



TRELLIS

Trellis Legal, LLC

5149 Butler St. Ste. 300 Pittsburgh, PA 15201

www.Trellispgh.com

Legal Health Checklist for Creatives

Just as you make time to check your health, it is important to check in with the legality of your business from time to time, *especially* if you're a creative. A lot of creatives, and let's be honest, all small business owners, put legal on the back burner either because it is overwhelming or because the actual work is taking up so much time. For this reason, we offer a service called "Legal Health Check-Up" where we spend an hour with you going over all aspects of your business to ensure everything is compliant and operating properly. However, until you get a chance to book this Check-Up, here's some important areas to keep in mind:

1. Legal Entity

- **I Have an Entity for My Business.** Having an entity like an LLC or corporation can provide good legal protection for your personal assets. This means that only the business assets are at risk if your business is sued. Also if you are operating a business under a name other than your personal name you need to have an entity or a fictitious name (also known as a "Doing Business As"), but often times filing a fictitious name is more expensive than forming an LLC and doesn't come with the same legal protections. Check out our blog posts on [LLCs](#) and [The Low-Down on Legal Costs](#) which discusses forming an entity.
- **I Have an Operating Agreement, Bylaws, or Partnership Agreement.** Having an entity is important, but so is having the proper governing document. If you don't operate your entity truly separate from yourself and have the proper documentation, then someone suing you may be able to get past the limited liability to your personal assets by arguing you are not separate from the business. An operating agreement is the appropriate document for an LLC, bylaws are for corporations or non-profit corporations, and a partnership agreement is for when multiple people are

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working together without an entity yet (though remember no entity=no limited liability). A governing document is important even if you are a single owner, and more important if you have multiple owners as crucial considerations such as how profits are divided, what happens if someone leaves or needs to be removed from the company, and how decisions are made are essential to have written down to avoid disputes.

Next Steps:

- Check out our blog post on [Operating Agreements](#) and feel free to reach out if you aren't sure if you have one.
 - If you need an operating agreement but don't have the budget for a lawyer right now, download one of our affordable Trellis Legal [Operating Agreement](#) templates! Reach out to us if you want help selecting the right one for your business.
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- **I Talked to an Accountant.** Speaking to an accountant is important when running a business. You need to make sure you understand what taxes you need to be paying and any specific tax registrations you need to file for. Attorneys only advise on the legal side of things (unless they are a tax attorney) so it is important you also understand the tax implications of your business. Accountants can also help you set up your bookkeeping practices and help you understand what is and isn't deductible as a business owner.
 - **I Have a Separate Business Bank Account.** If you have an entity, you need to make sure your business funds and personal funds are kept separate. All business money should be run through a separate business bank account. The rule of thumb is, you can always buy business things with your personal account (and reimburse yourself or deduct it later), but you can never buy personal things with your business account. Even if you don't have an entity yet, but are running a sole proprietorship or partnership having a separate business checking account is a good habit to get into to keep things clean and make it easier to know what you can deduct when you do your taxes.
 - **I Have Insurance.** While having an entity helps protect you from personal liability, you don't want to lose your whole business if you get sued. So, insurance is a great first line of defense. If your business does any in-person work or you have a store or venue, having insurance is crucial to covering costs if you get sued, or even if there is a fire or accident. Often times you can get business liability insurance from the same agent as your home insurance, but it is also important to shop around. So, talk to some

agents, and make sure you tell them exactly what your business does, so you have all the right coverage you need.

2. Contracts

- **I Have Contracts.** As a creative (photographer, graphic designer, sculptor, etc.) it is important to use contracts to clearly detail out expectations for the scope of work. This can help make sure both parties are on the same page from the beginning and have something clear to go back to if there is a dispute. Spelling out things such as scope of work, payments, timelines, liability, transportation, termination, and intellectual property are crucial to avoiding scope creep and misunderstandings. This is especially true when it comes to owning intellectual property.

Next Steps:

- Check out our blog posts on contracts [here](#) or [here](#).
- Contracts are the strongest when customized, but if you are on a budget you check out our affordable templates for creatives at [Templates for Creatives](#), such as:
 - [Artwork Licensing Agreement](#)
 - [A Photo Release](#)
 - [Basic Product Purchase Order Terms and Conditions](#)
 - [Basic Online Purchase Terms](#)
 - And more!

Reach out to us if you want help selecting the right one for your business.

3. Intellectual Property

- **I Have Looked into Copyright Considerations.** Copyright is an essential consideration for creatives. You want to make sure you aren't infringing on anyone else's intellectual property so ensure you are using copyright-free images on your social media and website (and any marketing materials) and also protect your own rights to your work. You should always reach out to an attorney if any of your works are being rented, licensed, sold, or created as "work for hire" to ensure your rights to copyright are protected.

Next Steps:

- Check out [last month's resource](#) on Social Media Tips and Protections to see Courtney's recommendations for using copyright free photos, graphics, and music.

- Registering your work with the United States Copyright Office or setting up a Copyright 1:1 with Jess. We advise reviewing your work once or twice a year and seeing what makes sense to register. Typically, this will be a piece that has gained a lot of attention, is published, or you intend to display. Although registration is not required, you cannot file a lawsuit for infringement without registering the work and the amount of damages are limited. Because we are passionate about helping creatives copyright their works, we offer a Copyright 1:1 Session where Jess teaches you how to file 1 work of art, so long as it only has 1 author. This way your choice to register works won't be limited by a budget!
 - Check out or blog on [Copyright Infringement](#) and [Trademarks v. Copyrights](#) for more info.
 - Check out our Trellis Legal contract template for basic [intellectual property language](#).
 - Reach out to a lawyer
- **I have looked into Trademark Considerations.** Registering your brand name, logo, or slogan is imperative to securing your brand. In today's world, so much is shared through social media and sold on e-commerce, having a registered trademark is the only way to have ownership rights to your brand throughout the United States.

Next Steps:

- For creatives who use a specific “stamp” to sign their pieces, we advise registering such as a trademark.
- Until you have a registered trademark, place the ™ next to your brand name, logo, or slogan. After registration, you can change it to the ® mark.
- Block off an hour every month to search all social and e-commerce platforms for use of your name, logo, or slogan. If you believe there is an infringer, even if it is innocent, reach out to any attorney.
- Check out our [blog post on trademarks](#).
- Reach out to a lawyer.

4. Employment Considerations

- **I Have Looked into Employment Considerations.** This applies to you if you have or are looking to hire employees or independent contractors. First, make sure you know the difference between an employee and an independent contractor. If you misclassify an employee as an independent contractor, it could end up with costly ramifications. If you have employees, you must also make sure you know what information you need to collect upon hire and employment laws you need to comply with.

Next Steps:

- Check out our blog on [Employees vs. Independent Contractors](#) for more info.
- Check out our blog post on [Employment Basics](#) and [Key Terms and Benefits of an Employee Handbook](#)

5. Specific Considerations

- **I Spoke to a Lawyer About Considerations Specific to my Business.** Every business has unique legal considerations specific to their operations. So even if you don't have a regular relationship with a lawyer, it is important to speak to one to make sure your business has all of its legal ducks in a row. Specific considerations can include zoning, permits, licenses, liability allocation, etc.

Next Steps:

- Check out our blog for articles such as, [Having a Vendor Booth](#), [Legal Protections and Tool Makers Should Consider Practicing Safe DIY](#), and so much more!
- [Reach out](#) to us to schedule a Legal Health Check-Up or to inquire about one of the listed considerations!