



# What is a Contract?

We have all made one before. It is one of the most common areas of law. What is it? The contract!

So, what is a contract? In a contract's most basic form, it is a promise between two or more people that a court will enforce. But what is the difference between a promise the courts will enforce and a promise the courts will not enforce. For a promise to become a contract, one must have all the basic parts: offer, acceptance, and consideration.

## Offer

The first basic part of a contract is the offer. An offer can be an unlimited number of actions. Boiled down, an offer is the intent of a person to enter into an agreement with another person. You can make an offer to buy goods, like groceries, or an offer for services, like having your clothes cleaned at the dry cleaners. The offer cannot be in secret and must be expressed. The other party or parties must be aware of the intent of the offeror (the person making the offer) to enter into an agreement. The offer may be expressed verbally, in writing, or by the conduct of the offeror.

## Acceptance

The second basic part of a contract is the acceptance. An acceptance, like an offer, can be an unlimited number of actions depending upon the offer. Boiled down, acceptance is the intent of the person receiving the offer to assent or accept the terms of the offer. The acceptance cannot be in secret and must be expressed in some way. Like the offer, acceptance can be expressed verbally, in writing, or by the conduct of the offeree (the person whom the offer is made to).

Let's now combined the first two basic parts together in an example. Pretend that you just finished a law school contract class and still have the contract book. The class was miserable, and you are very glad it is over. You thought about destroying the contract book as some form of therapy or catharsis. However, being economically minded, you decided to sell your contract book to a classmate, who will have to endure a semester of a contract class. You go up to your classmate and say, "Hey! Want to buy my contract book for \$100?" (This is the offer; an intent to enter into an agreement with your classmate.) The classmate states, "Yes! I would love to buy the book because it is cheaper than in the bookstore!" (This is the acceptance; an intent to assent to the terms of the offer.) However, there is one thing missing for the promise to become a legally enforcing contract. That is the consideration.



## Consideration

The third basic part of a contract is consideration. Consideration can be almost anything or any action. In its most basic form, consideration is an exchange of value. The value may be monetary value, or the value may be doing something you are not required to do (doing a service) or refraining from something you are legally allowed to do (eating chocolate for a month). In the above example, the exchange of the contract book for \$100 would be an exchange of value. Therefore, you and your classmate would have made a legally binding contract that a court could enforce.

Before the blog ends, an important consideration (no pun intended) must be pondered. If, in the above example, you offered your classmate your contract book for free; and if the day of the contract class your friend asked for the contract book; and if you said, “no way, Jose,” then you might be a jerk, but you would have not breached a contract. Courts will not enforce a promise of a gift because it has no consideration, that is, no exchange of value because it is given away for free. Therefore, the promise of a gift is not an enforceable contract.

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