLASSIFICATION AND PAYROLL
Independent Contractor Test Workgroup**

September 17, 2021
10:00 am – 12:00pm

Meeting notes

- A. Attendance -Steve, Cara, Jennifer, Maria, Jim O., Joe, John, Jim C. Mark, Janell, Stu
- B. Other state tests –
1. Cara Connors presented research of other midwestern states and a few other states that have adopted a single or universal test. Of note, Michigan adopted a universal test in 2004. More information is needed about their experience and whether it has affected the number of misclassifications.
 2. Cara will put her research together in a written format to distribute.
 3. John Varda provided an update on California's Proposition 22 and status of cases before the US Supreme Court.
- C. Review of tests and criteria, followed by discussion
1. DOR – Jennifer Dambach and Maria Guerra Lapacek – reviewed the "20 part" test that DOR is required to use. Jennifer provided a list of questions used to determine whether a person is an employee or independent contractor and two IRS publications used for education/information.
 2. WC – Jim O'Malley and Joe Moreth – provided an explanation of the test used in WC
 3. ERD – Jim Chiolino – provided an explanation of the tests used in ERD – both labor standards and civil rights
 4. UI – Janell Knutson – provided a written summary and explanation of UI tests
- D. Discussion and possible recommendation about whether to pursue a change to Wisconsin's Independent Contractor Tests

Discussion occurred among the members about the need to determine what the experience has been in other states that have adopted a universal test. **It was decided that a small workgroup would assemble to reach out to Michigan to learn more about their experience since 2004. The workgroup is UI (Janell or Andy), WC (Jim or Joe) and Cara Connors. The group will report out at the next meeting.**

Discussion also focused on how different the current tests used in Wisconsin are from each other. If there are minor differences, finding a common ground could be more feasible. **Jennifer Dambach volunteered to compare the tests used and present that at the next meeting. UI, WC and ERD agreed to send her written information about the test, preferably in plain language that is representative of how they are implemented, not statutory sites. This information should be sent to Jennifer by Monday (9/20).**

- E. Materials from today's meeting will be posted at
<https://dwd.wisconsin.gov/misclassification/independent-contractor.htm>

F. Next meeting Agenda:

1. Report from the Michigan Research team
2. Report from Jennifer's comparative analysis
3. Any other legislative/legal updates of relevance
4. Discussion of Key issue – Should Wisconsin have a universal independent contractor test?