

TRUSTEE DUTIES

The Trustee has an extensive list of duties to be aware of and to fulfill. These would include, and are not limited to, the following:

1. ***Duty of loyalty.*** The Trustee must act with undivided loyalty and solely in the interests of the trust beneficiaries. The trustee must act in a manner that avoids placing the trustee's personal interests in conflict with those of the beneficiaries. It is recommended that any purchase or distribution of specific assets by the Trustee, to the exclusion of the beneficiaries, be agreed upon in writing.
2. ***Duty of impartiality.*** The trustee is required to treat all of the beneficiaries of the trust in an impartial manner, unless the trust instrument provides otherwise. "Impartially," however, does not necessarily mean "equally."
3. ***Duty of care.*** The trustee must act with the same level of care and diligence in carrying out the purposes of the trust as would a person familiar with the role of a trustee. If a trustee is a professional trustee, or as having special skills, the Trustee may be held to a higher standard of care.
4. ***Duty of confidentiality.*** The trustee is bound to keep personal information about the trust beneficiaries while acting as a trustee confidential. The Trustee should not reveal the

terms and conditions of the trust agreement to third parties, including other beneficiaries, except where otherwise required by law.

5. ***Duty to review trust terms and implement.*** The trustee is bound to administer the trust as it is written. If the trust instrument contains ambiguities, it may be necessary to receive court approval.

6. ***Duty to segregate trust property.*** The trustee must not commingle the trust property with the trustee's own property or other property not held by the trust. Absent statutory authority or authority under the trust instrument, the trustee should not even commingle assets of separate trusts created under the same trust instrument.

7. ***Duty to preserve trust property.*** The trustee is under a duty to use reasonable care and diligence in preserving and protecting trust property for the benefit of the beneficiaries. Thus, for example, a trustee may be required to maintain property and liability insurance on trust property.

8. ***Duty to account.*** The trustee must periodically give a written report to the beneficiaries describing details of the administration.

9. ***Duty to keep records and file income tax returns.*** The trustee must keep detailed records showing the assets,

liabilities, receipts, and disbursements of the trust. The Trustee must generally file 1041 federal and state income tax returns and make sure the decedent's final 1040 returns are completed.

10. ***Duty to enforce and defend claims.*** The trustee is under a duty to enforce any claims the trustee may have and also to defend claims brought against the trust. If it is in the best interests of the beneficiaries, the Trustee may settle claims.

11. ***Duty not to delegate.*** In general, a trustee is not allowed to delegate the trustee's discretionary powers. However, the terms of the trust agreement for and on behalf of the Trust and state law may also provide directions as to delegation powers.

12. ***Duty to furnish information and communicate.*** In addition to written accountings, the trustee is required to keep beneficiaries informed regarding the trust and its administration. The trustee should also provide other information to a beneficiary that is reasonable under the circumstances.