

# Fiduciary Duties in Estate Planning

This playbook outlines the responsibilities of individuals who are appointed to oversee and manage an estate during the estate planning process. It focuses on the roles of executors and trustees.

## Step 1: **Identify Fiduciaries**

Determine who will be appointed as executors and trustees in your estate plan. These individuals will have the legal responsibility to manage your estate's assets according to your wishes as detailed in your will or trust documents.

## Step 2: **Understand Duties**

Comprehend the key fiduciary duties including the duty of care, duty of loyalty, duty to follow instructions, and duty to act impartially when managing and distributing the estate's assets.

## Step 3: **Communicate Expectations**

Clearly communicate the expectations and responsibilities to your chosen fiduciaries. Ensure they understand their obligations and are willing to accept the role.

## Step 4: **Legal Compliance**

Inform fiduciaries about the requirement to comply with all relevant state and federal laws while carrying out their duties, including tax laws and reporting obligations.

## Step 5: **Provide Resources**

Equip your executors and trustees with the necessary documents and resources, such as access to legal and financial advisors, to manage the estate effectively.

## Step 6: **Monitor Performance**

Beneficiaries or designated oversight individuals should regularly review the performance of the fiduciaries to ensure they are fulfilling their duties as per the estate planning documents.

# **General Notes**

## **Legal Guidance**

It is advisable for both the individuals drafting an estate plan and the appointed fiduciaries to seek legal guidance to understand the full extent of the fiduciary duties and ensure that they are executed correctly.

## **Fiduciary Liability**

Fiduciaries should be aware of potential personal liability if they fail to fulfill their responsibilities properly which could lead to legal consequences.

## **Succession Plan**

Consider including a succession plan in the estate documents to address the scenario where a fiduciary can no longer serve, ensuring a smooth transition of duties.