

Guide: Your Role as a Trustee

A trust instrument is a document that creates a legal entity in which assets may be held for the benefit of the Grantor(s) and/or eventual beneficiaries. The trustee is named by the Grantor(s) in the document. Trustees are held to a high standard and are tasked with managing trust property on behalf of the Grantor(s) and/or beneficiaries.

Know what powers you have.

A trustee's responsibilities are governed by the terms of the trust document and by state law. The first step is to familiarize yourself with the trust document. If the trust is in Kentucky, you can read relevant statutes about general powers of a trustee ([KRS 386B.8-150](#)) and specific powers of a trustee ([KRS 386B.8-160](#)).

Trustees may be compensated for their time and expertise. If the terms of the trust do not specify trustee compensation, you are entitled to "compensation that is reasonable under the circumstances", according to [KRS 386B.7-080](#).

Know your responsibilities.

As Trustee, you have five primary responsibilities. Failure to fulfill these can result in adverse legal consequences.

1. **Preserve and protect trust assets.** You must act in the best interest of the trust assets and the beneficiaries of the trust. This includes the following:
 - a. Manage trust assets responsibly. It may be wise to meet with a financial advisor about this. If you invest a large amount of trust assets in an unstable stock and it tanks, you may personally face legal consequences. This does not mean you cannot take risks on the stock market, but you do have a fiduciary duty to make prudent decisions that do not obviously jeopardize the trust assets.
 - b. Your responsibilities may include paying bills and maintaining insurance.

2. **Make distributions to beneficiaries.**
 - a. If a beneficiary has a disability and directly receiving funds from the trust would jeopardize their government benefits, there are limitations in how the funds may be distributed. Be sure to follow the trust instructions and consult an attorney to make sure this is done correctly. You can also refer to [KRS 386B.8-160\(21\)](#).
 - b. A trustee should follow the instructions set forth in the trust document to determine how and when trust property is to be distributed to the trust's

- beneficiaries. Some trusts provide specific guidance for this, while others give the trustee broad discretion.
- c. Sometimes a trustee may be required to make a distribution to a beneficiary. Other times, you may need to set limits and deny a beneficiary's request for a distribution, depending on the circumstances.
 - d. You should not act contrary to the specific instructions set forth in the trust document unless there is a specific concern, such as misuse of funds by the beneficiary in the case of addiction, or a potential loss of government benefits.
3. **Keep careful records.** It is important to keep detailed records of the trust's income, expenditures, distributions, and other financial transactions. You can be held personally liable for transactions that cannot be corroborated.
 4. **Keep beneficiaries reasonably informed.** Trustees should honor reasonable requests by a beneficiary for a status update or an accounting of trust assets. If a beneficiary is requesting something beyond the usual scope of a "reasonable request", we suggest consulting an attorney before denying their request. An attorney may be able to defuse the situation.
 5. **File tax returns.** We recommend speaking to a CPA. Any fees for tax preparation may be paid out of the trust assets.

Some practical tips:

1. Read the trust in its entirety and make sure you understand the details. You can also choose to speak to an elder law attorney, who can answer any questions or concerns you have about the trust.
2. Be familiar with the trust's assets and implement a plan to manage those assets. Be aware of certain assets (such as real estate or valuables) that may require hands-on oversight.
3. When signing a document in your capacity as trustee, sign this way: John Doe, Trustee. If you do not include the "Trustee" afterwards, you may create personal liability for yourself.
4. You have the right to decline to accept the appointment or resign as the trustee. The trust may specify the requirements for doing so (such as written notice given to the grantor or beneficiaries).
5. The importance of keeping careful records cannot be overstated. You can be held personally liable for transactions that cannot be corroborated.