



Cosumnes CSD Parks and Recreation Department

Assembly Bill 5 – Q & A

Updated: October 29, 2019

The following information is provided to help answer questions related to the recently signed Assembly Bill 5 (“AB 5”), which will take effect on January 1, 2020 and impacts agreements between the District and Independent Contractors. Staff will continue to monitor the implementation of this new law and its impact on the manner in which the District provides high-quality recreation services.

1. What is Assembly Bill 5 (“AB 5”)?

In general, the bill modifies California’s legal standard for when an individual is considered an independent contractor. Under AB 5, every organization that utilizes the services of an independent contractor, referred to as a “hiring entity,” must evaluate whether the independent contractor meets the “ABC test:” (A) are you free from the control and direction of the hiring entity; (B) are you performing work that is outside the usual course of the hiring entity’s business; and (C) are you engaged in a trade, occupation or business of the same nature as what you are providing to the hiring entity.

The bill’s language and a brief summary by Legislative Counsel is located at:

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB5.

2. What date does AB5 take affect?

AB 5 will take effect on January 1, 2020.

3. How does AB 5 affect me?

If you operate as an independent contractor, AB 5 applies to any agreement you may have to provide services.

4. Are you sure AB 5 applies to part-time instructors?

There is no minimum threshold. Except for limited exemptions in the law, AB 5 applies to all independent contractor agreements, no matter if the entity performs services full-time or part-time.

5. If the law doesn’t take effect until January 1, 2020, why is my contract being terminated in November?

Your 2019 Independent Contractor contract is valid up through December 31, 2019. The District requires the Independent Contractor Information form to be completed and returned by November 8, 2019 in order to meet production deadlines for the 2020 Winter/Spring Activity Guide. The 2020 Winter/Spring Activity Guide is within the 2020 calendar year.

6. How do I obtain a Business License?

The City of Elk Grove has information on their website at:

https://www.elkgrovecity.org/city_hall/departments_divisions/business_license/

You will receive a temporary business license immediately upon completing the business license application. The City of Elk Grove website states that a 2-year license will be mailed to you within two weeks. You may submit a copy of the temporary business license to the District in order to be eligible for our 2020 Winter/Spring Activity Guide, so long as you provide a copy of the permanent business license upon receipt.

7. Do I need to register with the County of Sacramento?

If you obtain a Business License through the City of Elk Grove, and your Business name does not contain your last name, then you also must register a fictitious business name with the County of Sacramento. The form can be obtained on their website at:

<https://finance.saccounty.net/Tax/Documents/BusLicense-FBNforms/FBNStatement.pdf>

8. How much time do we have to organize as a business? Can I still be included in the 2020 Winter/Spring Activity Guide if I haven't completed that process?

In order to be included within the 2020 Winter/Spring Activity Guide, you must complete and submit the Independent Contractor Information form by November 8, 2019. If you choose to obtain a business license, submit proof of your business application with your form by November 8, 2019.

9. Do I need to obtain a City of Elk Grove business license? Or can I obtain a business license from my hometown?

The City of Elk Grove requires a business license for every business that engages in, operates or conducts business within the City, unless the business is otherwise exempt under the City Code. Exemptions include, but are not limited to, nonprofits, honorably discharged or relieved veterans, or professional services businesses. City staff is available to assist businesses to determine if they meet an exemption Monday through Friday from 8am to 5pm at Elk Grove City Hall, or at (916) 478-2211.

10. Other than being a business entity, what are the possible "exemptions" to AB 5 referenced in the letter?

The exemptions are specific to occupations and professional licenses. These include insurance agents, physicians, lawyers, architects, engineers, private investigators, accountants, investment advisors, and direct sales salespersons.

11. Why have I only received this notice from Cosumnes CSD and not others with which I contract?

AB 5 applies to all independent contractor agreements in California. Working with our legal counsel, the District has determined that all contractors associated with our Activity Guide must be a business entity in order to be compliant with the new law.

12. Can I be reimbursed by Cosumnes CSD for my costs to create a business?

No. Cosumnes CSD cannot reimburse independent contractors for the cost of obtaining a business license.

13. If I answer "no" to Question 5 on the form because I don't contract with other business entities or maintain a clientele does this prevent me from continuing as an Independent Contractor?

Yes.

14. What if Cosumnes CSD can only offer me a certain location at a certain time for my classes? Does that mean I have to answer "no" to Question 9 on the form because I'm not controlling my location and hours?

No. As a contractor, you indicate to Cosumnes CSD your availability to teach a class. Staff will use this information to provide the location and times that best meet your availability.

15. Will there be any changes to Cosumnes CSD's liability insurance requirements for contractors, if they are a business who teach classes on CSD property?

Cosumnes CSD does not require a different type of insurance because you are a business performing instruction on CSD property. Cosumnes CSD only requires liability insurance for business contractors who perform instruction offsite.

16. Would I be able to volunteer my services as an instructor?

The Cosumnes CSD Parks and Recreation Department offers a variety of opportunities for volunteers with various skills and abilities. Staff are more than welcome to discuss this idea if you are willing to volunteer your skills.