

Common Trust Terms

Administration: The management of a decedent's estate including the payment of expenses, debts, and, obligations and the general settling of the estate.

Administrator: An individual or entity, such as a trust department appointed by a court to settle the estate of a person who has died without leaving a valid will.

Agent: A person who acts for another person by the other person's written or oral authority. The distinguishing characteristics of an agent are (1) that they act on behalf and subject to the control of the principal, (2) that they do not have title to the property of the principal, and (3) that they owe the duty of obedience to their principal's orders.

Attorney In Fact: A person who acts for another under written authorization usually to transact business; most often designated in a "Power of Attorney" for property. To be distinguished from an Attorney at Law.

Beneficiary: Person or entity entitled to receive benefits from a will, insurance policy, trust agreement, or employee benefit plan.

Codicil: An amendment or supplement to a will. It must be executed with all the formalities of a will.

Co-executor: Individual or entity sharing the duties of executor of a will with another or others.

Conservator: An individual or a trust institution appointed by a court to care for property.

Contingent Beneficiary: The beneficiary whose interest is conditioned upon a future occurrence which may or may not take place. Unless or until the condition takes place, the interest is only contingent. To be distinguished from a vested beneficiary.

Contingent Executor: An executor who is named in a will, but who will not act unless the principal executor does not act. (AKA Successor Executor).

Corporate Fiduciary: A trust institution serving in a fiduciary capacity, such as executor, administrator, trustee, or guardian.

Corporate Trustee: A trust institution serving as trustee.

Durable Power of Attorney: A power of attorney that will remain valid if the person who grants the power becomes incapacitated.

Estate: The real and personal property of a decedent; a specific interest in property, i.e. a life estate.

Estate Planning: Process of arranging for the preservation of one's property during one's lifetime and for the transfer of one's property at death. The term usually associated with tax-saving and investment management strategies. Directions are usually contained in a will or trust agreement.

Estate Settlement: Process of completing all the tasks necessary to the winding up and distribution of an estate by an executor (personal representative).

Executor: An individual or a trust institution nominated in a will and appointed by a court to settle the estate of the testator.

Fiduciary: An individual or entity in a position of trust who has accepted the duty of acting for the benefit of another. Some examples of fiduciary relationships are a guardian and their ward, an attorney and their client, one partner and another partner and a trustee and a beneficiary.

Grantor: A person who transfers property. The creator of a trust.

Guardian: An individual or entity appointed by a court to care for a minor or incompetent person.

Heir At Law: A person entitled by law to inherit all or part of an estate from an ancestor who died without a valid will.

Income Beneficiary: The beneficiary of a trust who is entitled to receive the income from it.

Intestate Succession: Distribution of property to heirs of the deceased according to state law because the deceased did not leave a valid will.

Investment Management Account: An investment account where the financial institution is authorized to make purchases and sales on a customer's behalf and provides reports of account transactions on a regular basis.

Irrevocable: Cannot be terminated or revoked.

Irrevocable Trust: A trust that, by its terms, cannot be revoked by the grantor. To be distinguished from a revocable trust.

Joint Tenancy: An ownership of property by two or more parties so that when one dies, the survivor or survivors take the entire property (right of survivorship).

Last Will and Testament: A formal term referring to a will. Under Old English law, a “will” was a disposition of real estate and a “testament” was a disposition of personal property. This difference is no longer recognized.

Living Trust: A trust that becomes operative during the lifetime of the grantor; opposed to a trust under will or testamentary trust. Also known as an inter vivos trust.

Living Will: A written document that a person uses to declare which death-delaying medical treatments should not be used in the event of a serious injury or terminal illness.

Pour-over: A term referring to the transfer of property from one estate to another estate or to a trust, which takes place at death or some other event. For example, property that is disposed of by a pour-over will is poured into an existing trust at death.

Power of Attorney: A document authorizing the person named therein to act as an agent, called an Attorney in Fact, for the person signing the document. If the attorney in fact is authorized to act for their principal in all matters, they have a general power of attorney; if they have authority to do only certain specific things, they have a special or Limited Power of Attorney. If the authority granted in the power of attorney survives the disability of the principal, the attorney in the fact has a Durable Power of Attorney. If the authority granted in the power of attorney commences in the future only upon the occurrence of a specific event or contingency, the power of attorney is known as a springing power.

Probate: The process of proving the validity of a will in court and executing its provisions under the guidance of the court. When a person dies, the will may be filed before the proper officer of the proper court, giving the court jurisdiction in the matter of enforcing the document. This is called “filing the will for probate.” When the will has been filed, it is said to be “admitted to probate.” The process of probating the will involves recognition by the court of the executor named in the will (or appointment of an administrator if none has been named), the filing of proper reports and papers as required by law,

determination of validity of the will if it is contested, and distribution and final settlement of the estate under the supervision of the court.

Remainder Beneficiary: The beneficiary of a trust who is entitled to the principal outright after the prior life beneficiary or other prior beneficiary has died or their interest has been terminated.

Remainderman: The person who is entitled to an estate after the prior estate has expired.

Revocable: Capable of being recalled or revoked.

Revocable Living Trust: A trust that by its terms may be terminated by the settler or by another person. To be distinguished from an irrevocable trust.

Settlor: A person who created a trust, such as a living trust, to become operative during their lifetime. Also called a donor, grantor, and trustor.

Successor Trustee: A trustee who is named in a trust, but who will not act unless the principal trustee does not act.

Testamentary Trust: A trust established by the terms of a will.

Testator: A person who has made and left a valid will at their death.

Trust: A fiduciary relationship with respect to property in which one person (the trustee) is the holder of the legal title to property (the trust property) and is subject to an obligation to keep or use the property for the benefit of another (the beneficiary).

Trust Administrator: A person who works for a trust institution who has the responsibility for clients’ trust accounts and who handles the direct dealings with grantors and beneficiaries.

Trust Agreement: A written agreement settling forth the terms of a trust.

Trustee: A person or entity that holds the legal title to property in the trust for the benefit of someone else.

Will: A legally enforceable declaration of a person’s wishes regarding matters to be attended to after their death and inoperative until their death. A will usually, but not always, relates to the testator’s property, is revocable (or amendable by means of a codicil) up to the time of their death, and is applicable to the situation that exists at the time of their death.