

CHECKLIST FOR DEPARTING ATTORNEYS

1. Review ORPCs and Formal Ethics Opinions pertaining to client files, confidentiality, duty of loyalty, and withdrawal.
2. Review your caseload.
3. Identify clients to notify about your departure. Include clients with whom you have significant contact and all matters where you are the principally responsible attorney.
4. Decide what approach to take with your firm regarding files and clients. Do you expect to take clients with you? Leave clients behind? Is it possible that *neither you nor your firm* wish to continue representing certain clients? If so, can withdrawal be accomplished without prejudicing the interests of the clients? [See the PLF practice aid, How to Fire a Client.]
5. Draft a letter to your clients informing them of your departure. The letter must inform the clients that the choice is in their hands: engage you or stay with the firm. If you intend to withdraw from representing a particular client, give the client proper notice and comply with ORPC 1.16(b).
6. Draft an authorization for transfer of client file to be enclosed with notification letter to clients. [See the PLF practice aid, Authorization to Transfer File to Departing Attorney.]
7. Inform the firm of your decision to leave *before* contacting any clients. “Although there is no explicit rule requiring lawyers to be candid and fair with their partners or employers, such an obligation is implicit in the prohibition...against dishonesty, fraud, deceit, or misrepresentation. Moreover, such conduct is a violation of the duty of loyalty owed by a lawyer to his or her firm based on their contractual or agency relationship.” *In re Complaint as to the Conduct of Murdock*, 328 OR 18, 25 (1998), citing, *In re Smith*, 315 Or 260, 266 (1992). See also OSB Formal Op No 2005-70; ABA Formal Op No 99-414.
8. Engaging in the following conduct is considered a breach of the lawyer’s duty of loyalty and may result in discipline:
 - Secretly attempting to lure firm clients to the new firm by having them sign retainer agreements with the lawyer rather than the firm;
 - Lying about the client’s right to choose counsel;
 - Taking client files without the knowledge or consent of the firm; and
 - Taking client money without the knowledge or consent of the firm.

In re Smith, 315 Or 260, 266 (1992). See also OSB Formal Op No 2005-70; ABA Formal Op No 99-414.

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9. Taking firm property, including forms and similar materials, without the consent of the firm, may also be a breach of the duty of loyalty. See ABA Formal Op No 99-414.
10. Mail notification letters to clients.
11. File substitutions or withdraw as attorney of record on cases you will *not* be taking with you to your new position. (This includes state and federal agencies as well as state and federal court systems.)
12. Prepare a memo to the appropriate partner(s) regarding the status of files you are leaving behind. Include information about upcoming deadlines.
13. Make arrangements with your former firm to forward mail and redirect incoming calls.
14. Make arrangements with your former firm to set up an automated email reply and filter to process your incoming messages. [See the PLF practice aid, Email Communications for Departing Attorneys.]
15. Discuss who will retain or store your *closed* files.
16. Arrange to take conflict information with you to your new position.
17. Determine whether you will need to reimburse your firm in whole or in part for any professional liability coverage paid by the firm. If your firm has excess coverage, check with your excess carrier.
18. Determine whether you will need to reimburse your firm in whole or in part for any state bar association dues paid by the firm.
19. Submit a change of address card to the post office.
20. Prepare a change of address notice for opposing counsel, courts, vendors, etc. [See the PLF practice aid, Moving Checklist.]
21. If required by your state bar association, submit a change of address form. Submitting an address change to the Oregon State Bar automatically updates your address with the Professional Liability Fund.
22. Prepare and mail out announcement cards about your new position (to your state bar association, local bar association, law school alumni newsletter, former clients, friends, colleagues, etc.)

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23. Review the client list at your new office to screen for potential conflicts.
24. Sign new fee agreements with the clients you brought over from your old firm.
25. Arrange for transfer of trust funds from your old firm. The trust account check from your former firm should be accompanied by an itemization of funds being transferred, as well as copies of the most recent billing statements sent to the clients.
26. Arrange for transfer of client files, including any file material which may be stored electronically such as e-mail communications.