

How to Minimize Legal Liabilities and Risks

Information throughout this subsection applies primarily to external consultants. The extent of risk and liability in your work depends on the nature of your services. Consultants who work with clients to guide organizational change efforts probably carry little risk or legal liability. However, some clients might require that you carry professional liability insurance. The purpose of that insurance is to protect you against large financial losses if your client wins a lawsuit against you.

Although the risk of lawsuits might seem low, there are still some considerations that you should address. The following guidelines are offered to assist you in minimizing your risk and liabilities in your practice. The guidelines are not to be interpreted as legal advice.

General Guidelines to Protect Yourself

1. If you are providing services that are closely related to activities that are directly affected by various laws and regulations, you should obtain legal advice regarding your liability protection. Examples of those kinds of consulting services include developing personnel policies, advising on health care services or advising on compensation and benefits.
2. If your place of business is in your home, you should consider getting general liability insurance. That insurance can protect you in case a client is injured in your home.
3. Certain aspects of your consulting business can include some legal risk. Those aspects include, for example, contracts with clients and billing procedures.
4. Certain practices constitute good preventive maintenance to minimize your risks and legal liabilities. Those practices include:
 - a) Get all agreements with clients in writing and confirmed with your signatures, including the project’s contract. Follow that practice no matter how much you trust your client.
 - b) Engage in continuing professional development.



See “How to Continuously Improve Your Skills as a Consultant” on page 42 for many guidelines and ideas to improve your skills.

- c) Develop and adopt a code of ethics to guide your consulting services.
- d) Have a lawyer review your boilerplate, or standard contract.
- e) If a client insists on specifying your potential liabilities in contracts with you, limit those liabilities to the amount of the total project fees or do not do business with that client.
- f) Be able to explain your choices and advice to your client, and to others, if required.

If You Encounter Questionable or Illegal Practices

The likelihood that you will encounter illegal practices during your consulting activities depends on:

1. The nature of the activities of your client’s organization and your consulting project.

Adapted from “Field Guide to Consulting and Organizational Development” – to obtain the entire book, select “Publications” at <http://www.authenticityconsulting.com>

2. Law and regulations regarding those activities.
3. Terms of your consulting contract.

The types of illegal practices that you might encounter might be in the areas of:

- Misappropriation of funds
- Fraud
- Theft
- Violation of employment laws, causing, for example, discrimination or harassment
- Breach of contract

If you encounter any of these questionable or illegal practices, consider the following courses of action:

1. Describe the situation to your client.
2. If they do not respond to the situation, consider describing the situation to a higher level in the client’s organization.
3. If they do not respond to the situation, you can either quit the project or report the situation to an appropriate legal authority. If you choose to contact a legal authority, consider contacting your own attorney first.