

RCW 11.104B.050 Fiduciary duties—General principles. (1) In making an allocation or determination or exercising discretion under this chapter, a fiduciary shall:

(a) Act in good faith, based on what is fair and reasonable to all beneficiaries;

(b) Administer a trust or estate impartially, except to the extent the terms of the trust manifest an intent that the fiduciary shall or may favor one or more beneficiaries;

(c) Administer the trust or estate in accordance with the terms of the trust, even if there is a different provision in this chapter; and

(d) Administer the trust or estate in accordance with this chapter, except to the extent the terms of the trust provide otherwise or authorize the fiduciary to determine otherwise.

(2) A fiduciary's allocation, determination, or exercise of discretion under this chapter is presumed to be fair and reasonable to all beneficiaries. A fiduciary may exercise a discretionary power of administration given to the fiduciary by the terms of the trust, and an exercise of the power which produces a result different from a result required or permitted by this chapter does not create an inference that the fiduciary abused the fiduciary's discretion.

(3) A fiduciary shall:

(a) Add a receipt to principal, to the extent neither the terms of the trust nor this chapter allocates the receipt between income and principal; and

(b) Charge a disbursement to principal, to the extent neither the terms of the trust nor this chapter allocates the disbursement between income and principal.

(4) A fiduciary may exercise the power to adjust under RCW 11.104B.070, convert an income trust to a unitrust under RCW 11.104B.120(1)(a), change the percentage or method used to calculate a unitrust amount under RCW 11.104B.120(1)(b), or convert a unitrust to an income trust under RCW 11.104B.120(1)(c), if the fiduciary determines the exercise of the power is necessary to administer the trust or estate in accordance with the requirements of subsection (1) of this section.

(5) Factors the fiduciary must consider in making the determination under subsection (4) of this section include:

(a) The terms of the trust;

(b) The nature, distribution standards, and expected duration of the trust;

(c) The effect of the allocation rules, including specific adjustments between income and principal, under Articles 4 through 7 of this chapter;

(d) The desirability of liquidity and regularity of income;

(e) The desirability of the preservation and appreciation of principal;

(f) The extent to which an asset is used or may be used by a beneficiary;

(g) The increase or decrease in the value of principal assets, reasonably determined by the fiduciary;

(h) Whether and to what extent the terms of the trust give the fiduciary power to accumulate income or invade principal or prohibit the fiduciary from accumulating income or invading principal;

(i) The extent to which the fiduciary has accumulated income or invaded principal in preceding accounting periods;

(j) The effect of current and reasonably expected economic conditions; and

(k) The reasonably expected tax consequences of the exercise of the power. [2021 c 140 § 2201.]