



FOX LAW
LEGACY LITIGATORS

Am I Meeting My Legal Duties?

A California Trustee's Compliance Checklist

California law requires specific legal duties from trustees of a trust, as outlined in the Probate Code. This checklist is designed to help you as a trustee take stock of where you stand. It is not a substitute for legal advice and does not cover every duty that could apply to your specific trust, but it should help you identify any gaps before they become disputes.

How to Use This Checklist

Work through each section and be honest about where you stand. If you cannot check an item off, that item deserves a closer look with your attorney.

SECTION 1: Notice and Communication Duties

- ☐ I sent formal notification to all beneficiaries and heirs within 60 days of the trust becoming irrevocable, as required under Probate Code Section 16061.7.
- ☐ The notice I sent included all information required by law, including the trustee's name and address, the trust terms relevant to the beneficiary's interest, and a statement of the right to request a copy of the trust.
- ☐ I have kept beneficiaries reasonably informed about the trust and its administration, even beyond the initial notice.



- ☐ I respond to reasonable beneficiary requests for information in a timely manner.
- ☐ I have not intentionally withheld information from a beneficiary who is entitled to it.

Bottom Line: Notice is not a courtesy. It is a statutory deadline, and missing it can extend the window beneficiaries have to challenge the trust. If you are not certain your notice met the legal requirements, have an attorney review it.

SECTION 2: Accounting and Financial Transparency

- ☐ I have kept clear, organized records of all trust income, expenses, and distributions since I became trustee.
- ☐ I understand which beneficiaries are legally entitled to receive an accounting, and how often.
- ☐ I have provided an accounting when requested, or on the schedule required by the trust terms or California law.
- ☐ My accountings include all required elements: a statement of receipts and disbursements, assets and liabilities, and compensation paid to the trustee.
- ☐ I have not commingled trust funds with my own personal funds or another entity's funds.
- ☐ I maintain separate bookkeeping and a separate bank account for the trust.

Bottom Line: An incomplete or missing accounting is one of the most common triggers for a beneficiary petition. Even trustees acting with good intentions can find themselves defending their conduct in probate court simply because the paperwork was not kept up.

SECTION 3: Duty of Loyalty and Impartiality

- ☐ I have not used trust assets for my own personal benefit outside of what the trust explicitly allows.
- ☐ I have avoided transactions where my personal interests conflict with the interests of the beneficiaries.



☐ I have treated all beneficiaries impartially, without favoring one over another absent specific trust language authorizing it.

☐ If I am also a beneficiary, I have been careful to separate my personal interest from my fiduciary decision-making.

☐ I have disclosed any potential conflict of interest to co-trustees or beneficiaries rather than concealing it.

Bottom Line: The duty of loyalty is often described as the single most important trustee obligation. A trustee who benefits personally at the expense of beneficiaries, even unintentionally, is exposed to claims of breach of fiduciary duty and possible removal.

SECTION 4: Prudent Investment and Asset Management

☐ I understand that California's Uniform Prudent Investor Act applies to how trust assets are managed, unless the trust document says otherwise.

☐ I have diversified trust investments unless there is a documented reason not to.

☐ I have considered the needs of both current and future beneficiaries when making investment decisions.

☐ I have not left trust assets idle or exposed to unnecessary risk out of inattention.

☐ I have sought professional investment or tax guidance where the trust holds complex or significant assets.

Bottom Line: Trustees are not expected to be investment experts, but they are expected to act as a reasonably prudent person would in managing someone else's money. Delegating to a qualified advisor is allowed and often wise. Ignoring the assets entirely is not.

SECTION 5: Property Management and Recordkeeping

☐ Real property held in the trust is properly insured, maintained, and titled in the name of the trust.

☐ I have paid property taxes, mortgage payments, and other carrying costs from trust funds in a timely manner.



☐ I have kept receipts and documentation for all significant expenditures made on behalf of the trust.

☐ I have not allowed trust property to fall into disrepair or lose value through neglect.

☐ Business interests or rental properties held in the trust are being managed in a way that protects their value for beneficiaries.

Bottom Line: A trustee who lets a rental property sit vacant, or who fails to pay property taxes on time, is exposing beneficiaries to real financial harm, and exposing themselves to a claim for the resulting loss.

SECTION 6: Distributions and Trust Terms

☐ I have read the full trust document and understand the distribution terms, including any conditions on when and how beneficiaries receive assets.

☐ I have made distributions according to the trust's terms, not according to my own judgment about what beneficiaries "should" receive.

☐ I have not delayed distributions without a legitimate administrative or legal reason.

☐ Where the trust gives me discretion, I have documented my reasoning for discretionary decisions.

☐ I understand what happens if a beneficiary disputes a distribution, and I have a plan for responding.

Bottom Line: Trustees sometimes assume they have more flexibility than the trust document actually grants. Discretion is not the same as authority to rewrite the terms. When in doubt, the trust language controls, not personal judgment about fairness.

SECTION 7: Taxes and Legal Compliance

☐ I have obtained a separate tax identification number (EIN) for the trust, where required.

☐ I have filed all required trust tax returns on time.



☐ I understand any estate tax, gift tax, or property tax reassessment issues that may apply to this trust.

☐ I have consulted with a CPA or tax professional familiar with trust taxation.

☐ I am aware of any deadlines tied to trust administration in my county, including any probate-related filings if the trust interacts with a probate estate.

Bottom Line: Trust taxation is a specialized area, and errors here can be costly. A trustee does not need to become a tax expert, but does need to make sure someone qualified is handling this piece.

SECTION 8: Compensation and Self-Dealing

☐ I understand what compensation I am entitled to as trustee, whether set by the trust document or by California's statutory guidelines.

☐ I have not paid myself compensation beyond what is authorized without beneficiary consent or court approval.

☐ Any reimbursement I have taken for expenses is properly documented and tied to actual trust-related costs.

☐ I have not used my position as trustee to obtain loans, discounts, or other benefits from trust assets.

Bottom Line: Even reasonable compensation can become a legal issue if it is not properly documented or authorized. When trustee compensation is disputed, the burden is usually on the trustee to justify it.

SECTION 9: When to Bring in an Attorney

☐ I have consulted with a trust and estate attorney at the start of my administration, even if the trust seemed straightforward.

☐ I have legal counsel I can turn to if a beneficiary raises questions or concerns.

☐ I understand the difference between routine trustee decisions and situations that require court approval or legal guidance.

☐ I know what to do if I am formally accused of breaching my fiduciary duty.



Bottom Line: Most trustee disputes do not start with bad intentions. They start with a trustee who did not know they needed help until a beneficiary's attorney sent a letter. Getting guidance early is almost always less expensive, and less stressful, than defending a petition later.

What Happens If You Find Gaps?

If you went through this checklist and left several items blank, you are not alone, and it does not automatically mean you have breached your duties. But if a beneficiary has already raised concerns, sent a demand letter, or filed a petition against you, this is the point where legal representation becomes essential.

Fox Law defends trustees across California who are facing beneficiary disputes, breach of fiduciary duty claims, or removal petitions. We also represent beneficiaries who believe a trustee has failed to meet these obligations. We do not handle trust administration itself, but when a trustee's conduct is being challenged or a dispute is heading toward litigation, that is exactly the kind of matter we take on.

READY TO TALK? GET A NO-COST CONSULTATION.

If you are a trustee facing a beneficiary dispute, or want to understand your exposure before one develops, contact Fox Law to schedule a consultation at foxtrustlaw.com, or call (916) 404-6620.

