

## Lesson Plan —Questionable Consideration

**Course Title:** Business Law

**Session Title:** Questionable Consideration

**Performance Objective:**

- Upon completion of this lesson, the student will describe questionable consideration.

**Specific Objectives:**

- Students will describe situations in which consideration is present only under limited circumstances.
- Students will recognize when what appears to be binding consideration is not.

### Preparation

**TEKS Correlations:**

This lesson, as published, correlates to the following TEKS. Any changes/alterations to the activities may result in the elimination of any or all of the TEKS listed.

- **120.45(c)(2)(D)**  
...examine the concepts of consideration
- **120.45(c)(2)(E)**  
...describe defective agreements
- **120.45(c)(2)(F)**  
...describe illegal agreements
- **120.45(c)(5)(B)**  
...identify the essentials of negotiability

**Interdisciplinary Correlations:**

**English:**

**110.42(b)(6)(A) – Vocabulary Development**

...expand vocabulary through wide reading, listening, and discussing

**110.42(b)(6)(B) – Vocabulary Development**

...rely on context to determine meanings of words and phrases such as figurative language, idioms, multiple meaning words, and technical vocabulary

**110.42(b)(7)(F) – Reading/comprehension**

...identify main ideas and their supporting details

**110.42(b)(7)(G) – Reading/comprehension**

...summarize texts

**110.42(b)(7)(J) – Reading/comprehension**

...read silently with comprehension for a sustained period of time

**Economics:**

**118.2(c)(8)(B) – Economics**

...analyze how financial institutions affect households and businesses

**Accommodations for Learning Differences:**

Lesson Plan/Curriculum Modifications Checklist  
Guidelines and Procedures for Adapting Instructional Materials  
Instructor Format for Curriculum Customization for Learning Differences  
Sample Curriculum Customization for Learning Differences

**Teacher Preparation:**

**References:**

1. Law for Business and Personal Use, Eighteenth Edition, John E. Adamson, Southwestern Cengage Learning
2. USA Today and local newspapers.
3. Television Network Newscasts and the Internet
4. uen.org (State of Utah Business Law Curriculum)

**Instructional Aids:**

1. "Questionable Consideration " PowerPoint Presentation
2. Internet
3. "When Credit Gets Out of Personal Control PowerPoint Assignment" Assignment
4. "When Credit Gets Out of Personal Control PowerPoint Assignment" Assignment Rubric
5. "Circumstantial Consideration Poster" Assignment
6. "Circumstantial Consideration Poster Assignment" Rubric
7. Case Study

**Materials Needed:**

1. Construction paper
2. Scissors and glue
3. Poster board
4. Current newspapers

**Equipment Needed:**

1. Computers for students to complete projects
2. Projector for PPT

**Learner Preparation:**

- Ask students if they have ever made a promise that they really did not intend to honor. Also ask if they have been promised something that there is little chance they will receive. To be consideration, a promise must be binding. The promise must create a duty or impose an obligation. When a contract contains a clause that allows you to escape the legal obligation, the promise is call illusory. One example of an illusory promise is when you tell your parents that you will mow the lawn if you have time.

**Lesson Plan**

**Introduction (LSI Quadrant I): Cases for Consideration**

1. Your teacher announces that since the class has worked hard, she will pay for a pizza party for the class at the end of the year—if she thinks that the party is deserved. Your class continues to work hard, and class grades are high, but no

party is given. Can students in your class enforce the promise?

**Answer:** No—this is an illusory promise or no promise at all, because performance depends totally on the decision of the teacher. No bargained-for exchange exists and the teacher is not obligated to provide the party.

2. Ask students how the teacher's illusory promise can be reworded into an enforceable unilateral offer. (The teacher can specify objective measures of class performance, such as scores on an objective test that have to be exceeded for the promise to be honored.)
3. An illusory promise is unenforceable because the terms express uncertainty of performance, resulting in no promise at all. Two types of business contracts are enforceable even with some uncertainty as to amount of performance legally required. Output contracts exist when the seller agrees to sell to the buyer, and the buyer agrees to purchase from the seller, all of something the seller produces. Requirements contracts exist when the buyer agrees to purchase from the seller, and the seller agrees to sell to the buyer, all of some good the buyer needs or requires. An output contract exists when Wal-Mart agrees to purchase all of the vegetable plants grown by a local nursery. The requirement contract exists when a farmer provides all vegetables to the local farmer's market when the vegetables are needed.
4. A promise to do what you are already legally required to do is not usually sufficient consideration to bind another to their promise given in return. Katy owes Mike an undisputed \$800. Mike asks Katy for the money and Katy responded, "I don't have \$800, but I'll pay you \$500, take it or leave it." Mike agreed to take the lesser amount. Can Mike sue Katy for the unpaid \$300?  
**Answer:** This is an example of a liquidated debt and since Katy paid no consideration for Mike's agreement to take less than the amount owed, the promise is unenforceable, so Mike could sue for the unpaid balance.

#### **Important Terms for this Lesson:**



- output contract - a contract in which a buyer agrees to purchase all of a particular producer's production
- requirements contract - a contract in which a seller agrees to supply all of the needs of a particular buyer
- liquidated debt - a debt which both parties agree exists and both parties agree on the amount of the debt
- accord and satisfaction - parties' agreement can't change the obligation required by their original contract and the performance of the new obligation
- release - settling a claim at the time the tort occurs, while the liability is unliquidated because the extent of damages is uncertain
- composition of creditors - a settlement in which the creditors mutually agree to accept less than they are entitled to in full satisfaction of their claims while the debtor agrees not to file for bankruptcy


#### **Outline**

#### **Outline (LSI Quadrant II):**










Instructors can use the PowerPoint presentation, slides, handouts, current events, the

Internet, and note pages in conjunction with the following outline.

MI	Outline	Notes to Instructor
 	<p>I. Circumstantial Consideration</p> <p>A. Illusory Promises</p> <ol style="list-style-type: none"> <li>1. Termination Clauses - the power to withdraw from a contract if business circumstances change</li> <li>2. Output and Requirements Contracts               <ol style="list-style-type: none"> <li>a. output contract - steel company may buy all of the output of a nearby coal mining company</li> <li>b. requirements contract - carburetor manufacturer may agree to supply all the carburetors needed for the production of a certain make of vehicle</li> </ol> </li> </ol> <p>B. Existing Duty</p> <ol style="list-style-type: none"> <li>1. Existing Public Duty - if you make an agreement not to drink alcohol when you are not of age to drink, there is no binding agreement</li> <li>2. Existing Private Duty - when a duty already exists, a person cannot come back demanding more</li> <li>3. Settlement of Liquidated Debts - individuals must pay the amount agreed upon</li> <li>4. Settlement of Unliquidated Debts               <ol style="list-style-type: none"> <li>a. genuine dispute between the parties about how much is owed</li> <li>b. accord and satisfaction - a payment offered in full settlement by the debtor and accepted by a creditor settles the claim</li> </ol> </li> <li>5. Release               <ol style="list-style-type: none"> <li>a. when a tort occurs - the liability is unliquidated because the extent of damages is uncertain</li> <li>b. due to financial pressure - injured party in the tort will agree to discharge another from liability for the tort in return for a monetary payment or other consideration (release)</li> </ol> </li> <li>6. Composition of Creditors               <ol style="list-style-type: none"> <li>a. group of creditors will cooperatively agree to accept less than what they are</li> </ol> </li> </ol>	<p>A1 Termination clause may exist if a farmer is not required to fulfill a grain contract due to a drought.</p> <p>A2 When Dell computer requires customers to purchase ink cartridges for the printer only from Dell, a requirements contract exists.</p> <p>B If a parent promises a minor a new car for not drinking alcohol until age 21, a contract does not exist due to an existing public duty for the minor.</p> <p>B4 When in doubt about an amount of debt, the debtor and creditor can agree on an amount with accord and satisfaction.</p> <p>B6 Composition of creditors exists in bankruptcy cases where creditors are</p>

	entitled to, in full satisfaction of their claims against a debtor b. debtor agrees not to file for bankruptcy	happy to receive a percentage of debt owed by the debtor.
	<b>II. False Consideration</b> <b>A. Mutual Gifts</b> - when something of value is given by one party to another without demanding anything in return, the something of value is not consideration for anything later promised or provided <b>B. Past Performance</b> - an act that has already been performed cannot serve as consideration	<b>IIA</b> A gift is not consideration.  <b>IIB</b> Once individuals have performed a required act, the agreement is complete.

**Copy and paste Multiple Intelligences Graphic in appropriate place in left column.**

								
Verbal Linguistic	Logical Mathematical	Visual Spatial	Musical Rhythmic	Bodily Kinesthetic	Intra-personal	Inter-personal	Naturalist	Existentialist

### Application

**Guided Practice (LSI Quadrant III):** Using the PowerPoint presentation, the teacher will explain examples of questionable consideration. Students will be able to explain how contracts can be legally fulfilled or changed. Give students a blank BINGO card and have them randomly place one term in each square. Terms to use include: output contract, requirements contract, liquidated debt, accord and satisfaction, release, composition with creditors, past consideration, consideration, gift, donor, donee, forbearance, promisor, promisee, legal value, nominal consideration, duress, genuine assent, innocent misrepresentation, material fact, mutual mistake, ratification, rescission, and undue influence. Call out definitions for the terms on the BINGO cards and students place an "X" in the square containing the word for the definition. Keep calling definitions until someone calls BINGO. The winner must read back their BINGO terms to make sure they have selected words that were called by definition.

### Independent Practice (LSI Quadrant III):

- When Credit Gets Out of Personal Control PowerPoint Assignment:** Credit card debt has gotten out of control in America. Research "Credit Card Debt" on the Internet and prepare a PowerPoint presentation that describes the current credit situation in the U.S., advantages and disadvantages of credit, bankruptcy, and composition with creditors. The presentation must demonstrate knowledge of binding contracts related to credit cards, bankruptcy, and settlement of debt

through composition of creditors. This assignment will be evaluated using the associated rubric.

2. **Circumstantial Consideration Poster Assignment:** Divide a poster into two equal parts. Label the two parts: **Illusory Promise** and **Existing Duty**. Provide pictures and text to describe each of these concepts on the poster. Your poster should give students a clearer understanding of both concepts. This assignment will be evaluated using the associated rubric.
3. **Case Study:** Alex owed Keith \$5,000 which was due in one year. There was no dispute about the amount. Keith needed the money after two months, so Alex offered to pay \$4,000 early in full settlement of the debt. If Alex pays the \$4,000 early, will Keith be able to successfully sue and collect the \$1,000 later?  
**Answer:** Keith cannot sue for the remaining \$1,000 because Alex has offered valuable additional consideration by changing his legal position and paying the \$4,000 early in exchange for settlement of the debt.

### Summary

#### Review (LSI Quadrants I and IV):

**Q:** Why is consideration not binding in illusory contracts?

**A:** The promise is not binding because it is in essence a sham paraphrased by “I will if I want to.”

**Q:** What distinguishes a gift from a valid contract?

**A:** Only a completed gift (shown by intent, delivery, and acceptance of the subject matter) is legally enforceable. A stated intent to make a gift, standing alone, is not enforceable. A valid contract, however, is enforceable because consideration supports the contractual promise.

**Q:** What is an output contract?

**A:** An output contract exists when a buyer agrees to purchase all of a particular producer’s production.

**Q:** What is liquidated debt?

**A:** Liquidated debt is a debt which both parties agree exists and both parties agree on the amount of the debt.

#### WHAT’S THE ANSWER?

Grant loaned Tyler his riding lawnmower. While mowing an incline, the right rear wheel fell off the lawnmower and rolled over Tyler, causing severe injuries. Grant knew that the wheel needed repair but hadn’t warned Tyler. When Tyler threatened to sue Grant and the lawnmower company, Grant offered Tyler \$5,000 for a release from the unliquidated claim. Will Grant be able to relinquish his responsibility by paying Tyler \$5,000?

**Answer:** Since Tyler owed for his hospital stay, he accepted and gave the release knowing that he could still pursue suit against the lawnmower company. Grant is released from his responsibility by paying the \$5,000 accepted by Tyler. The question is whether he can be successful with his suit.

### Evaluation

#### Informal Assessment (LSI Quadrant III):

1. Instructor will observe students during Independent Practice.

2. Instructor will assist students as needed

**Formal Assessment (LSI Quadrant III, IV):**

Project #1 and project #3 assigned for Independent Practice will be evaluated with the assigned rubrics. Project #3 will be evaluated for completion. (LSI Quadrant III)

**Extension/Enrichment (LSI Quadrant IV):**

Ask groups of three or four students to create comic strip stories that illustrate a payment problem and how its settlement involved either an accord and satisfaction or other means of resolution.

**Business Law - Questionable Consideration  
Independent Practice Assignment #1  
When Credit Gets Out of Personal Control PowerPoint**

**Student Name** \_\_\_\_\_  
**Student Name** \_\_\_\_\_

Project may be either a team or individual project. Credit card debt has gotten out of control in America. Research "Credit Card Debt" on the Internet and prepare a PowerPoint presentation that describes the current credit situation in the U.S., advantages and disadvantages of credit, bankruptcy, and composition with creditors. Your presentation must demonstrate knowledge of binding contracts related to credit cards, bankruptcy, and settlement of debt through composition of creditors. This assignment will be evaluated using the associated rubric.

## When Credit Gets Out of Personal Control PowerPoint Business Law - Questionable Consideration Independent Practice Assignment #1 Rubric

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Student Name: \_\_\_\_\_

CATEGORY	20	15	10	5 or less
<b>Content</b>	Covers topic in-depth with details and examples. Subject knowledge is excellent.	Includes essential knowledge about the topic. Subject knowledge appears to be good.	Includes essential information about the topic but there are 1-2 factual errors.	Content is minimal or there are several factual errors.
<b>Presentation</b>	Well-rehearsed with smooth delivery that holds audience attention.	Rehearsed with fairly smooth delivery that holds audience attention most of the time.	Delivery not smooth, but able to maintain interest of the audience most of the time.	Delivery not smooth and audience attention often lost.
<b>Requirements</b>	All requirements are met and exceeded.	All requirements are met.	One requirement was not completely met.	More than one requirement was not completely met.
<b>Organization</b>	Content is well organized using headings or bulleted lists to group related material.	Uses headings or bulleted lists to organize, but the overall organization of topics appears flawed.	Content is logically organized for the most part.	There was no clear or logical organizational structure, just lots of facts.
<b>Originality</b>	Product shows a large amount of original thought. Ideas are creative and inventive.	Product shows some original thought. Work shows new ideas and insights.	Uses other people's ideas (giving them credit), but there is little evidence of original thinking.	Uses other people's ideas, but does not give them credit.

**Total Score** \_\_\_\_\_  
**Maximum 100 Points**

**Business Law - Questionable Consideration  
Independent Practice Assignment #2  
Circumstantial Consideration Poster**

Student Name \_\_\_\_\_  
Student Name \_\_\_\_\_

Divide a poster into two equal parts. Label the two parts: **Illusory Promise** and **Existing Duty**. Provide pictures and text to describe each of these concepts on the poster. Your poster should give students a clearer understanding of both concepts. This assignment will be evaluated using the associated rubric.

## Making A Poster: Circumstantial Consideration Poster Business Law - Questionable Consideration Independent Practice Assignment #2 Rubric

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Student Name: \_\_\_\_\_

CATEGORY	20	15	10	5 or less
<b>Content - Accuracy</b>	At least 7 accurate facts are displayed on the poster.	5-6 accurate facts are displayed on the poster.	3-4 accurate facts are displayed on the poster.	Less than 3 accurate facts are displayed on the poster.
<b>Required Elements</b>	The poster includes all required elements as well as additional information.	All required elements are included on the poster.	All but 1 of the required elements are included on the poster.	Several required elements were missing.
<b>Knowledge Gained</b>	Student can accurately answer all questions related to facts in the poster and processes used to create the poster.	Student can accurately answer most questions related to facts in the poster and processes used to create the poster.	Student can accurately answer about 75% of questions related to facts in the poster and processes used to create the poster.	Student appears to have insufficient knowledge about the facts or processes used in the poster.
<b>Graphics -Clarity</b>	Graphics are all in focus and the content easily viewed and identified from 6 ft. away.	Most graphics are in focus and the content easily viewed and identified from 6 ft. away.	Most graphics are in focus and the content is easily viewed and identified from 4 ft. away.	Many graphics are not clear or are too small.
<b>Attractiveness</b>	The poster is exceptionally attractive in terms of design, layout, and neatness.	The poster is attractive in terms of design, layout and neatness.	The poster is acceptably attractive though it may be a bit messy.	The poster is distractingly messy or very poorly designed. It is not attractive.

**Total Score** \_\_\_\_\_  
**Maximum 100 Points**

**Business Law - Questionable Consideration  
Independent Practice Assignment #3  
Case Study**

**Student Name**\_\_\_\_\_

Alex owed Keith \$5,000 which was due in one year. There was no dispute about the amount. Keith needed the money after two months, so Alex offered to pay \$4,000 early in full settlement of the debt. If Alex pays the \$4,000 early, will Keith be able to successfully sue and collect the \$1,000 later?