

ASPEN PARALEGAL SERIES

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Basic Contract Law for Paralegals
Ninth Edition



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Chapter 1

OVERVIEW OF CONTRACTS

Chapter Objectives

After studying this chapter you will be able to:

- Define a legally binding contract
- Identify the six basic requirements to forming a valid contract
- Explain the concept of offer and acceptance
- Define and exemplify “consideration”
- Classify contracts into bilateral or unilateral agreements
- Understand how a contract is created
- Explain the difference between executory and executed contracts
- Differentiate between valid, void, voidable and unenforceable contracts
- Discuss various contractual provisions
- Know what is meant by the term “contractual capacity”

Contract Defined

A **contract** is a legally enforceable agreement that meets certain specified legal requirements between two or more parties in which each party agrees to give and receive something of legal value.

Elements of a Valid Contract

- Offer
- Acceptance
- Consideration
- Legality of subject matter
- Contractual capacity
- Contractual intent

Type of Obligation

- ▶ **Bilateral**: a bilateral contract is a promise for a promise.
- ▶ **Unilateral**: a unilateral contract is a promise for an act.

Method of Creation

- ▶ **Express contract**: mutual assent of the parties is manifested in words, either orally or in writing.
- ▶ **Implied-in-fact contract**: promises of the parties are inferred from their actions or conduct as opposed to specific words being used.
- ▶ **Implied-in-law contract** (also known as quasi-contract): situations that look like a contract but are not because one of the requisite elements is missing.

Type of Form

- ▶ **Formal:** limited group of contracts that different states have declared valid and enforceable if certain statutory requirements are met.
- ▶ **Informal:** all non-formal contracts; agreements that meet all the requirements of valid contracts.

Timing

- ▶ **Executory contract:** a contract in which one or both of the parties still have obligations to perform.
- ▶ **Executed contract:** a contract that is complete and final with respect to all of its terms and conditions.

Enforceability

- ▶ **Valid:** an enforceable contract that meets all of the six requirements
- ▶ **Void:** a situation where there is no contract and the law therefore does not entitle the parties to any legal remedy.
- ▶ **Voidable:** a contract where a party to the agreement has the option of avoiding his legal obligation without any negative consequences, but who could, if he wished, affirm his obligation and thereby be contractually bound.

Summary

<i>Type of Obligation</i>	<i>Method of Creation</i>	<i>Form</i>	<i>Timing</i>	<i>Enforceability</i>
-Bilateral -Unilateral	-Express -Implied in fact -Implied in law (quasi)	-Formal -Informal	- Executory -Executed	-Valid -Void -Voidable -Unenforceable