

LEGAL MAILBAG – APRIL 2, 2026



By Attorney Thomas B. Mooney, Neag School of Education, University of Connecticut

The “Legal Mailbag Question of the Week” is a regular feature of the CAS Weekly NewsBlast. We invite readers to submit short, law-related questions of practical concern to school administrators. Each week, we will select a question and publish an answer. While these answers cannot be considered formal legal advice, they may be of help to you and your colleagues. We may edit your questions, and we will not identify the authors. Please submit your questions to: legalmailbag@casciac.org.

Dear Legal Mailbag,

As you can imagine, personnel issues are a frequent challenge for school principals like me. A recent challenge has been figuring out a way to complete psychological evaluations of students in a timely manner. Student mental health problems are on the rise, and the school psychologist whom we share with the middle school is overwhelmed.

Though you wouldn't know it to look at me, I have been the principal here for over twenty years, and I am still friendly with a school psychologist who retired several years ago. I reached out to her at the beginning of the school year, and we agreed that she would do these evaluations as needed at the agreed price of \$500 per evaluation. Every month, she sends me and the Business Office an invoice identifying the number of evaluations she has done, and we cut a check. I am glad that we worked out this arrangement because we have kept her busy most of the year.

Last week, she wrote to me to say that she is doing her taxes, and she asked that I send a W-2 form to her as soon as possible. In checking with the Business Office, however, I was told that they have simply been paying her invoices and that they plan to send her a 1099. Are we good?

Signed,
A Taxing Situation

Dear Taxing:

Sadly, Legal Mailbag must respond to your question with the all-purpose answer to legal questions – it depends!

Apparently, you and the Business Office have been treating this retired school psychologist as an independent contractor, which may not be appropriate. The Internal Revenue Service is fussy about classification of employees because employers are legally required to withhold taxes and FICA from the paychecks of employees. When an employee is incorrectly classified as an independent contractor, the employer can be liable for the amounts that should have been withheld.

Based on the facts you shared, Legal Mailbag has additional questions before we can make a determination of this retired person's status. Does this person do psychological evaluations for other school districts, *i.e.*, is she in the business of providing this service to others, or does she just work for your school district? Does she have independent discretion as to when and how to provide the evaluations, or does the nature of the work prescribe how and when such evaluations are conducted?

The Internal Revenue Service has provided guidance on whether a person providing service should be considered an employee or an independent contractor: See [United States Internal Revenue Service, "Worker Classification 101: Employee or Independent Contractor?"](#) In this guidance, we read about the factors that go into the determination of whether a person is an employee or an independent contractor:

- **Behavioral control** – Does the company control or have the right to control what the worker does and how the worker does the job?
- **Financial control** – Does the business direct or control the financial and business aspects of the worker's job. Are the business aspects of the worker's job controlled by the payer? Things like how the worker is paid, are expenses reimbursed, who provides tools/supplies, etc.
- **Relationship of the parties** – Are there written contracts or employee type benefits such as pension plan, insurance, vacation pay? Will the relationship continue and is the work performed a key aspect of the business?

Id. Given the need for more information, Legal Mailbag cannot opine on whether the retired school psychologist can be considered an independent contractor, but Legal Mailbag confesses to having some doubt.

Finally, Legal Mailbag raises two other considerations for you in making such arrangements. First, reemployment of retired "teachers" (which term includes school psychologists and anyone else below the rank of superintendent working under a certificate issued by the Connecticut State Department of Education) is governed by Conn. Gen. Stat. § 10-183v. That statute requires that both the employing board and the teacher report such post-retirement employment to the Teachers Retirement Board, and it imposes limitations on earnings.

Second, conducting psychological evaluations of students appears to be bargaining unit work for the teachers' bargaining unit. While it may well be that the local teachers' union does not object to your lightening the load for the school psychologist, conferring with the local teachers' union before contracting out bargaining unit work is advisable and, depending on the circumstances, may be legally required.