

Top 3 Initial Legal Issues New Boutique Fitness Studio Owners Face

Amundsen Davis Alert

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Forming a legal entity

Establishing a business entity for your fitness studio can prevent you from being personally on-the-hook if your business is sued. Operating your business as an LLC (or as another entity) can also limit your personal liability for business debts. Forming an LLC or similar entity is fairly straightforward although the procedure can differ state to state. The process involves registering online, appointing a registered agent (an individual to receive legal papers on the business' behalf (this can be you)), completing required paperwork and paying a fee (ranging from \$50 - \$500 depending on your state). **Establishing and properly maintaining a business entity creates a liability shield to protect your home and other personal assets from business creditors** – for this reason, it is highly advisable for studio owners to consider taking this step before opening your doors or raising money.

After establishing the business entity, it is important to create a separate bank account and credit card for your business. Failure to clearly separate your business and personal expenses can render you personally liable for the actions of the business (destroying the business entity shield). The creation of a business account also leads to cleaner accounting for tax purposes, applying for a business loan, or attracting investors.

Drafting an Operating Agreement

An LLC operating agreement outlines your business' internal operations. The agreement outlines each partner's ownership percentage and responsibilities, management and governance, and procedures for transferring ownership interests in the event of a partner's death or sale of the company.

An operating agreement allows you to make the rules for your company – it says who gets voting rights, how profits and losses are distributed, how the agreement can be amended, and how the LLC can be dissolved. Importantly, the operating agreement puts in writing any alleged verbal agreements and can help reduce the likelihood that a dispute will arise between partners. Putting in place a proper operating agreement now can save you thousands in litigation costs later on.

PROFESSIONALS

Max Goodman
Partner

Even if you have a sole member LLC, a basic operating agreement is recommended to demonstrate that the business is operated separately from you personally (i.e. to help limit your personal liability). Investors and lenders will often ask to see your business' operating agreement to better understand the inner workings of the company and to provide some certainty on how they'll be treated if they decide to join you - not having an operating agreement could be a deal killer.

Raising Money

You are accustomed to wearing many hats for your business. **Raising money by selling equity in your business is not something you should do without a qualified attorney.** Selling stock in your company or a membership interest in your LLC requires compliance with a myriad of federal and state securities laws. Even a small "friends and family" round risks running afoul of securities laws concerning the types of investors allowed to participate or disclosure requirements. Using forms you find online or borrow from a fellow business owner may work to address certain problems but to raise money, you need experienced counsel. Most importantly, whichever financial instrument you use, make sure you understand the terms thoroughly.

Take-Aways

- Establishing a business entity before you start operating your business can help shield your personal assets from business debts and liabilities.
- Drafting an operating agreement that clearly defines each partner's ownership stake and responsibilities can help prevent partnership disputes and unnecessary litigation while making your business more attractive for investors.
- If you want to raise money by selling equity in your company, (1) seek experienced advice and do not use documents you find online; and (2) understand the terms of your capital-raise documents so well that you could explain them to a child.

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