

The Rise of On-Demand “Gig” Workers in Schools

Increasingly, contract workers are providing services traditionally provided by district employees.

By Richard Weeks, RSBA



Seemingly overnight, our independent and often part-time contract workers claimed a new affinity with their counterparts outside of K–12 public schools. Although they may not have the swashbuckling persona of their Uber-driving counterparts, toting their apps-driven smartphones from job to job, they are providing increasing services in what former secretary of labor Robert Reich (2015) refers to as the “on-demand or gig economy.”

Commonly known as “contingent workers,” they receive tax Form 1099 annual income statements from

our municipalities or school districts as opposed to the W-2s our regular employees receive (Grose and Kallerman 2015). So, who are these contingent workers? They may be our long-term substitute teachers, speech pathologists, teacher assistants, school bus drivers, and many others.

Once upon a time, nearly everyone who worked in schools was an employee. The National Center for Educational Statistics data trends from 2003 through 2013 document the emergence of contract workers (NCES 2015). Measured in constant 2014–2015 dollars, per-pupil spending on employed teachers in 2003 was \$4,554, but it had declined to \$4,369 by 2013. Per-pupil spending on substitute teachers was \$197 in 2003 and had increased to \$304 by 2013.

(Note that average teacher salaries declined slightly over those 10 years because of the retirement of higher-paid teachers and the states’ early retirement incentive programs. However, the use of contract substitute teachers surged, as districts paid only their wages and agency fees. Many districts hired fewer long-term employee subs to avoid paying higher wages and benefits, which are typically linked to teachers association contracts [union scales].)

The \$107 increase in per-pupil spending on substitute teachers may seem trivial. But when it is multiplied by 49.7 million students, it’s clear that big money is being spent on contracted substitute teachers. Many school districts now contract with for-profit companies to ensure that a substitute is in every child’s classroom when the employed teacher is on sick or personal leave.

Use of licensed curriculum and staff development personnel also declined (NCES 2015). Per-pupil spending on these employees in 2003 was \$305, which had declined to \$298 by 2013. Contract workers in these areas increased from \$63 to \$72 in per-pupil spending. They were the staffers replaced by independent consultants whose job was to fully implement the states’ No

Child Left Behind and Common Core instructional and assessment mandates and professional development.

The effective use of contract workers helps explain how America's schools were able to maintain a ratio of one teacher to approximately 16 students despite eliminating 100,000 employed teachers (NCES 2015).

A convergence of circumstances and opportunities has created broader implications for the workers, our school district employers, and the delivery of instruction and support services to our students. On-demand workers may be employed independently or by a business with a particular specialty. School districts purchase, or "procure," their services, pursuant to state and district fiscal policies and procedures. School principals have become jugglers of the schedules and work spaces for their revolving-door contract workers.

Noninstructional Operations

Few schools are able to manage profitable food service programs. The paltry federal and state reimbursements for students receiving free and reduced-price meals—combined with the meager receipts from students who pay for meals—are less than their overhead costs.

Between 2003 and 2013, food service contractors were hired in droves to replace school employees (NCES 2015). Per-pupil spending on food service employees in 2003 was \$144, which had declined to \$136 by 2013. At the same time, contract workers increased from \$31 to \$47 in per-pupil spending. Service industry trend watcher Food Management reports that in 2015, the two leading school lunch contractors saw profits rise by 6%.

School transportation experienced the same situation. Districts have been shedding school busing operations and terminating school-employed drivers, dispatchers, and mechanics to significantly reduce this costly noninstructional service (NCES 2015). Per-pupil spending on transportation employees in 2003 was \$161, which by 2013 had declined to \$155; contract workers increased from \$174 to \$197 in per-pupil spending. The National School Transportation Association reported that 480,000 school buses were on the road each day in 2015. Of those, 158,400 (33%) were driven by private contractors (NSTA 2015).

Public schools and their corporate counterparts are enamored with on-demand "gig" workers, realizing positive margins between revenues and the expenditures for lower wages and benefits. By using gig workers, districts can lower labor costs by approximately 35%, because they are not responsible for paying health benefits, annuity pensions or Social Security payments, unemployment or injured workers' compensation, lunch or rest breaks, overtime, disability, and vacation or personal leave. The reduced labor cost helps school boards balance their annual budgets, and companies provide nearly guaranteed dividend checks for shareholders.

Controversy Comes with Outsourcing

Providing services for special-needs students brings to the surface the underlying issues of many on-demand contract workers. Of the 49.7 million students enrolled in K–12 schools in 2013, approximately 6.4 million (13%) received special-needs services, including those for learning disabilities, speech and language impairments, and autism (NCES 2015).

Many of the specialists sent by contractors are recent college graduates or retired school employees who work with students on individualized education programs. Those IEPs are written with considerable deliberation between administrators, parents, and their advocates. Strangely missing from most IEPs are the stated qualifications expected of the teachers who are to be assigned the students. Is the consultant really qualified and experienced to handle a particular child's diagnosed disability?

Continuity of instruction is important; a student should work with the same specialist on a prescribed weekly schedule. The contractor should not have one teacher in the classroom one week and then bring in a different teacher the following week. What's more, some contractors pull their workers from schools immediately after the final bell to do other work. Consequently, the contracted teachers are frequently unavailable to meet after school with parents or to participate with other staff members in team meetings.

School business officials should ensure that contract workers provide the highest quality of service possible to students.

Outsourcing paraprofessional, cafeteria, or transportation services to contract labor companies is not always easy. Many former superintendents can attest to the job- or career-changing result of terminating relatives, friends, and neighbors of well-connected local citizens in order to bring in outside contractors.

Some labor employment statutes are in place to put on the brake. For example, the California Education Code (Part 25, Ch. 5, Art. 1, § 45103.1) requires any school district contemplating outsourcing services and terminating personnel to meet certain stipulations, including the right of the employees to negotiate "concessions" to keep jobs. School districts must retain good legal counsel and public relations personnel to shepherd them through significant caustic organizational changes.

Managing Outsourced Workers

If you have any doubt about a worker's status in your district as an employee or contract worker, you can take a quick 20-factor quiz that the Internal Revenue Service has provided as guidance (see sidebar). This information

IRS 20-Point Checklist

The following guideline can be used in determining whether a contractor should be paid on a W-2 or a 1099.

1. Must the individual take instructions from your management staff regarding when, where, and how work is to be done?
2. Does the individual receive training from your company?
3. Is the success or continuation of your business somewhat dependent on the type of service provided by the individual?
4. Must the individual personally perform the contracted services?
5. Have you hired, supervised, or paid individuals to assist the worker in completing the project stated in the contract?
6. Is there a continuing relationship between your company and the individual?
7. Must the individual work set hours?
8. Is the individual required to work full-time at your company?
9. Is the work performed on company premises?
10. Is the individual required to follow a set sequence or routine in the performance of his or her work?
11. Must the individual give you reports regarding his or her work?
12. Is the individual paid by the hour, week, or month?
13. Do you reimburse the individual for business and travel expenses?
14. Do you supply the individual with needed tools or materials?
15. Have you made a significant investment in facilities used by the individual to perform services?
16. Is the individual free from suffering a loss or realizing a profit based on his or her work?
17. Does the individual only perform services for your company?
18. Does the individual limit the availability of his services to the general public?
19. Do you have the right to discharge the individual?
20. May the individual terminate his or her services at any time?

In general “no” answers to questions 1–16 and “yes” answers to questions 17–20 indicate an independent contractor. However, a simple majority of “no” answers to questions 1–16 and “yes” answers to questions 17–to 20 does not guarantee independent contractor treatment. Some questions are either irrelevant or of less importance, because the answers may apply equally to employees and independent contractors.

should help you classify your workers to avoid stiff fines and penalties for mistakenly managing employees as independent contractors and to avoid union grievances.

School business officials should ensure that contract workers provide the highest quality of service possible to students. Although outsourced workers may not be your employees, they still work for you, and human resources employment policies and procedures should prevail.

However, contractor workers who are on-site for months at a time, such as school food service and busing personnel, follow the employee handbook of their employer. Depending on how human resource functions are managed in your district, an independent file should be maintained for each contractor that includes important documents:

- All current contact information for the owner(s) and employees working on-site.
- Background checks pursuant to federal and state guidelines, providing positive photo IDs and completed Form W-9 (Request for Taxpayer Identification Number and Certification).
- Copies of previous years’ Form 1099s. Contract workers must receive an annual 1099 for tax-reporting purposes if they earn more than \$600 during the calendar year. Many districts routinely send contract workers 1099s regardless of the amount earned.

- Proof of liability and workers’ compensation insurance, per your state’s statutes. Many districts require the workers’ insurance companies to send certificates of insurance directly to the district.
- For contracted food service companies, workers’ ServSafe certificates, qualifying them to handle, cook, and serve food and beverages.
- For busing contractors, copies of appropriate driver’s licenses, proof of mechanics training, and certifications.
- References and recommendations from previous and current clients of your outsourcing companies.

Detailed contracts should be executed for all work provided and reviewed by your school district attorney.

A Fair Deal

The competitive workplace for recruiting and retaining qualified workers has compelled outsourcing companies to pay their workers fair wages and benefits. Along with the Affordable Care Act health insurance exchanges, independent contractors are considerably better positioned today than their cohorts of a generation ago. But not all workers are benefiting.

Author and business activist Stephen Hill (2015) provides a detailed explanation of the predicament in American workplaces in his recent book *Raw Deal*:

“The accelerated use by employers of the independent contractor loophole is causing a rapid erosion of the safety net for workers and families. Because of their worker classification, more and more workers are no longer covered by the laws and regulations that underlie the safety net” (p. 6).

In 2013, the U.S. Census Bureau recorded 598,477 firms that were owned by one person with no employees and who provided “educational services.” The Bureau of Labor Statistics estimates a steady growth of self-employed workers in all occupations at 5.8% between 2014 and 2024. Hill (2015) promotes the concept of “Individual Security Accounts” (ISAs), whereby employers and contract workers could pay for some of their benefits by contributing to accounts managed on their behalf at the state or municipal level. With oversight by a board of trustees and an administrator, the ISAs would be portable so they could move with the thousands of education consultants from job to job and employer to employer.

In Conclusion

The National Center for Education Statistics data suggest on-demand gig workers are disrupting public school workplaces—and they are here to stay. School districts should ensure that their regular employees, along with the gig workers, are fairly compensated. America’s schools do not operate in a vacuum, as they share with

the broader business community the responsibility to provide a safety net for all.

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