



ADMINISTRATIVE RULES OF MONTANA



2.44.308 INDEPENDENT CONTRACTOR

- (1) Any person employed as an independent contractor shall be ineligible for membership in the TRS. Certification from the Montana Department of Labor and Industry pursuant to 39-71-401, MCA, as an independent contractor shall be accepted as prima facie evidence of independent contractor status by the Teachers' Retirement Board.
- (2) In absence of certification by the Department of Labor and Industry, it must be shown that the worker is both free from direction and control of the party utilizing their services and have an independently established business.
- (3) If a person's status as an independent contractor is in question, they must become a member of the TRS as provided under 19-20-302, MCA. The burden of proof before the Teachers' Retirement Board is on the employer. Upon request, the employer will submit to the Teachers' Retirement Board a copy of the independent contractor certification issued by the Department of Labor and Industry for any contractor employed in a position normally eligible for membership under the TRS.

Authorizing statute(s): 19-20-201, MCA

Implementing statute(s): 19-20-302, MCA

History: NEW, 1995 MAR p. 349, Eff. 3/17/95; AMD, 2007 MAR p. 2121, Eff. 12/21/07.