



# Business/Marketing Virtual Learning

# 10-12 grade Business Law

May 13, 2020



Lesson: [May 13, 2020]

**Objective/Learning Target:**  
Capacity

Identify parties who lack Contractual Capacity and Legal Protections they receive.

Analyze the relationship between Capacity and Scope of Authority within an Organization.

# Let's Get Started

Watch These Videos:

[Mental Capacity to Contract](#)

[Capacity to Contract](#)



# Capacity to Contract

**Contractual capacity** is defined by the law to mean the ability to understand the consequences of a contract. This definition does not require that a person understand the actual terms of the contract which may be written in technical legal terminology. Nor does the definition require that the person have merely the actual understanding of the terms whether expressed in legal terminology or not. Contractual capacity requires only that she or he possess the ability to understand the consequences of the terms.

There are two broad categories of parties that are recognized to lack the capacity:

- 1) Those who are said to be **incapacitated** and have special contractual rights due to a legally recognized lack of such capacity. This group includes minors, the intoxicated, and the mentally impaired.
- 2) The second category is made up of those who “**lack the authority**” to enter an agreement. We will examine this group in the next lesson.

# 1. Incapacitated Parties - Minors

Incapacitated parties are assumed by the law to lack the maturity and experience to protect their self-interests in contractual negotiations. The law grants these parties special contractual protections designed to keep them from being cheated due to their lack of such contractual capacity. Parties who have special contractual rights due to a legally recognized lack of such capacity include minors, the intoxicated, and the mentally impaired.

**Minors** - For contract law purposes, minors are defined as individuals under the **age of majority to contract**. This is the age at which a person is entitled to the management of his or her own affairs. The age of majority is 18 in most states. In a few states, it is 19 or 21. A person who has not yet reached the age of majority is called a **minor**. **Minority**, or the state of being below the age of majority, ends the day before the birthday of the age legally set as the age of majority.

Minors' contracts are considered voidable, and they may disaffirm contracts during their minority. They also may disaffirm for a reasonable length of time after achieving their majority. After the age of majority, the power to disaffirm is immediately cut off if the person ratifies the contract. **Ratification** is acting toward the contract as though one intends to be bound by it. Note that ratification can never occur before the age of majority.

# 1. Incapacitated Parties - Minors(emancipated)

Minors also may find themselves bound to their contracts if they are emancipated. **Emancipation** is the severing of the child-parent relationship. It ends the duty of the parent to support a child and the duty of the child to obey the parent. A minor naturally becomes emancipated upon reaching the age of majority. However, a minor also may be emancipated before that time.

Early emancipation can occur formally or informally. Formal emancipation occurs when a court decrees the minor emancipated. Informal emancipation arises from the conduct of the minor and the parent. The following are evidence of informal emancipation:

1. The parent and minor agree that the parent will cease support.
2. The minor marries.
3. The minor moves out of the family home.
4. The minor becomes a member of the armed forces.
5. The minor gives birth.
6. The minor undertakes full-time employment.

States differ greatly in their treatment of emancipated minors. Some give them full contractual capacity and others don't. Therefore, if you become emancipated, you may lose the protection afforded by your minority status.

## 2. Incapacitated Parties - Mentally Impaired

**Mentally Incapacitated** - A person lacks the ability to understand the consequences of his or her contracts. Thus people with severe mental illness, severe mental retardation, or severe senility lack capacity.

If a judge rules that a person is permanently insane, then he or she is considered by the law to have a complete lack of capacity. All contracts executed by this person are void. However, the rules surrounding necessities are applied to an insane person's purchases of food, clothing, and shelter. If a judge rules a person was temporarily insane for a period of time, all contracts made by that individual during that period are considered voidable. When the person returns to full sanity, she or he will have a reasonable period of time to sort out which contracts are to be avoided.

### 3. Incapacitated Parties - Intoxicated

**Intoxication** - can arise from using legal or illegal drugs. If a person's degree of intoxication is high enough, the law holds she or he loses the capacity to contract. To determine if this capacity has been lost, one would expect the courts to apply the same definition of incapacity as for the mentally impaired—that is, does the person have the ability to understand the consequences of his or her contracts?

However, most courts are reluctant to consider a temporarily intoxicated party's contracts voidable. This would allow disaffirmance for intoxication even though it may injure an innocent party that has contracted with the intoxicated party. Therefore courts instead allow disaffirmance only for those who are so temporarily intoxicated that they do not even know they are contracting. This stricter standard is used because intoxication is typically a voluntary act. In a court proceeding, a judge may hold that a person is not just intoxicated but in a permanent state of alcoholism (a status that in most states is legally termed an "habitual drunkard"), that person's contracts are considered void. In addition, giving or selling intoxicating substances including alcohol to such an habitual drunkard is a misdemeanor in most states.



# Legal Protection for Those Who Lack Capacity

The contracts of most parties who lack capacity are considered voidable. As a consequence, the primary protection granted to those who lack contractual capacity is disaffirmance. Disaffirmance in contract law means a refusal to be bound by a previous legal commitment. Generally, when a protected party disaffirms a contract, by law the protected party is to receive back whatever they have put into the contract. The other party may or may not get back their consideration. For example, assume a protected party bought a four-wheel ATV from a dealership and then wrecked it. He or she could disaffirm the contract and recover any payments made. The dealership would only be able to recover the damaged ATV.

The problem with giving certain parties, especially minors, the legal ability to disaffirm a contract and get back whatever they had given to the other party is that no one will want to contract with them. As a consequence, another protection was afforded those who lack capacity. It applies when protected parties purchase things classified as **necessaries**—things needed to maintain life—typically food, clothing, and shelter.

When the protected, or special, parties contract for such items they must at least pay a reasonable value for the necessaries even if they disaffirm the actual purchase contract. For example, if a minor purchased a fur coat for \$5,000, she could disaffirm the contract. However she would still be required to pay the cost of a good cloth coat (say \$200, a reasonable price), for the fur if she chose to keep it. This price may be seemingly unfair to the seller. However, in the eyes of the law, receiving only \$200 for the fur serves as punishment for taking advantage of minors in contractual dealings.

# Capacity Relating to Scope of Authority

Some people who work for businesses or other types of organizations have the capacity to bind the organizations to contracts. If someone has this capacity, it is said to be within his or her **scope of authority**, or within the range of contractual acts for which the organization has authorized him or her to be responsible. Capacity to contract can be created when the employer tells an employee that they are authorized to bind the organization.

When doing business with organizations, it is important to ensure that the person signing the contract has the scope of authority to bind the organization. People acting outside the scope of their authority generally are personally liable when the organization isn't.

Capacity also can be created when the organization leads others to believe that a person has certain authority. For example a person who holds the title of purchasing agent in a shoe store is assumed to have the authority to make purchases of stock for the store in its behalf. However, a shoe salesperson for the same store would not be assumed to have the capacity to bind the shoe store to a contract for the lease of a new store in a shopping center. The salesperson has capacity to sell the shoes, but doesn't have the capacity to contract for the store in any other way. It would be within the shoe store owner's scope of authority to contract for the lease.

## ACTIVITY #28

- 1) What three classifications of individuals lack contractual capacity?
- 2) What is the legal significance to a business of an employee's scope of authority?
- 3) Clare was age 17, a minor in her state, when she bought a week's worth of groceries at a local supermarket. Later she discovered she spent too much money and was going to be over her weekly budget. So she took the groceries back and asked for her money back. If she sues, will she get her money back?
- 4) Tanya bought a car two weeks before her 18th birthday. After making her fifth monthly payment, she decided she could not afford the car payments and tried to avoid the contract on the basis that she had been a minor when she entered into it. Was she able to do so?
- 5) If a minor decides to purchase this bottle of expensive perfume, could she later disaffirm the contract and get back the money she paid for it?
- 6) Or, upon disaffirmance, would she still have to pay a reasonable price for it? Explain your answer.

## ACTIVITY #28

- 7) Alexis, 15, was an avid television fan. Combining her Christmas money with the money she received from babysitting, she went to the local electronics store to buy boxed DVD collections of her favorite shows. At the store, a salesperson convinced her to instead buy a new flat-screen television capable of showing the upcoming episodes in 3-D. Having recently seen several movies in 3-D in theaters, she readily agreed. The purchase took nearly all of her money. When she arrived home with the new television, her older brother was astonished and commented that it would be two or three years before 3-D shows were available from local cable or television stations. Alexis realized she had made a mistake and wanted to get her money back.  
Can Alexis get her money back?
- 8) Alicia was a wholesaler of flowers. Her friend, Caryn, worked for a grocery store as a checker. One day Alicia stopped by during Caryn's break and asked if she could sell her flowers through that store. Caryn said yes and signed a contract to purchase 10 dozen roses for the store. When Alicia tried to deliver the roses, they were refused by the store and Alicia sued.  
Is the store bound by Caryn's contract?