



POLICIES AND PROCEDURES

CORPORATE POLICY

Subject: Professional Fiduciaries Policy

Policy No.: 110

Last Revision Date: 11/15/10

Orig. Date:

Revision:

A. Policy

B. Background

C. Policy

A. Policy

For Compliance with the California Professional Fiduciaries Act

B. Background

In 2007, the California legislature enacted the Professional Fiduciaries Act (i) (the "Act"), which became effective January 1, 2009, to create a regulatory regime for individual fiduciaries. The Act imposes licensing, continuing education, and reporting requirements on individuals serving as fiduciaries. From the outset, it appeared that the Act would only apply to individuals and not to charitable organizations. However, the Professional Fiduciaries Bureau (ii), which is charged with enforcing the Act, issued regulations (iii) that expand the scope of the Act and make it applicable to a charity that has been appointed as trustee and representatives of the charity who perform the functions of a trustee. The Act applies when a charity is trustee of four or more charitable remainder trusts, charitable lead trusts or pooled income funds, or any combination thereof. The Act does not apply to charitable gift annuity trusts.

Reference: http://www.fiduciary.ca.gov/laws_regs/index.shtml

CONSEQUENCES OF VIOLATING THE ACT:

If a person or entity fails to comply with the Act, the Professional Fiduciaries Bureau may bring an enforcement action against the offending person or entity. Enforcement actions can result in fines, sanctions, and license suspensions or revocations. For serious violations of the Act, the matter could be referred to the California Attorney General or to local district attorneys for criminal prosecution.



POLICIES AND PROCEDURES

POLICY OBJECTIVE:

To consolidate and delegate the authority to exercise key trust fiduciary functions, which would include making decisions on trust investment strategies (in consultation with investment advisors), signing trust tax returns, and signing other correspondence with trust beneficiaries.

C. Policy

1. The Executive Director of the Cal Poly Pomona Foundation shall be responsible for identifying the number of trusts under administration and enforcement of the policy.
2. The first preference of the Cal Poly Pomona Foundation is that donors select themselves or a third-party trustee and simply name the Cal Poly Pomona Foundation as beneficiary.
3. The second preference of the Cal Poly Pomona Foundation is to engage a financial institution or other entity exempt from the definition of a professional fiduciary to perform trust administration services.
4. When selecting an external trustee is not practical, the Board will permit the Cal Poly Pomona Foundation to serve as trustee under the following conditions:
 - a. An individual fiduciary may be designated who is a licensed attorney in the State of California; or,
 - b. An individual fiduciary may be designated who is licensed as, and working within the scope of, a certified public accountant (iv.) or
 - b. An individual fiduciary may be designated who is a licensed professional fiduciary by satisfying the following requirements:
 - i. Submit fingerprint samples to the Department of Justice, and
 - ii. Complete 30 hours of pre-licensing education, and
 - iii. Pass a pre-licensing examination, and
 - iv. Complete 15 hours of approved continuing education annually, and
 - v. Hold a bachelor's degree from an accredited college or university or hold an associate's degree from an accredited college or university and have 3 years of applicable experience as a professional fiduciary, and
 - vi. Consent to a credit check, and
 - vii. Agree to comply with the Professional Fiduciaries Code of Ethics (v.)
 - viii. Submit a formal application to the Professional Fiduciaries Bureau, including a \$400 application fee and \$600 annual license fee.
 - d. An individual delegated authority as trustee will have final authority on all fiduciary decisions concerning the trust.
 - e. An individual delegated authority as trustee will specifically acknowledge, in writing,



POLICIES AND PROCEDURES

his or her fiduciary responsibilities with respect to the trusts he or she has been assigned.

- f. An individual delegated authority as trustee will acknowledge, in writing, the resignation of fiduciary duties.

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- i. Business & Professions Code §§6500 et seq.
 - ii. A unit of the California Department of Consumer Affairs
 - iii. 16 California Code of Regulations Section 4406(e)(1)(B)
 - iv. Pursuant to Chapter 1 (commencing with Section 5000) of Division 3" of the Business & Professions Code
 - v. California Code of Regulations Sections 4470 – 4484