AGENDA REPORT

Meeting Date:	**May 7, 2013**
Item Number:	E-4
To:	Honorable Mayor & City Council
From:	Nancy Hunt-Coffey, Assistant Director of Community Services
Subject:	ESTABLISHMENT OF A NEW ENGLISH AS A SECOND LANGUAGE AND CITIZENSHIP PROGRAM FOR ADULTS BY THE CITY OF BEVERLY HILLS RECREATION DIVISION
Attachments:	1. Article from MercuryNews.com, "Adult education's fate in limbo in California", 3/9/13. 2. ESL flyer from Beverly Hills Adult School. 3. Article from Western City, "Challenging the IRS on the status of independent Contractors", 7/10. 4. ESL Programs in the Westside Area

RECOMMENDATION

Staff recommends that the Recreation division of the Community Services Department initiates a series of English as a Second Language (ESL) courses at beginning through advanced levels as well as a citizenship preparation course. As with all other recreation courses, staff recommends that these courses be taught by a group of instructors who work as independent contractors based on the 70/30 or similar split model.

INTRODUCTION

Due to funding reductions and a reorganization of priorities at the State and local level, the Beverly Hills Unified School District decided to eliminate classes offered through the Beverly Hills Adult School. In mid-2011 many of the recreation based programming through the Adult School ceased. Management of 25 of these courses was subsequently assumed by the Recreation division of the Community Services Department. Recently the School District announced that in June 2013 it would eliminate the remaining adult school courses which are English as a Second Language (ESL) and citizen preparation classes. Some community members and Councilmembers have expressed a desire to continue to provide ESL courses in Beverly Hills and have asked that the City's Recreation division assume responsibility for providing them.

DISCUSSION

Many adult schools across the State are reducing their course offerings or are closing due to many issues, including reduced or redirected funding. Additionally, the Governor is proposing to shift responsibility for these classes from the K-12 schools to community colleges. While the number of courses has dwindled over the last few years, in 2011 the Beverly Hills Unified School District eliminated the majority of the adult school courses, many of which were more recreation based, such as adult fitness and weight training, Iyengar yoga, Adobe Photoshop and watercolors. Like many of the City's recreation courses, most of these courses are offered for an hour or two once or twice per week. With community and Council support, the Recreation division of the Community Services Department took over management of many of these classes, and revenues for this area increased. These courses were assimilated like other recreation classes. Instructors were brought onboard as independent contractors with a 70/30 split of the revenue, where the instructor is paid 70% of the revenue and the City retains 30%. Residents were offered these courses at a 25% discount from the nonresident rate. This transition was fairly smooth, and most of the instructors were happy to continue their courses through the Recreation Division. Through the Joint Powers Agreement with the School District, classroom space for many of these courses continued to be available at School District facilities.

Recently the School District determined that they would need to eliminate the remaining adult school classes, which are English as a Second Language and citizen preparation courses. See the attached flyer for more information about the program that is being offered. At one point the Adult School offered multiple ESL courses at all levels, including the introductory level; however, in the last few years the focus has been on intermediate and advanced ESL, as well as conversation courses. The courses are offered for free, but there is a $60 per course registration fee. These multi hour courses are offered two to three times per week and are taught by the same instructor who is a part time, credentialed teacher. This teacher has been making approximately $39 per hour, is receiving benefits and has been working 30-35 hours per week. This teacher has expressed an interest in continuing the same basic course of study through the Recreation Division, starting July 2013. The registration data for these ESL courses for the 2012 school year shows that 33% of the Adult School ESL students are Beverly Hills residents and 66% are nonresidents. The courses have been held at the BHUSD administrative offices. The School District has indicated that they could continue to host these courses for one year as part of the JPA agreement between the District and the City.

Staff has done some basic research on the need for ESL in the community. The 2010 census indicates that 38.6% of the residents are foreign born and that 47.1% of the residents report speaking a language other than English at home. The American Community Survey from the Census estimates that 27.8% of the residents are not U.S. citizens and most of the foreign-born population entered the United States prior to 2000. 2011-12 data shows that a total of 6% of the students in the District are enrolled in ESL or English Language Learning (ELL) courses at the basic to intermediate level. Additionally, the School District reports that 39% of their students speak a language other than English at home. This data supports a need for ESL courses in the community as well as potentially for a class focused on citizenship preparation. Anecdotal information gathered from Library staff also indicates the need for ESL at all levels, including basic ESL.

As Council is aware, the Library offers a Literacy program, which is free of charge and focused on adult English learners. The basic model for this program is one-on-one tutoring where volunteer tutors are matched with learners. The tutor-learner pairs generally meet at least once per week at a time and location that is convenient for both participants. The program also offers two English conversation courses per week in a classroom format which are taught by part time hourly Library Technician staff. Library Technicians earn approximately $28 per hour. Some of the funding for this program has come in the form of grant funding from the California State Library. Over the past few years the funding has been unstable. In 2010-11 the program received $53,441, in 2011-12 $0 funding was available. In 2012-13, staff was told that there would be $0 funding available; however a few months ago staff was informed that the program would receive $34,195. It is not yet clear what the funding levels will be available for the next few years.

With the foreknowledge that the funding could be cut, the Library placed a freeze on training new tutors and bringing on new students to the program in 2011. Existing tutor-student pairs continued to work together, however. In fiscal years 11/12 and 12/13, the Library put a hold on the Family Literacy aspect of the program and reduced the hours allocated to other aspects of the program, but continued offering the formal courses twice per week, using salary savings from the Library's budget.

While the original intent of the Literacy grant was to provide instruction for native English speakers, the State Library has allowed some flexibility in allowing semi-fluent nonnative speakers to participate in the program. As the greatest need through the Literacy program has been by nonnative speakers, many Literacy tutors and the Library instructors have tailored their conversation classes more toward English as a Second Language needs, although mostly at the intermediate and advanced levels. As a result, it appears that there may be some overlap in the English conversation course offerings that are offered through the Library's literacy program and through the Beverly Hills Adult School. Should the City decide to establish the same English as Second Language offerings that are offered at the Adult School, it will be important to define the roles of each of these programs.

The one-on-one tutoring aspect of the Literacy program for the most part offers a very different model of instruction and student base than is currently offered through the English as a Second Language program at the Adult School. As a result, it does not appear that there is duplication between these two programs. It is possible that some of the Literacy grant funding could be redirected toward supporting the ESL program or that elements of the Literacy program, such as the conversation courses, could substitute for the ones being offered through the Adult School.

Other programs

Most of the ESL programs offered in the surrounding areas are offered through the Los Angeles Unified School District Division of Adult and Career Education (DACE). Through this program, classes are offered at multiple levels of ESL. Most courses are offered M-Th for multiple hours each day. See attached spreadsheet for details on the individual programs. Some of the nearby programs are offered at Shenandoah Elementary School, West Hollywood Community Center and Hamilton High School. The DACE program charges a $30 fee per semester for each of the courses. Citizenship preparation courses are only offered through the Hollywood High School campus.

There are also local companies that offer ESL courses for a fee. For example, the Beverly Hills Lingual Institute offers three levels of ESL courses as well as an accent reduction course. The classes are held once per week for 80 minutes and run for an 8 week session. The cost is $295 per class.

FISCAL IMPACT

70/30 split

As mentioned above, the instructors through the Recreation division are all contractors with the City. In general there is a 70/30 split of the revenues for each class where the instructor receives 70% of the revenues, and the City receives 30%. However, if the City were to adopt the cost structure that the Adult School has been offering with a registration fee of $60, using the 70/30 split, the instructor would make about $9.25 per hour. The likelihood of securing an interested instructor for that hourly rate is very small.

In further discussion with the current ESL instructor at the Adult School, it appears that under the 70/30 split model the class fee would need to be increased to at least $115 per student per class to come to come to a rough rate of $18 per hour which could be considered acceptable to interested instructors. However, it should be noted that the rate of pay is based on the number of students enrolled in the class. With an increase of nearly 100% in the course fee, it is possible that the number of students could decline, which would in turn decrease the hourly rate for the instructor. An option available to the City Council is to change the percentages used to calculate the revenue split. For example an 80/20 or 90/10 model could be used which could increase the revenue to the instructor while keeping the course fee at a lower level.

Grant opportunities/combined funding models

For many years the Beverly Hills Unified School District received federal Workforce Investment Act funding administered via the State of California Department of Education. In prior years, this grant funding hovered around $100,000. However, since the grant funding is tied to improvements in the basic English skills of the students, when the introductory levels of ESL were eliminated a few years ago at the Adult School, the funding declined. In FY 12-13 the School District received $55,064.

District officials estimate that for FY 13-14 the funding would be $10,000-$12,000. Should basic ESL be restored, it is possible that the grant funding could increase again. The yearly grant submission for this funding was due on April 26th. Due to restrictions on the grant, the City was not eligible to apply for the grant directly; however, the School District was able to apply for the City and act as the fiscal agent for the grant. As good partners, the School District submitted the grant paperwork by the deadline and has agreed to administer the grant for FY 2013-2014 should City Council decide to use this grant funding to offset time cost of taking over the adult ESL program. The Department of Education has indicated that the grant application field will be opened up for fiscal year 2014-15 so that the City could apply for the grant directly at that time.

It should be noted that there are substantial reporting and testing requirements as part of the grant. Each student must be tested on a regular basis to track their progress. The grant requires extensive quarterly reporting. Additionally, data about this progress as well as other demographic data must be entered into a specialized software program called CASAS. The Library has one part time hourly staff member who has some training in this program. However, as a result of these requirements, it is important to recognize that a good portion of the grant funding would need to be used for staff to perform testing, reporting and data entry. The remainder of the funding could be

dedicated to reducing the course registration fee while maintaining an acceptable rate of pay for the instructor.

Contracting versus staff
A few years ago, the IRS challenged the City of Dana Point Recreation division's use of contractors to teach courses. Although Dana Point was ultimately successful in arguing that the instructors were contractors and not employees entitled to certain benefits, the case serves as a reminder that cities must consider whether they are creating or using contractors. 20 different factors were identified by the IRS which distinguish contractors from employees. In considering these 20 factors, the City Attorney's Office has expressed some concerns in bringing on the current BHUSD instructor as a contractor should the City continue to offer the same configuration of classes with the same instruction pay scale and structure. For example, unlike the other recreation courses where the instructor teaches 2-8 hours every week, this instructor teaches 30-40 hours per week and is treated as an employee by the School District. As a result, should the Council decide to continue ESL in the same configuration, the Council should consider bringing on an instructor as a part time regular or full time City employee as is currently offered by the School District. Following the hiring rules and regulations for the City, filling such a position would require a competitive recruitment process which would likely extend into the summer.

CONCLUSION

Should the City Council decide to begin providing ESL courses for the community through the Recreation division of the Community Services Department, staff recommends the implementation of a full complement of ESL courses, including the beginning, intermediate and advanced levels. Additionally, staff recommends the implementation of a citizenship preparation course. It is the recommendation of staff that each course should be offered at least twice a week for a few hours each day. While qualified and experienced instructors would be essential to the success of the program, staff does not feel that they must be credentialed.

Due to budget restrictions and the cost associated with benefits, staff recommends against hiring a single instructor in a part time regular or full time capacity to teach this full load of courses. Additionally, as expressed above, the City Attorney's Office recommends against hiring a single instructor as a contractor to teach all of the courses. Instead, staff recommends that multiple instructors be brought onboard to teach these courses as contract instructors with a split of the revenues. The most common split is the 70/30, as described above. Should Council choose to subsidize the cost of the courses, the split could be changed. As multiple instructors would need to be found and brought onboard, it is possible that there could be a gap in providing some of the courses during the summer session.

Staff recommends accepting the Workforce Investment Act grant funds only if the intent is to begin offering introductory ESL so that over the course of time the amount of grant funding might increase. Should the City Council decide to accept this funding and have the School District act as the fiscal agent, staff would work with the School District staff to develop a Memorandum of Understanding or side letter to the JPA between the two agencies.

Staff also recommends a longitudinal study of how the Library's Literacy program and the proposed ESL course of study complement each other to ensure that each program serves a distinct audience and purpose.

Don Rhodes, Director of Administrative Services

Nancy Hunt-Coffey
Approved By

Attachment 1

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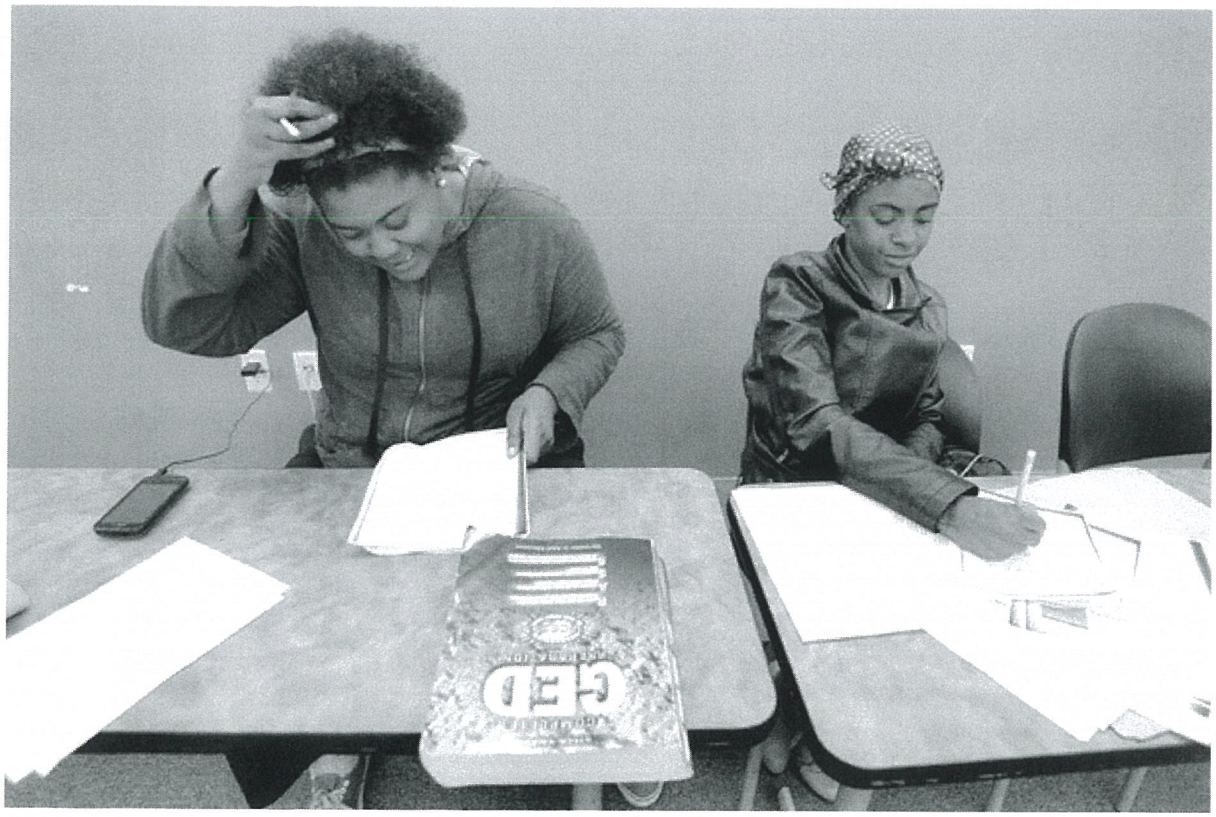
Adult education's fate in limbo in California

By Katy Murphy
Oakland Tribune
Posted: 03/09/2013 08:36:11 AM PST
Updated: 03/09/2013 05:55:09 PM PST



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Documents

School districts throughout California are weighing the fate of adult education courses that serve dropouts, recent immigrants and others at the margins of the

economy as Gov. Jerry Brown proposes shifting the classes from K-12 to community colleges.

While the move is part of Brown's goal to give local schools more control over their money, the idea has college leaders wondering how they would manage the new responsibilities and adult students pondering what would happen if their programs are forced to close.

"That will mess a lot of people up, really," said Cierra Craig, a 20-year-old mother who said she started a GED class in Oakland last month so she could go to college and land a decent job. "The people that made mistakes in their life and are trying to fix it, that will stop them."

The Restructuring California's adult education report
Reaction to the report

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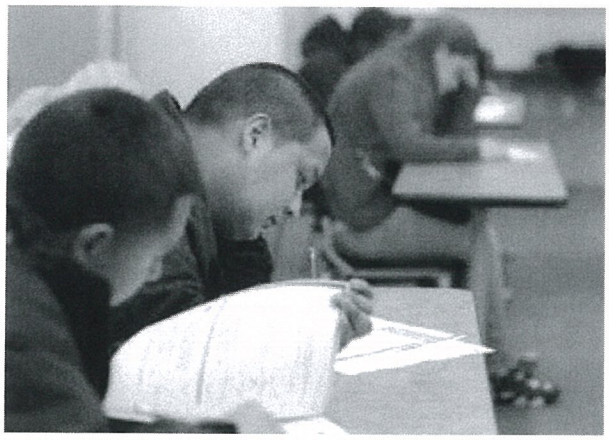

Luis Estrada, left, and Ivan Vega, both 24, work on geometry exercises during a GED class at Youth UpRising in Oakland., Calif., on Thursday, Feb. 28, 2013. (Ray Chavez/Staff) (RAY CHAVEZ)

The plan would give community colleges an additional $300 million to set up similar adult education programs, including high school diploma or equivalency courses, vocational education and citizenship classes. College leaders note the amount is less than half of what the state spent on adult schools five years ago, and that colleges have no experience running some of these programs.

"We've never been in the business of doing GED (the high school diploma equivalent), nor have we done anything with citizenship," said Ron Galatolo, chancellor of the San Mateo County Community College District.

Brown and other proponents say the shift would both free up more money for K-12 schools and strengthen the adult education system, making it easier for students like Craig to move up the educational ladder. Currently, there is little coordination between the K-12 adult schools and the community colleges, and there is no clear path for a student to move from one system to the other.

Advertisement

"There's duplication, and we believe it is more appropriate to have a single system that's housed within the community colleges," said H.D. Palmer, a spokesman for the Department of Finance.

Even so, school districts wouldn't be forced to cut their adult education courses, Palmer said. The money supporting the programs today would continue to flow to K-12 districts, though it would be designated as general-purpose dollars that could be spent on other needs. Colleges would have the option of contracting with existing adult programs rather than inventing their own, he said.

But the nonpartisan state Legislative Analyst's Office cites "major problems" with the plan and urges the Legislature to instead invest the money in a special fund for adult education, managed by K-12 school districts.

With no requirement to spend the money on adult education, school districts will have no incentive to dedicate the money to adult programs, said Paul Hay, superintendent of the Metropolitan Education District, a nonprofit adult and career technical education provider in San Jose. Hay said MetroEd will likely have to close its adult education programs for 2,300 students if the final state budget includes the funding change.

Nowhere is adult education needed more than in Oakland, where so many students quit before graduation that researchers with the think tank The Civil Rights Project once labeled its schools "dropout factories."

Now, despite a 27 percent dropout rate, the school district might close all of its GED programs if the funding change takes effect. The district's administration said it needs the money for other initiatives.

Others critical of the proposal say it's poorly timed: Congress is considering immigration reform, which could swell demand for English-as-a-second-language courses as illegal immigrants race to meet a likely language requirement.

"I think before the state moves so definitely away from its historical commitment to adult education, it should consider the tidal wave of demand that will come racing toward these systems," said Margie McHugh of the Migration Policy Institute in Washington, D.C.

For years, community colleges have also offered remedial courses, including English as a second language, but have generally targeted higher-skilled students, while adult schools -- often in courses set up at a school or community center -- have worked with school dropouts and recent immigrants and refugees, including those unable to read or write.

Adult schools once were relatively independent of school districts, with special funding only they could touch. A state budget crisis changed that: In 2009, the Legislature temporarily gave school districts the right to spend adult education funds on anything and cut 20 percent of the $750 million fund. The Legislative Analyst's Office estimates K-12 adult education now receives about half the roughly $600 million the state allocates for it.

Overhauling adult education, like all other plans in the January budget, must first make it through the Legislature, where much of the lobbying appears to be against the proposal.

While the risk to adult education and other programs is real, the governor has the right idea, said David Plank, a Stanford University professor and executive director of Policy Analysis for California Education. Brown's plan to give school districts more control of state dollars will let school districts in the area respond to communities' needs, rather than state mandates, he said.

"There is a downside, but on balance, I think this is a big step forward for California," Plank said.

Oakland's adult education program, the state's second-oldest, illustrates the effects of such local control. Its main campuses closed in 2010, and enrollment -- once 25,000 -- is 1,300.

Lori Parris said she can't imagine many of the students she teaches at the East Oakland support and job-training center Youth UpRising succeeding right away at a community college. Some came straight from prison and others are homeless. They need a good deal of encouragement and patience. Most of them found the GED class only because it's offered at a neighborhood youth center.

"My fear is that a lot of them will go back to the streets," she said. "You have to realize that for a lot of them, it's their last hope."

Follow Katy Murphy at Twitter.com/katymurphy.

Adult education DWINDLES

In 2009, the Legislature gave K-12 school districts in California the go-ahead to spend adult education money however they wanted and also cut funding by 20 percent. What happened next?

Funding statewide: In 2007-08, $750 million; in 2012-13, $300 million (estimate)
Oakland: In 2007-08, 25,000 enrolled; in 2012-13, 1,300 enrolled
MetroEd (San Jose): 2007-08, 10,000 enrolled; in 2012-13, 2,300 enrolled

Source: Legislative Analyst's Office, Oakland, MetroEd

oNLINE EXTRA

At www.mercurynews.com/extra read the state Legislative Analyst's Office report on "Restructuring Adult Education," the analyst's office critque of the plan and see the concerns of three state organizations -- The Association of California School Administrators, the California Education Administrators Association and the California Council for Adult

Attachment 2

ESL!

English as a Second Language

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Attachment 3

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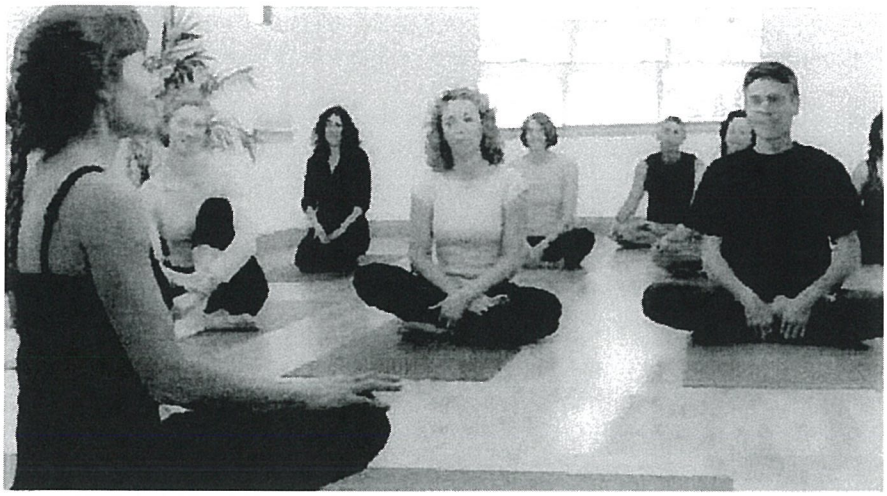
Challenging the IRS on the Status of Independent Contractors

BY A. PATRICK MUÑOZ



July 2010

A. Patrick Muñoz is a partner with the law firm of Rutan & Tucker and serves as city attorney for the cities of Dana Point and Twentynine Palms. Muñoz can be reached at pmunoz@rutan.com.

After a routine audit, the Internal Revenue Service (IRS) determined that the City of Dana Point's recreation class instructors were improperly classified as independent contractors and should have been classified as employees for federal employment tax purposes. The city has appealed this decision by filing a petition in the U.S. Tax Court *(City of Dana Point v. Commissioner of Internal Revenue*, U.S. Tax Court Docket No. 3457-10). It appears that the IRS intends to aggressively take this position with other public agencies that provide recreation classes. This article explores the significant ramifications of the IRS's actions and suggests possible strategies.

Background

Dana Point is a general-law city located in south Orange County, with a population of approximately 36,000. Like many California municipalities, Dana Point has a limited number of employees and contracts for many of its core services, such as police, fire, animal control and road maintenance. It has 60 full-time employees and about 20 part-time employees.

Each year the city offers approximately 400 recreation classes that cover roughly 70 different topics, including sports, music, cooking, first aid, preschool programs, dog obedience, martial arts and dance. The city contracts with approximately 40 individuals on an as-needed basis to provide instruction for these classes.

Dana Point challenged the IRS over its determination that recreation class instructors should be classified as employees because of the significant impacts that result from the IRS' position. The city's primary concerns

are the unacceptable political consequences of nearly doubling its work force by hiring 40 new employees and the cost of treating the individuals in question as employees — estimated at more than $60,000 per year. This cost estimate is based on known factors, such as workers' compensation premiums, payroll taxes and pension contributions, as well as best estimates related to additional staff time for supervision and payroll processing. The estimate does not capture the cost of time spent by "employees" developing their class curriculum or the costs that the city would incur by purchasing supplies and equipment.

Other agencies would face similar impacts if forced to convert independent contractors to employees. Indeed, one city in Southern California that was recently faced with the same issue made a policy decision to simply stop offering recreation classes that could not be covered by existing, limited staffing. This result is obviously not desirable, but perhaps inevitable should the IRS continue to aggressively pursue its position in California. This is particularly disturbing because many residents served by local recreation classes are people who are most in need of low-cost recreational opportunities.

In determining whether an individual should be classified as an employee or an independent contractor, the IRS (and the court, in the event of a legal challenge) looks at the following three main factors.

1. **Behavioral control:** an analysis of the level of instruction the business gives to the worker, such as when and where to do the work. The key consideration is whether the business has retained the right to control the details of the worker's performance or has relinquished that right;
2. **Financial control:** an analysis of the business's right to control financial matters, such as whether the business or worker may make a profit or risk incurring losses; and
3. **The true nature of the parties' relationship:** This is a case-by-case factual analysis. Whether the relationship is truly one of an independent contractor may be evidenced by the existence of a written contract, whether the city provides benefits such as paid vacation and health insurance that would normally be provided to an employee, the permanency of the position and the extent to which the services performed are a key aspect of the regular business of the city.

In addition, the IRS has identified 20 other factors to consider on a case-by-case basis to determine whether a business's control results in an employer-employee relationship or if an independent contractor relationship exists.[1] It's important to note that not all factors must be present to find that an employer-employee relationship exists, nor does any one factor carry more weight than another. Instead, the factors are simply guides to use in assessing whether an individual is an employee or an independent contractor.[2]

The City of Dana Point believes that the following facts, which apply a number of the 20 factors and are nearly uniform throughout the industry, should have resulted in a determination that its recreation class instructors are independent contractors.

1. Each recreation class instructor signs a standard service contract to conduct a specific class. The contract states that the instructor is an independent contractor and not an employee.
2. The city does not require prior approval of the curriculum of the classes and has no right of control over the manner in which the classes are conducted or how the instructors give instruction. Instead, it relies on the instructors for their expertise and to provide both the subject matter and method of instruction.
3. Each instructor determines the number of classes in each session, the length of each class and the minimum and maximum number of students for each class.
4. The city provides no training to the instructors, nor does it require them to follow a set routine.

5. Instructors have the right to — and in fact do — conduct recreation classes for other cities and special districts and, in some cases, directly to the general public.
6. Each instructor is required to hire, train, supervise and pay for substitutes and assistants for his or her classes.
7. Each instructor is required to provide, at his or her expense, materials and supplies needed for his or her classes. Instructors may — and in fact do — use such materials and supplies for classes taught at multiple agencies.
8. Each instructor is paid 70 percent of the revenue generated for each session of classes that he or she conducts and has the opportunity to make a profit (which presumably occurs if classes are popular) or incur a loss if the expense of putting on the class exceeds the share of revenue paid to the instructor.

In accordance with what is referred to as "safe harbor relief" under section 530 of the Revenue Act of 1978, even if the instructors do not qualify as independent contractors they may be treated as such. Agencies may qualify for safe harbor relief to treat recreation class instructors as independent contractors if:

- There is a long-standing industry practice of treating individuals in similar positions as independent contractors;
- The agency has not treated the instructor as an employee in the past;
- All prior federal tax returns have been filed on a basis consistent with treating the worker as an independent contractor; and
- No other worker holding a substantially similar position is treated by the agency as an employee.

Most of these factors are easily met, as Dana Point has always treated its recreation class instructors as independent contractors, has filed all tax forms in a manner consistent with this treatment and treats all people in substantially similar positions as independent contractors. The more work-intensive task facing the city is its effort to demonstrate the existence of a long-standing practice by agencies throughout California of treating instructors as independent contractors. The city has conducted an informal survey that suggests more than 90 percent of cities and other government entities that provide recreation classes to the public do so in a manner quite similar to Dana Point's. As part of its ongoing litigation with the IRS, the city plans to hire an expert witness who will conduct a statewide, statistically valid survey for this purpose. When the survey is complete, the city will make this information available to the League so it may be shared with all interested agencies.

As the Dana Point case proceeds through tax court, it appears that the IRS is moving forward with audits of other agencies and is continuing to take the same position with them related to classification of recreation class instructors as employees. As this occurs, each agency must assess its own unique factual circumstances in deciding how to respond. All agencies will benefit by taking a united approach — to the degree appropriate based on each agency's unique facts — of continuing to challenge the IRS on this issue. Most significantly, this approach will provide the ability for all agencies to continue to assert safe harbor relief under section 530, without regard to whether instructors qualify as independent contractors in the first place.

About Legal Notes

This column is provided as general information and not as legal advice. The law is constantly evolving, and attorneys can and do disagree about what the law requires. Local agencies interested in determining how the law applies in a particular situation should consult their local agency attorneys.

Footnotes:

[1] Revenue Ruling 87-41. The so called "twenty factors" are as follows: (1) ***Instructions.*** An employee must comply with instructions about when, where and how to work; (2) ***Training.*** An employee receives on-going training from, or at the direction of, the employer, whereas independent contractors use their own methods and receive no training from those purchasing their services; (3) ***Integration.*** An employee's services are integrated into the business operations because the services are important to the business; (4) ***Services rendered personally.*** If the services must be rendered personally, presumably the employer is interested in the methods used to accomplish the work as well as the end results -- an employee often does not have the ability to assign their work to other employees, an independent contractor may assign the work to others; (5) ***Hiring, supervising and paying assistants.*** If an employer hires, supervises and pays assistants, the worker is generally categorized as an employee, whereas, independent contractor hire, supervise and pays for their own assistants; (6) ***Continuing relationship.*** A continuing relationship between the worker and the employer tends to indicate that an employer-employee relationship exists; (7) ***Set hours of work.*** A worker who has set hours of work established by an employer is generally an employee, whereas an independent contractor sets his/her own schedule; (8) ***Full time required.*** An employee normally works full time for an employer, whereas an independent contractor is free to work when and for whom he or she chooses; (9) ***Work location.*** If work must be performed on a specified premises, employer control is suggested, whereas an independent contractor may perform work wherever desired so long as the contract requirements are performed; (10) ***Order or sequence set.*** A worker who must perform services in the order or sequence set by an employer is generally an employee, whereas an independent contractor may perform work in whatever order or sequence he or she may desire; (11) ***Oral or written reports.*** A requirement that the worker submit regular or written reports to the employer indicates a degree of control by the employer consistent with an employer-employee relationship; (12) ***Payments by hour, week or month.*** Payments by the hour, week or month generally point to an employer-employee relationship; (13) ***Payment of expenses.*** Payment by the employer of the worker's business and/or travel expenses tends to suggest the worker is an employee; (14) ***Furnishing of tools and materials.*** Furnishing significant tools, materials and other equipment by an employer tends to suggest the worker is an employee; (15) ***Significant investment.*** If a worker has a significant investment in the facilities where the worker performs services, this fact suggests the worker is an independent contractor; (16) ***Profit or loss.*** Employees are typically paid for their time and labor and have no liability for business expenses, whereas independent contractors can make a profit or suffer a loss; (17) ***Working for more than one firm at a time.***The fact a worker performs services for multiple unrelated firms, entities, or clients, at the same time, tends to demonstrate the worker is an independent contractor; (18) ***Making services available to the general public.*** The fact a worker makes his or her services available to the general public on a regular and consistent basis, tends to demonstrate the worker is an independent contractor; (19) ***Right to discharge.*** The employer's right to discharge a worker, without facing contractual liability, may indicate the worker is an employee; and, (20) ***Right to terminate.*** If the worker can quit work at any time without incurring liability, the worker is generally an employee.

[2] Ibid.

Attachment 4

ESL Programs in the Westside Area

CAMPUS	ESL Level	COST	SCHEDULE	Distance from BHPL
Westwood Recreation Center				4.5 miles
310-473-3610 1350 S. Sepulveda Blvd. LA, CA 90025	ESL Beginning	$30/semester	Friday 9am-1pm	
University High School				4.59 miles
310-914-3565 11800 Texas Ave. LA, CA 90025	ESL All Levels	$30/semester	Mon.- Thursd. 6pm-9pm	
Shenandoah Family Literacy Center				3.23 miles
310-815-9569 2450 Shenandoah St. Los Angeles, CA 90034	ESL All Levels	$30/semester	Mon.- Thursd. 8am-12:15pm	
West Hollywood Community Center (Plummer Park)				3.64 miles
323-848-6530 7377 Santa Monica Blvd. West Hollywood, CA 90024	ESL Level 1-5	$30/semester	Mon.- Thursd. 9:30am-2:30pm	
Hollywood High School- Adult School				4.59 miles
323-993-1800 1521 N. Highland Ave. Los Angeles, CA 90028	ESL Level 1-6	$30/semester	Mon.- Thursd. 3:30pm-9:15pm	
Venice High School- Adult School				9.87 miles
310- 577-4230 1300 Venice Blvd.Los Angeles, CA 90066	ESL Level 1-4	$30/semester	Mon.- Thursd. 5:45pm-9pm	
Hamilton High School-Adult School				3.43 miles
310-280-1536 2955 S. Robertson Blvd. Los Angeles, CA 90034	ESL All Levels	$30/semester	Mon.- Thursd. 6:30pm-9pm	
Venice Skill Center- LAUSD Adult Edu.				9.79 miles
310-664-5888 611 5th Ave. Venice, CA 90291	ESL All Levels	$30/semester	Mon.- Thursd. 8:30am-1:45pm	

** Less than 5 miles away**