

What are the attributes of a trustee?

ATTRIBUTE	DESCRIPTION
Availability	The real issue is whether the trustee will be able to serve effectively long enough (permanency) and will have representatives in the area (proximity).
Impartiality and lack of conflict of interest	A trustee who is also a family member may be forced by conscience or by duty to make choices injurious to the harmony of family relationships. An independent professional trustee is not subject to such problems. The ability of a professional trustee to be objective and impartial should be given high preference in the decision-making process.
Financial security	The security of the funds entrusted to the trustee and the depth of the trustee's pockets in the event of a successful malfeasance or misfeasance suit by beneficiaries. Banks and trust companies are audited both internally and externally. Lack of a system of checks and balances is one of the major shortcomings of an individual nonprofessional trustee.
Investment sophistication, policy and track record	The decision must be made on the basis of the type of investment policy the grantor of the trust desires and the particular trustee that will come closest to matching that policy
Business sophistication	Where one or more businesses are held in the trust, it is extremely important that the trustee have expertise in running that type of business. Even if the trustee should and will sell it, knowing when and how best to dispose of it is a very important skill.
Accounting and tax-planning expertise	The trustee must have a working knowledge of the accounting laws and both federal and state tax laws involving income, estate, gift and generation-skipping tax. Corporate fiduciaries have a definite advantage over nonprofessional individual trustees. It is possible and in many cases appropriate for a trustee to hire agents for advice and assistance.
Record keeping and reporting ability	A trust is a long-term arrangement under which accountings must be made periodically over many years to a number of parties that may include the grantor, the beneficiaries, the appropriate federal and state taxing authorities, and the supervising court. This requires regular statements of the receipts, disbursements and assets of the trust in an intelligible form, and careful long-term record storage.
Tax-neutral impact	If one of the major reasons for establishing an irrevocable trust is to save taxes, the identity of the trustee is a very tax-sensitive decision because inclusion of the trust's assets in income, gross estate or generation-skipping tax base will result if the wrong party is selected as trustee. The potential for adverse tax results increases significantly when the trustee is given discretionary powers over the income or principal of the trust if the trustee or a co-trustee is the grantor, his or her spouse, a family member or some combination of them, or if one or more of these people becomes a trustee under a successor provision in the trust.
Decision-making abilities	The trustee selected must be able to make many decisions, some of great significance, over an extended period of time. This entails the need for emotional maturity and wisdom as well as knowledge.
Competence	A trustee must have the legal capacity to contract. This precludes the appointment of a minor or an incompetent adult. In many states a nonresident individual can act as a trustee. However, as a practical matter, geographical considerations often contraindicate selecting a person who lives a considerable distance from the beneficiaries of the trust. Some states bar nonresident corporations from serving as trustees.

Standard to which trustee will be held	A trustee must use the same degree of care and skill that a person of ordinary prudence would exercise in dealing with his or her own property. The Uniform Probate Code, adopted by many states, places a higher standard on professional trustees.
Integrity	Honesty and loyalty are the watchwords of trusts. Vast sums of money and other assets are entrusted to fiduciaries who must exercise a high degree of care over trust property and act consistently on behalf of trust beneficiaries.
Flexibility to meet changing circumstances	Change in tax law and in the circumstances and goals of each of the beneficiaries are the only certainty. As a trust is a mechanism specifically designed to meet that change, the trustee must be willing and able to change as well.
Willingness to serve throughout the term of the trust	An individual trustee could easily lose interest through the long years and even generations a trust may last. Corporate fiduciaries are more likely than individuals to continue for the full term.
Experience as a trustee	Through experience, the fiduciary is more likely to appreciate the broad and complex multiplicity of laws involved, know who to call on for assistance, avoid many mistakes and more efficiently administer and execute the terms of the trust
Neutral state law impact	If state law trust requirements are not met, the trust will be invalid and provide none of any intended tax benefits. This is because federal laws' recognition of a trust as a separate tax entity presupposes validity of the trust under state law. When a beneficiary is named as trustee, the Doctrine of Merger must be considered.

