



OFFICE SHARING CHECKLIST

For many lawyers, particularly new lawyers leaving law school in debt, the cost of equipping a law office all at once can be prohibitive. One possible alternative is the office sharing arrangement.

In many cities and some smaller towns, several lawyers who wish to practice as solos may band together to acquire office space, or one lawyer with more space than he or she needs may be willing to offer that extra space for rent. These arrangements often provide not only an office in which to interview clients, but also a shared receptionist to answer your phone, shared conference, reception and library facilities and furnishings, shared equipment such as copy and fax machines, and possibly even shared telephone systems and computer networks and internet access. An added advantage is the presence of other lawyers. These office mates can guide you as you enter new areas of practice and can also be a source of clients seeking services in areas of the law they don't cover, while providing you with options to refer clients whose current problems fall outside your chosen areas of practice.

Office sharing plans are not without problems, however. If you do not carefully consider how you handle numerous aspects of the arrangement, you may find yourself unhappy with your situation, vicariously liable for your office-mates' malpractice, in violation of the Alabama Rules of Professional Conduct, or all three. The following suggestions, which are adapted from an office sharing checklist originally created by Nancy Byerly Jones, Esq., will help you structure your office sharing arrangement to greatest advantage for all involved.

1. All terms and conditions of the office sharing arrangement should be reduced to writing. The written agreement should include at least the following items:

- a) a strict prohibition against any attorney representing the shared office as a partnership or other type of professional association of attorneys;

b) a requirement that all attorneys involved in the arrangement maintain professional liability insurance, preferably with the same insurance carrier, having the same coverage limits and deductible;

c) a requirement that all attorneys involved in the arrangement utilize written engagement letters or fee agreements with all clients, and that these documents include a clear statement that the respective attorney is a sole proprietor (or other designation as appropriate should a partnership share space with other solos or another partnership) and not in partnership with the other office-sharing attorneys;

d) an agreement not to take adversarial positions in a case unless in strict compliance with applicable ethical rules and opinions; (See Formal Opinions 91-01, 89-81, 89-41 and 89-03 which deal with shared space and shared employees. Remember that using shared employees may result in a breach of confidentiality when office-mates represent adversaries.)

e) a statement of the necessity to protect client confidentiality at all times, including the requirement that each attorney provide an appropriate number of locked file cabinets or separate locked file storage rooms, appropriate measures to ensure that shared computer networks allow the lawyers in the arrangement to access only their own files, and other similar measures needed to ensure the confidential safekeeping of client files and property, whether tangible or electronic;

f) a clear understanding of which, if any, office equipment is to be shared, who is to provide it, who will be responsible for its maintenance and repair, and how each person in the office will be charged for its use, and how it will be replaced, if necessary, should it become damaged or obsolete;

g) a clear understanding of the sharing, if any, of office personnel, the manner in which work priorities will be established, the payment of all relevant salaries and charges (including payroll and unemployment compensation taxes and workers compensation insurance, if required), continuing legal education courses if required, and how shared employees will be hired, evaluated, disciplined and fired;

h) a policy for leaving the office sharing arrangement, including the amount of advance written notice required, how shared equipment will be divided, and whether the person leaving will be responsible for finding someone to take his or her place;

i) a detailed outline of all financial responsibilities of each individual attorney or group of co-tenants, and the consequences of failure to meet those obligations;

j) a plan for sharing libraries, conference rooms and other "common" facilities; (Remember, shared on-line legal research resources may result in a breach of confidentiality if prior searches can be accessed by other office mates.)

k) a clear understanding of responsibilities for day to day maintenance and cleanup of "common" areas, including kitchens, restrooms and workrooms;

l) provisions clearly stating the duration of the agreement, procedures for review and revision, and how the agreement will be renewed (opt in or opt out), and details of how a dissolution of the arrangement will be handled; and

m) a provision stating how votes will be allocated among the participants (if a partnership of two or more attorneys shares space with one or more solo practitioners) and a provision for breaking a tie in the event that there are an even number of participant votes.

2. All engagement letters and fee agreements should be revised to include the statement regarding the attorney's status (sole practitioner, partners sharing space with other sole proprietors, etc.) and an explanation that there is no partnership relationship with the other attorneys with whom space is being shared.

3. Whenever two or more attorneys within the space sharing arrangement work together on a case, if the type of case allows it, they should have separate fee agreements with the client, clearly setting forth what part of the case each attorney will handle. Each attorney should then bill and collect separately for his or her portion of the work.

4. Care should be taken to avoid any outward signs that may cause or allow a client, or even a casual observer, to conclude that the attorneys sharing space are in practice together as a firm. In that respect, the following suggestions are helpful:

a) Signs should clearly delineate that each attorney is in practice by himself. (For example, an individual sign for each lawyer with the words "Attorney at Law" beneath the name, rather than one sign with all the names followed by the word "Attorneys.")

b) Interior space should be organized to emphasize separate offices whenever possible.

c) Each lawyer should have a separate telephone line which is answered "Law Office of Lawyer X." It is wise to obtain your own phone number, keep control of it, and not share it with other lawyers in the building. If the relationship with the other lawyer or lawyers doesn't work out or you find the space is no longer suitable as your practice grows, you will not have to obtain a new number and risk losing established clients because they can't get in touch with you.

d) Each lawyer should have a separate file area which is not accessible to the other lawyers or their staff members. If a common file room must be used, it should be arranged as much as possible to create the impression of separate, confidential and secure areas for each lawyer. Cabinets should remain locked at all times and files and loose filing should never be stored in the room pending re-filing.

e) Rules should be established to prevent entering closed doors without knocking, and other rules to minimize the appearance of poor safeguards of confidentiality should be implemented. (For example, cases should never be discussed in "common" areas or loudly on the phone or in person while office doors are open.)

f) Incoming and outgoing mail and fax procedures, and procedures for use of a shared copy machine and workroom, should be established to preserve confidentiality.

5. Staff, including temporary help, should be thoroughly instructed how to respond to client and others' questions so that they never give the impression that the office sharing attorneys are in a partnership or other joint legal entity, or that the staff member works for a participant for whom he or she does not work.

6. All parties to the arrangement should acknowledge that, as with all other worthwhile and successful relationships, each must give proper attention, monitoring, and adjustment to the needs of the others in the group. If problems are ignored for too long, relations can deteriorate to the point where the practices of all the participants are affected.