



So Now You Are A Personal Representative

A personal representative is an individual appointed by the Court to administer a probate estate. A personal representative may be referred to as an “executor” in some states. If the deceased person (“decedent”) had a will, they may have nominated a personal representative in the document. If the decedent died without a will, the process to be appointed as personal representative is governed by Colorado law.

What is the Purpose of a Personal Representative?

A personal representative carries out the wishes of the decedent regarding distribution of their assets and completes the administration of the estate. Assets are distributed either according to the terms of the decedent’s will, or by Colorado law.

What Can You Do Prior to Your Appointment?

If you are nominated as personal representative in a will, you have the authority, before you are appointed by the Court, to carry out the decedent’s written instructions for their body, funeral, and burial arrangements. You may begin to protect and safeguard the deceased’s assets. Do not remove or distribute assets before opening the estate—**do not sell, give away, or otherwise dispose of any of the decedent’s property at this point in time.** These activities cannot be carried out until after an estate has been opened and the Court has appointed you as personal representative.

What are Your Duties and Responsibilities as a Personal Representative?

A personal representative has the following general duties:

- Duty of impartiality: You must treat all persons with an interest in the estate the same, and not favor certain parties over others.
- Duty of undivided loyalty: You must not favor your own interests above those of the estate or other parties.
- Duty to administer the estate with care and in accordance with Colorado law.

A personal representative has the following general responsibilities:

- Collecting and inventorying the assets of the estate;
- Managing the assets of the estate during the probate process;
- Paying bills, creditors and taxes;
- Making distributions to the heirs or devisees of the estate; and
- Closing the estate after your responsibilities have been completed.

As personal representative, you’re responsible for managing the estate. If you have any questions about your duties and re-

sponsibilities as a personal representative, you should consult an attorney.

How Do You Carry Out Your Responsibilities?

Once you have been appointed as personal representative, the Court will issue you Letters Testamentary or Letters of Administration that prove that you have authority to act on behalf of the estate. When you are administering the estate, banks, insurance companies and other third parties may want to see your Letters before allowing you to conduct estate business.

After your appointment as personal representative, you should:

- Prepare the Information of Appointment form and send it to all heirs and devisees within 30 days of your appointment. You must also file this document with the Court.
- Open an estate bank account to hold the estate’s funds. You will first need to obtain an EIN (tax ID number) from the Internal Revenue Service (IRS) for the estate.
- **Set up an estate accounting system at the beginning of your administration.** For your protection, keep records of all cash and other financial transactions of the estate. Beneficiaries are entitled to a written accounting of all estate transactions.
- Prepare a written inventory of the estate’s assets within three months of appointment. You may need to file the inventory with the Court and provide copies to heirs and devisees. Maintain all documentation to support the values reported in the inventory.
- Arrange for insurance coverage of estate assets to protect them against damage or loss.
- Sell or distribute real estate only with a “Personal Representative’s Deed.”
- Pay expenses, creditors, taxes and beneficiary distributions from the estate in the order of priority listed in Colorado statute.
- Investigate whether there are any outstanding promissory notes or other obligations that are owed to the decedent.

How Do You Deal with the Estate’s Creditors?

Probate provides a specific process for appropriately dealing with creditors. If you are faced with multiple creditors and are unsure of how to proceed, an attorney can advise you.

- Creditors normally have one year from date of death to present a claim to be paid. Publishing a Notice to Creditors in the newspaper may reduce the creditors’ period to four months from date of first publication.

- A claim may be mailed to you or filed with the Court. No specific form is required: a bill that comes in the mail can be a properly presented claim if it provides sufficient detail. If you have questions about a claim's validity, you may wish to consult an attorney.
- If a valid claim is properly presented, it will need to be paid, in priority order, if there are sufficient assets in the estate.
- If you disagree with a claim, you have a limited period of time to disallow the claim in Court. If you disallow the claim, the creditor has 63 days to challenge the disallowance.

Determine all of the estate's creditors and confirm the creditors' period has ended before paying any creditor claims.

Are There Any Protections for the Decedent's Family?

Colorado law provides protections for a surviving spouse and minor and dependent children. If you have any questions about a spouse or surviving child's rights, consult with an attorney.

Can You Be Compensated for Your Work as Personal Representative?

Colorado law allows a personal representative to receive reasonable compensation from the estate for their work as personal representative. If you decide to seek compensation, keep a detailed record of tasks performed and the time spent.

In general, if you or others pay estate expenses from your personal funds, the estate may reimburse you if there are sufficient funds.

How and When Can You Close the Estate?

The estate does not terminate automatically. Just as you chose how to open the estate, you may choose to close informally or formally. In addition, a court may close an estate after three years of inactivity. Please see the Probate in Colorado brochure for more information on these options. Again, an attorney can advise on which type of closing may be the best choice for a particular estate.

When Can You Be Found Liable for Your Actions as Personal Representative?

- You fail to exercise reasonable care and skill in managing the property of the estate.
- You do something you should not have done, such as mis-handle estate funds, fail to follow the will or breach your duties as personal representative.
- You fail to prudently invest or preserve the assets of the estate, which causes a loss to the beneficiaries.

Additional Resources

- *Probate in Colorado* brochure
- *What to Do When Someone Dies* brochure
- *Colorado Senior Law Handbook*
- Colorado courts website for Judicial Department Forms and Instructions

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