## NJFOA INFORMATIONAL NOTICE TO OFFICIALS

**What New Jersey's Independent Contractor Rules Could Mean for You**

**An Important Notice Regarding N.J.A.C. 12:11 — Effective October 1, 2026**

To all NJFOA Officials:

NJFOA wants to make its members aware of an important change in New Jersey's labor regulations that may affect how athletic officials are classified as independent contractors or employees.

New Jersey's Department of Labor and Workforce Development has adopted new regulations, N.J.A.C. 12:11, concerning the application of the state's independent-contractor classification rules. These regulations become operative October 1, 2026.

This notice is intended to provide general information and awareness to NJFOA members.

It is not intended to declare that athletic officials are employees or independent contractors, and it is not intended to make a legal determination regarding any particular official.

Instead, NJFOA believes every official should understand the issue and know what questions to ask about his or her own classification.

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### Why Should Officials Pay Attention?

Many athletic officials have traditionally been treated as independent contractors.

Officials commonly receive compensation on a contest-by-contest basis and may receive a Form 1099 for their services.

However, under New Jersey law, a 1099 does not by itself determine whether someone is legally an independent contractor.

Likewise, simply calling someone an independent contractor or having an independent-contractor agreement does not, by itself, settle the question.

New Jersey uses what is known as the ABC test to determine worker classification.

That means the actual circumstances of the working relationship are important.

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### What Is the ABC Test?

For independent-contractor status to apply, the party asserting independent-contractor status generally must establish all three parts of the test.

**A — Freedom From Control**

The worker must be free from control or direction over the performance of the work.

This does not necessarily mean that an independent professional can ignore rules or standards.

Athletic officials, for example, must follow the rules of the sport and established officiating mechanics.

The important question is the difference between professional standards and actual control over how the professional performs the work.

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**B — The Nature of the Work**

The law considers whether the service is outside the usual course of the business for which the service is performed or is performed outside all of the places of business of the enterprise.

For athletic officials, this is an important issue to understand.

Officials provide a specialized professional service at athletic contests.

The fact that an official works within an organized and regulated athletic system does not, by itself, answer the legal classification question.

The actual circumstances must be considered.

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**C — An Independently Established Profession or Business**

The worker must be customarily engaged in an independently established trade, occupation, profession, or business.

This part may be particularly relevant to athletic officials.

Consider the characteristics of the typical official:

- We obtain and maintain our own certification.
- We study rules and officiating mechanics.

- We attend clinics and training.
- We purchase and maintain our own equipment.
- We provide our own transportation.
- We incur our own professional expenses.
- We maintain our own availability.
- We accept or decline assignments.
- Many of us work for multiple organizations.
- We officiate at multiple schools and facilities.
- We develop our own experience and professional expertise.
- We exercise independent professional judgment during every contest.

These are characteristics that officials should understand when considering the question of independent professional activity.

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**<u>Professional Rules Do Not Automatically Mean Employment</u>**

This is an especially important point for officials.

Football officiating is highly regulated.

Officials must follow:

- NFHS rules;
- NJSIAA requirements;
- Approved officiating mechanics;
- Safety procedures;
- Certification requirements;
- Testing requirements; and
- Association procedures.

These requirements are necessary to maintain consistency, safety, and fairness.

But following professional rules does not automatically mean that an official is an employee.

Many independent professionals operate within highly regulated professions.

A professional can be required to meet standards while still exercising independent judgment in performing the actual service.

For an athletic official, that independent judgment is particularly obvious during a game.

Officials make decisions based on their interpretation of the rules, positioning, observation, experience, and professional judgment.

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## What Makes Athletic Officiating Different?

Athletic officials are not simply performing repetitive tasks under continuous supervision.

During a contest, an official must independently:

- Observe the action;
- Interpret the rules;
- Make decisions;
- Communicate decisions;
- Manage situations;
- Apply judgment;
- Respond to unexpected circumstances; and
- Accept responsibility for those decisions.

The applicable governing bodies establish the rules and professional standards of the sport. During the contest, the official independently applies those rules and exercises professional judgment.

That distinction is important when considering the concept of control.

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## Officials Should Also Understand Their Independent Professional Activity

Officials should consider whether their officiating activity exists independently from any single organization.

For example:

- Do you work for more than one organization?
- Do you accept assignments from different sources?
- Do you purchase and maintain your own officiating equipment?
- Do you pay your own transportation and other professional expenses?
- Do you determine your own availability?
- Do you maintain your own professional training and development?
- Could you continue officiating if you stopped receiving assignments from one particular organization?

These questions are relevant because independent-contractor classification looks at the actual circumstances of the relationship.

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**Why This Matters to You**

Worker classification is not simply a label.

The classification of a worker can affect important protections and responsibilities.

Depending upon the applicable law and individual circumstances, employee status can involve areas such as:

- Unemployment insurance;
- Workers' compensation;
- Wage-and-hour protections;
- Earned sick leave;
- Temporary disability programs;
- Family leave programs; and
- Employer-related payroll contributions.

Independent-contractor status involves a different legal structure.

Neither classification should be assumed simply because an individual receives a 1099.

The important issue is whether the actual relationship satisfies the applicable legal requirements.

## Protecting Yourself Through Documentation

Because worker classification depends upon the actual circumstances of the professional relationship, Officials should retain these records in their normal course of business and should not alter, recreate, or selectively document information for the purpose of influencing a worker-classification determination.

Officials may wish to retain records such as:

- Assignments worked;
- Organizations for which they have officiated;
- Records showing multiple sources of assignments;
- Equipment purchases and maintenance;
- Transportation expenses;
- Training and clinic records;
- Certification and examination records;
- Association dues and other professional expenses;
- Records concerning availability and accepted assignments; and
- Other documentation that demonstrates the nature and independence of their professional officiating activity.

This is not a recommendation to create records solely for the purpose of establishing a particular worker classification.

Rather, maintaining accurate records of your professional activity is a good practice and may help you understand and document the actual circumstances of your work if questions about classification ever arise.

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## What Officials Should NOT Do

NJFOA is **not** advising officials to stop officiating.

NJFOA is **not** advising officials to refuse assignments.

NJFOA is **not** advising officials to characterize themselves as employees.

NJFOA is **not** advising officials to characterize themselves as independent contractors.

NJFOA is **not** suggesting that any organization has violated the law.

Instead, NJFOA is encouraging officials to be informed about their own classification and the potential implications of the October 1, 2026 regulations.

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## Questions Every Official Should Understand

Every official should know:

1. How am I currently classified?

Am I being treated as an independent contractor?

2. How is my compensation reported?

Am I receiving a Form 1099 or other tax reporting?

3. What agreement governs my services?

Is there an independent-contractor agreement or other document describing the relationship?

4. Who determines my assignments?

How are assignments offered, accepted, declined, or changed?

5. What professional requirements apply to me?

Which requirements are related to maintaining certification and professional standards?

6. What expenses do I personally bear?

Equipment, transportation, training, uniforms, association dues, and other professional expenses may be relevant facts.

7. Do I provide services to multiple organizations?

This may be relevant when considering whether an official maintains an independently established professional occupation.

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## NJFOA's Role

NJFOA's role is to educate and support its members.

The association does not need to make a legal determination for every individual official.

However, NJFOA believes its members should not be left unaware of changes in New Jersey law that could potentially affect their professional status.

The October 1, 2026 regulations provide an appropriate opportunity for officials to become familiar with the ABC test and understand how the law may apply to professional athletic officiating.

NJFOA will continue to monitor developments and provide members with information as appropriate.

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**The Most Important Point**

Officials should not assume:

"I receive a 1099, therefore I am definitely an independent contractor."

But officials should also not assume:

"I have to follow rules, therefore I must be an employee."

Neither conclusion necessarily follows.

The classification question requires consideration of the actual facts and circumstances and the applicable requirements of New Jersey law.

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**NJFOA's Message to Its Members**

NJFOA supports:

Accurate classification.

Compliance with New Jersey law.

Protection of legitimate workers.

Protection of legitimate independent professionals.

Clear information for athletic officials.

Most importantly, NJFOA believes that officials should understand the rules that govern their professional status and should have the opportunity to protect their interests through accurate information, appropriate documentation, and informed decisions.

The October 1, 2026 implementation of N.J.A.C. 12:11 is therefore something every NJFOA official should be aware of.

This is an issue that deserves attention—not because officials should assume what the final legal answer will be, but because officials should understand the question before others answer it for them.

**New Jersey Football Officials Association**

**Informational Notice to Members**

**September 18, 2026**