

# Contract Law Review

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**A contract is an agreement between two or more parties that courts will enforce.**

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## ELEMENTS OF A CONTRACT

The elements required for a valid K (and whether it is void, voidable or valid w/o it) include:

**Offer & Acceptance** (a serious, definite offer to contract; accepted by person offered to)

- Offer (Intent, Clear and Complete, Communicated) ... Void
- Acceptance (Offeree Accepts, Mirror Image, Communicated) ... Void

**Genuine Agreement** (not based on deceit, an important mistake or unfair pressure)

- Problems (Duress, Undue Influence, Mistake, Misrep, Fraud) ... Void, Voidable or Valid

**Consideration** (both sides must receive something of value)

- Act, Forbearance or Promise, Trading, Legal Value
- Problems (Illusory Promises, Existing Duty, Mutual Gifts, Past Performance) ... Void
- Exceptions to Consideration (Promissory Estoppel, Charitable Gifts, Firm Offer)

**Capacity** (must be able to contract legally – minors, insanity, intoxication)

- Minors, Mental Incapacity, Intoxicated
- Protections (Disaffirm Ks: Non-Necessaries-yes; Necessaries-no) ... Voidable – by minor
- Exceptions (Contracts that may not be disaffirmed: marriage, military, etc.)

**Legality** (must be legal – can't pay someone to commit crime or tort)

- Illegal Agreements ... Void
- Exceptions (Protected Victims, Excusably Ignorant, Rescission before Act, Divisible Contracts, Unconscionable Contracts)

**Written Contracts** (most Ks do not have to be in writing)

- Enforceable Ks (may be either Written, Oral or Implied from Conduct)
- Statute of Frauds (Certain Ks must be in writing: >\$500, >1 Year, Real estate, Promises to pay someone else's debt)
- Ks w/i Statute (Executory-only enforceable if in writing; Executed-enforceable either way)
- Parol Evidence Rule (Spoken words not allowed to clarify written K, unless: content is clearly ambiguous or there are problems with how K was formed ... duress, misrep, etc)

## CONTRACTUAL PERFORMANCE

