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Independent Contractors vs. Employees – Internal Revenue Service

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## Useful Links

FMLA/Compliance Assistance

ADA/Disability Resources

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### Useful Links

Wage and Hour - Washington State Department of Labor and Industries  
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## Useful Links

Unions and Union Members - U.S. Department of Labor

## Special Rules on Military Service

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Sample Designation Memo – Employee with Covered Servicemember Who Has Serious Illness or Injury

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Employment Security Department – State of Washington

## General Guidance for the HR Professional

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Monthly Expense Reimbursement  
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Annual Sick Leave Tracking Form  
Advance/Loan Agreement  
Direct Deposit Authorization  
Notice of Employee Change  
Sample Applicant Rejection Letters  
The New EEO-1 Reporting Form  
Emergency Contact Form

## Useful Links

U.S. Citizenship and Immigration Services Form I-9  
Internal Revenue Service Form W-2 Wage and Tax Statement  
Frequently Asked Questions about COBRA Continuation Health Coverage

▶ [View first two pages of "Sample Employment Agreement - Formal"](#)

# SAMPLE EMPLOYMENT AGREEMENT - FORMAL

**Using This Agreement:** Below are the basic provisions of an Employment Agreement. (A "friendlier" letter version of an Employment Agreement is also on [AdviceOnline](#)). One size does not fit all situations. Therefore, in some provisions, we have included additional or alternative language in bold that can be added depending on the situation. We have also provided you with additional information in the TIP boxes and a set of optional provisions at the end. While this Sample Agreement addresses many common legal risks, we recommend that you consult with an attorney to tailor this agreement to the particular situation for which it is used and/or your organization.

To use this form, fill in the blanks and then delete all TIP boxes and extra optional provisions.

THIS AGREEMENT is entered into this \_\_\_\_ day of \_\_\_\_\_, 200\_ by and between **[Full Legal Name of Company]** ("**[Company Name]**" or the "Company") and \_\_\_\_\_ ("You") in order to provide the general terms of your employment with the Company:

1. **Employment.** **[Company Name]** is pleased that you will be joining it as **[insert Employee's title or describe the Employee's intended major function]**. You shall initially report to the **[title]** of the Company, and/or such other persons as may be designated. You shall perform the duties normally associated with the position and/or such other duties assigned by the Company. You also understand that your initial duties and your role with the Company may change given the needs of the Company and as your career evolves. The Company retains the discretion to change your position and/or duties.

You also agree to abide by any employment guidelines or policies adopted by the Company, such as those in the Company's handbook, recognizing that these policies may be amended and/or new ones implemented.

**TIP:** Normally, the Employment Agreement will replace all prior agreements, including Offer Letters. Therefore, ensure that any key terms in an Offer Letter are incorporated into this Agreement. If, however, you have an employment application that includes language that is important to the Company, you can incorporate the application by adding the following to the provision above, **"You accept the position based upon the terms and conditions set forth in the Employment Application."** If you do this, it is important to ensure that the application does not contain provisions that conflict with those in this Agreement.

2. **Term.** You understand that the Company is not promising you employment for any definite term, and instead your employment is **"at-will."** Accordingly, both you and the Company remain free at all times to terminate the employment relationship, with or without cause and with or without notice.

**TIP:** Some employees may try to negotiate conditions under which they can be terminated or a set period of employment during which they can only be terminated for cause. Doing either of these things greatly increases legal risks and makes it difficult to effectively deal with performance issues. It is, therefore, generally in the Company's best interest to preserve the right to terminate at-will. However, there is a medium ground where the Company provides the employee some protections by promising to pay severance if the employee is terminated without cause, but preserves its own flexibility to terminate employees without having to "prove" cause each time. We have provided an example of this type of clause in the Options Section.

The Company may also want the employee to give two weeks' notice prior to resigning. A clause to this effect is also provided in the Options Section, along with a discussion of its legal implications.

3. **Exclusive Services.** You agree to (a) devote your entire professional time, attention, and energies to your position with the Company, (b) use your best efforts to promote the interests of Company, (c) perform faithfully, loyally, and efficiently your responsibilities and duties, and (d) refrain from any endeavor outside of your employment which interferes with your ability to perform your obligations or violates your covenants.
4. **Salary.** For all services performed by you pursuant to this Agreement, you shall initially be paid a salary of \$\_\_\_\_\_ (earned pro rata throughout the year). Your salary, which may change over time, will be paid in accordance with the Company's then existing payroll policies, and be subject to the normal and/or authorized deductions and withholdings. **[You may want to include the following language if stock options are part of the agreement: "You understand that your base salary is the only pay that you will receive from the Company and that neither your employment-related benefits nor your stock options are part of your pay."]**

**TIP:** If the employee is eligible for stock options and/or a bonus, a Stock Option and/or Bonus clause[s] should be inserted here. Both clauses are provided in the Options Section. If the stock option provision is included, the bolded language above should also be added to the salary provision.

5. **Benefits.** Upon satisfaction of eligibility criteria, you shall be eligible to receive any employee benefits generally provided to Company employees. Such benefits may be amended or discontinued by the Company at any time.
6. **Reimbursement of Expenses.** Upon presentation of appropriate documentation, you will generally be reimbursed for expenses incurred as a result of normal business activities in accordance with the then-existing policies.

**TIP:** If the employee will be regularly using a personal vehicle for business, then an additional provision relating to the vehicle can be added. An example is in the Options Section.

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# AVOIDING INTERVIEWING PITFALLS

In general, employers should ask applicants only questions that are job-related for the position at issue. All questions relating directly to race, sex, sexual orientation, age, color, national origin, religion or disabilities should be avoided. The Equal Employment Opportunity Commission has concrete guidelines on the types of questions that may be asked in interviews in several publications, including *1991 Pre-Employment Inquiry Guidelines*, and *1995 Enforcement Guidance: Pre-Employment Disability-Related Questions and Medical Examinations*.

**Race:** As a rule, there are no job-related considerations that would justify asking applicants a question based on race.

**Avoid questions** like the following:

1. How do you feel about having to work with members of a different race?
2. Your supervisor will be (white, black, Hispanic, etc.). Does that create any problems for you?
3. Are “you people” good at working with numbers?
4. Were you ever on public assistance?
5. What do your parents do for a living?
6. How many brothers or sisters do you have?

**Sex or Gender:** Again, there are virtually no job-related considerations that would justify asking applicants a question based on their sex or gender. It is generally unlawful to deny female applicants employment because of pregnancy or planned pregnancy. **Avoid questions** on marital status, number of children, or childcare arrangements. **Instead, focus on job-related questions** such as, “what hours are you available?” and “what shift can you work?”

**Avoid questions** like the following:

1. Do you get along well with other women?
2. Are you married/single/divorced/separated/widowed?
3. How many children do you plan on having?
4. How old is your youngest child?
5. Who will watch your children while you are at work?
6. You’re not a women’s libber, are you?
7. Are you working to supplement your household income?
8. What type of birth control do you practice?
9. What does your husband do for a living?
10. Why aren’t you married?
11. Will your husband mind if you have to travel on business trips?
12. Do you expect to be transferred because of your husband’s job?

**CAUTION:** *If a job takes one to two weeks of training, and the typical employee rarely stays over six months, the Equal Employment Opportunity Commission will generally not view with favor a company's explanation that it did not hire the applicant because he or she would be transferred with a spouse within a year, particularly a spouse in the military service.*

**Age:** Under the Age Discrimination in Employment Act, it is illegal to discriminate against persons over the age of 40. In general, an employer should not ask for date of birth or other age identifying information. Employers may ask an applicant if he or she is of legal age to work in the state.

**Avoid questions** like the following:

1. Do you think you'll get along well with the younger people in the office?
2. Would you be willing to work for a person who is younger than you are?
3. When do you plan to retire?
4. How many grandchildren do you have?
5. We are looking for a vigorous workforce, full of new ideas. How will you contribute?

**National Origin:** Employers should not ask applicants where they were born or where their parents were born. Questions like, "Did you learn Spanish at home or in school?" are **inappropriate**. Employers may ask applicants if they are legally eligible to work in the United States. **Employers may ask applicants if they can proficiently speak, read or write the English language, if such a question is job-related.** They may not ask applicants to identify their native language.

**Avoid questions** like the following:

1. Were you born here?
2. Do you have people in the "old country"?
3. That's an unusual name. What nationality are you?
4. What kind of accent do you have?

**Disability:** Employers may not ask applicants if they have a disability. Employers may ask applicants if they can perform the duties of the job in question. If the applicant raises an issue of disability, you should ask if they feel they can perform the essential functions of the job in question with or without accommodation.

**Avoid questions** like the following:

1. How did you get that scar?
2. Why do you talk that way?
3. How often do you need to go to the doctor?
4. Do you have back problems?

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