

LEGAL SERVICES

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MEMORANDUM

February 8, 2018

SUBJECT: Independent Contractor Definitions
(Work Order No. 30-LS1390)

TO: Representative Neal Foster
Attn: Jane Pierson

FROM: Claire Radford
Legislative Counsel



You asked how many definitions there are in the Alaska statutes for "independent contractors." There is one definition for "independent contractor" in the Alaska Statutes. This is found in Title 9, the Code of Civil Procedure. AS 09.65.096(d)(3) defines "independent contractor" as "an emergency room physician who is not an employee or actual agent of the hospital in connection with the rendition of the health care services." There are no other definitions for "independent contractor" found in the Alaska statutes.

If a word or phrase is used in statute and not otherwise defined, it would be left to interpretation. Generally, the most reliable guide to the meaning of a statute is the words of the statute construed in accordance with their common usage. If the word is clear and unmistakable without definition, it is superfluous and confusing to define it. A word that is not defined in a statute will probably be given its common law meaning by a court construing the statute.¹ A statute is interpreted according to reason, practicality, and common sense, considering the meaning of its language, its legislative history, and its purpose. Alaska courts may also consider how courts have interpreted the words in other cases or statutes, or how administrative agencies have used the words.²

Courts give deference to an agency's definition and usage of a word in regulations if the word falls within the agency's area of expertise and it is defined. The Alaska Supreme Court stated in *Bartley v. State, Department of Administration, Teachers' Retirement Board* that:

Although we generally rely on our judgment when we decide questions involving pure statutory interpretation, we have recognized that an

¹ *Manual of Legislative Drafting* (2017), p. 51. (See *Hugo v. City of Fairbanks*, 658 P.2d 155 (Alaska App. 1983)).

² *Wilson v. State, Dept. of Corrections*, 127 P.3d 826 (Alaska 2006).

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agency's interpretation of a law within its area of jurisdiction can help resolve lingering ambiguity, particularly when the agency's interpretation is longstanding. In such cases we have suggested that precedent counsels restraint and directs us to look for "weighty reasons" before substituting our judgment for the agency's.³

Additionally, the legislature can make a record of their intent in using a particular word or phrase that the court will refer to when interpreting a statute. This legislative history can have an important role in statutory interpretation since the plain meaning of a statute does not always control its interpretation, as the Alaska Supreme Court has recognized that legislative history can sometimes alter a statute's literal terms. However, under Alaska's sliding-scale approach to statutory interpretation, "the plainer the language of the statute, the more convincing contrary legislative history must be."⁴ In such cases the legislative history and rules of construction must present a compelling case that the literal meaning of the language of the statute is not what the legislature intended.

If I may be of further assistance, please advise.

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³ 110 P.3d 1254 (Alaska 2005).

⁴ *Alaskans For Efficient Gov't Inc. v. Knowles*, 91 P.3d 273, 275 (Alaska 2004) (quoting *Ganz v. Alaska Airlines, Inc.*, 963 P.2d 1015, 1019 (Alaska 1998)).