



# You've Been Asked to Be a Trustee. Now What?



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Being asked to oversee a family trust is a big deal. Is it an honor? An obligation? A little of both? It's a huge responsibility, and one you may not feel totally prepared to accept.

Even if you've participated in or been exposed to the world of trusts, you may not have the knowledge or skills to be an effective trustee right now. And if you haven't been included in your family's in-depth financial discussions before, you might feel completely overwhelmed. Someone obviously thought you were capable, though, or they wouldn't have selected you as a trustee.

The first step in deciding whether to accept this role is to learn more about what it means to be a trustee, especially in your family.

## Understanding Purpose and Mission

Before you agree to become a trustee, it is helpful to understand the original intent and purpose of the trust. Why was the trust created? Who does it benefit? Oftentimes, trusts can accomplish both personal and family goals. Families may establish trusts to manage family business assets or other financial assets, allow for flexibility or future control, tax efficiency, wealth transfer planning, and many other considerations.

Now that you have a better understanding of the trust's intent, let's explore trustee responsibilities and obligations.

## Fiduciary Responsibilities You'll Take On

Perhaps the most important aspect of being a trustee is understanding that a trustee must serve as a fiduciary. As a fiduciary, trustees have a loyalty to the grantor and beneficiaries, and they must always act in

the best interests of the trust's beneficiaries above all else. (More on this later on.)

Since some family trusts are designed to serve multiple generations, you'll need to consider how your decisions will affect not just current but also future beneficiaries, who might not even be alive yet, but their interests are just as important.

## Administrative Duties You'll Manage

Numerous administrative duties go along with overseeing a trust. The trust must file tax returns and provide regular statements to beneficiaries, for example. To fulfill those duties, the trust needs to have thorough and accurate bookkeeping.

Also, depending on the trust, you may have to issue notices, make regular distributions on certain dates, and keep track of age attainments that determine when current or future beneficiaries get certain rights.

Modern trusts sometimes have multiple roles besides trustee, such as a distribution advisor, trust protector, investment manager, and tax advisor. A trustee may have to coordinate with each of these parties.

Failing to meet these administrative obligations or doing them late, can have adverse consequences.

## Crucial Decisions You'll Have to Make

A trustee may need to make numerous decisions that cover a wide range of scenarios. Here are some examples of the type of decisions a trustee may have to deal with.



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- How to align investment and distribution decisions with the grantor's intent and beneficiary needs
- When to make distributions, to whom, and for how much
- When to buy, sell, and hold the trust's various assets
- Will you be compensated for your role
- How to develop and manage your relationship with the trust beneficiary/beneficiaries
- How to educate beneficiaries about the trust
- How to manage the overall family dynamic and family politics
- Which tasks to outsource, and whom to partner with

### Partnering with Professionals

If you're feeling a bit overwhelmed by the many duties of your new role, rest assured that you can bring in help. Knowing that you don't have to make every decision and manage every task yourself can make the prospect of serving as trustee far less intimidating.

While trustees cannot delegate their fiduciary responsibilities, they can outsource many of the role's more administrative functions by hiring professional advisors to manage investments, handle taxes and bookkeeping, and advise on legal questions in accordance with the trust or state law.

You'll need to understand how to identify people your family can trust, what your role will be in relation to these professionals, and how to continually assess whether they're serving your family with integrity. Considering where your strengths, weaknesses, and interests lie is an important part of choosing where to focus your efforts and what tasks to outsource.

### Legal Risks to Consider

As a fiduciary, you are held to a higher standard and must legally and ethically act in the best interest of the beneficiaries and comes with potential legal risk if a trustee does not act in a prudent manner. Beneficiaries have the right to bring litigation if you have violated the terms of the trust or harmed them in any way.

That said, there are steps you can take to reduce your liability. You may want to consider insurance, as well as using certain legal tools such as receipt and release forms, consent forms and settlement agreements.

What other risks should you consider? If there is a prickly dynamic among beneficiaries and trustees, this could create additional risk. The size and type of assets owned by the trust may impact the trustee's investment decisions. If there is a family business owned by the trust, there are many considerations a trustee will have to undertake, such as voting for company board and management positions, dividend policies and sales and acquisitions. In that circumstance, as trustee, you may have to weigh what is best for the beneficiary and a family company.

### Training and Education is Essential

There's a lot to learn to become a trustee, but you don't have to do it alone. Perhaps your family has an existing formal trustee education training program or there are more experienced people in your family who you could reach out to for advice and support. Alternatively, a family office or cadre of trusted professionals could also provide guidance and support.

Everyone brings something to the table. Your own unique skills, experiences and passions will shape who you are as a trustee. You can identify and hone in on an area where you might best contribute to the trust and further develop those skills. Finding and continuing to develop your niche and expanding your knowledge will strengthen your abilities.

For example, you might already have a specialized skill or profession, be passionate about philanthropy, or you might want to pursue a degree or certification. Whatever the case, there's a place for you to contribute your unique talents and perspectives to the trust.

### Final Thoughts

Being named a trustee can initially seem like an overwhelming and intimidating responsibility. However, as you educate yourself about the process, lean on your family and trusted professionals for guidance, and communicate your questions and concerns clearly, you'll be setting yourself up for success if you choose to accept this important role.

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