

7 Steps to Limiting Professional Liability Claims

At their worst, disputes between professional service firms and their clients can lead to costly lawsuits. Professional Liability or Errors and Omissions (E&O) insurance can help respond to such claims and related legal fees, but it is of course preferable to prevent them in the first place. By taking the following seven steps, you may improve your business operations, lower costs, and potentially prevent or reduce the severity of professional liability claims:

1. **Use detailed written contracts for all work.** You're more likely to avoid disputes if you only engage in work once a detailed contract has been reviewed by counsel and signed. The strongest services contracts include:
 - A detailed scope of services with specifically defined deliverables
 - A timeline for completion
 - Liability limitations and scope of damages
 - A process for raising and resolving complaints

It's always a good idea to have an attorney review all contracts before you sign.

2. **Communicate effectively.** Clear, timely, and frequent communications with customers not only keeps projects on track, but also helps prevent misunderstandings. It's important to use email so you have a written record of your communications – this can be valuable evidence in defending against professional liability claims.
3. **Rigorously screen and supervise employees and contractors.** Confirm that employees and contractors have the needed expertise, experience, and accreditation to work on a project. Review their work as the project moves forward to ensure your company is meeting its contractual requirements.
4. **Incorporate planned milestones into all projects.** With the exception of contracts for ongoing services, any professional services contract will ideally have a deadline for completion of a project. In addition, it's a good idea to include interim goals, especially for lengthy, complex projects. These milestones can provide opportunities to earn customer buy-in and make corrections if needed.

5. **Maintain a robust review process.** In other words, double-check your work. Make sure to have key documents and materials thoroughly proofread by more than one person. For software development and digital services, establish a Quality Assurance (QA) process. Conduct a legal review of your deliverables as well, if appropriate.
6. **Follow laws, regulations, and industry best practices.** Take steps to ensure that your services comply with all applicable laws and regulations. Following industry best practices can also help protect your firm against claims that its work failed to meet the expected standard of care.
7. **Mitigate cyber risks.** Your firm's ability to serve customers successfully may depend on managing data and operating software, and protecting confidential information. Work can be lost or compromised if technology systems fail or are breached by cyber criminals. You can help minimize these cyber risks by maintaining strong IT security and regularly reviewing, updating, and patching your IT systems.

Additional Resources from Westchester

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