DATE: July 27, 2015

TO: Vice Presidents and Deans

FROM: Jerry M. Cutler, Vice President for Human Resources

RE: Determining “employee” or “independent contractor” status

Several of you have asked for guidance in determining whether to classify an individual as an “employee” or “independent contractor.” There are six specific factors that should be considered in making this determination:

• the individual’s right to control the manner in which the work is to be performed;
• the individual’s opportunity for profit or loss depending upon his or her managerial skill;
• the individual’s investment in equipment or materials required for the task, or the employment of helpers;
• whether the service rendered requires a special skill;
• the degree of permanence of the working relationship;
• whether the service rendered is an integral part of the organization’s business.¹

Each of these factors must be considered, and no one factor is determinative. The goal is to determine whether the individual is economically dependent on the employer, and therefore an employee, or is really in business for him or herself, and therefore an independent contractor.

Please contact me directly with any request to change the status of an individual currently classified as an independent contractor, or to apply independent contractor status to someone yet to be hired. If you have questions concerning the application of these factors, or need assistance in any particular situation, please do not hesitate to let me know.

¹ See, e.g., Donovan v. DialAmerica Marketing, Inc., 757 F.2d 1376 (3rd Cir. 1985); Hargrove v. Sleepy’s, LLC, 220 N.J. 289 (2015); Administrator’s Interpretation No. 2015-1, U.S. Department of Labor, Wage and Hour Division (July 15, 2015).