

Do You Need an Operating Agreement for Your LLC?

An operating agreement is a document which governs the internal operations of the limited liability company (“LLC”) and can be drafted even after the LLC has been formed. Under Connecticut law, an LLC is not required to have an operating agreement. In 2017, Connecticut enacted the Connecticut Uniform Limited Liability Company Act (“CULLCA”), which applies to all limited liability companies in Connecticut. CULLCA is designed to cover entities without operating agreements, as well as to provide additional provisions that are not covered in an operating agreement. However, there are several reasons why you **would** want to have an operating agreement.

Protection of Your Assets After Death

Under the CULLCA, if your LLC does not have an operating agreement and you pass away, your membership interest becomes what is called an economic interest. This means that the membership interest is only a financial interest. All prior decision-making rights of the deceased member go away, and their heirs only have the right to distributions from the LLC. They cannot operate the business. The deceased member’s estate will be required to wind up the business and dissolve the LLC. To avoid this, an LLC should have an operating agreement that specifically states what happens upon the death of a member.

Multiple Members

If your LLC has multiple members, there are several reasons why you would want to have an operating agreement. The operating agreement will list the percentages of ownership, a member’s initial contribution to the business, and the roles the members take in business operations. The operating agreement will determine how profits and losses will be distributed. It will also determine how decisions are made, whether it is the day to day management of the LLC or larger decisions that require a majority vote or unanimous consent of all of the

members. The operating agreement will also determine what happens if a member wants to withdraw from the LLC, or if additional members can be added.

While it may not be required under Connecticut law, having an operating agreement will help protect you and your business from unforeseen issues that may arise. If your LLC currently has an operating agreement, you should review it regularly to make sure it reflects the present-day operations of the LLC, as well as the current law.