

## **Estate Planning Red Flag - Your Trust Fails to Provide a Mechanism to Remove the Trustee**

A trustee plays a central role in the administration of a trust, acting as the legal steward of assets on behalf of beneficiaries. This responsibility carries both authority and accountability. Trustees are charged with managing investments, distributing income or principal according to the trust document, maintaining accurate records, and acting in the best interests of the beneficiaries at all times.

Given the scope of these duties, selecting the right trustee for your trust is critical. However, even a well-chosen trustee can become ineffective over time. Circumstances change: a trustee may become ill, relocate, develop conflicts of interest or simply lack the expertise needed to manage increasingly complex assets. In some cases, disputes may arise between the trustee and beneficiaries, eroding trust and impairing effective administration.

For these reasons, a well-drafted trust should include clear provisions for the removal and replacement of a trustee. This isn't a sign of mistrust; rather, it's a practical safeguard that protects the long-term success of the trust. Without a removal mechanism, beneficiaries may be forced to pursue costly and time-consuming legal action to address problems — often requiring court intervention and substantial proof of misconduct or incapacity.

Including removal provisions offers flexibility and efficiency. These clauses can outline specific triggers for removal, such as failure to perform duties, breach of fiduciary responsibility or prolonged incapacity. They may also allow for removal without cause, provided certain conditions are met, such as agreement among a majority of beneficiaries or approval by a designated trust protector. This added layer of oversight helps ensure that the trustee remains aligned with the trust's objectives.

Additionally, removal provisions can help preserve family harmony. Trust disputes can quickly become personal and contentious, particularly when a trustee is also a family member. A predefined, objective process reduces ambiguity and emotional escalation, offering a structured way to resolve concerns.