

386.452 Fiduciary duties.

- (1) In allocating receipts and disbursements to or between principal and income, and with respect to any matter within the scope of Articles 2 and 3 of the Kentucky Principal and Income Act, a fiduciary:
 - (a) Shall administer a trust or estate in accordance with the terms of the trust or the will, even if there is a different provision in KRS 386.450 to 386.504;
 - (b) May administer a trust or estate by the exercise of a discretionary power of administration given to the fiduciary by the terms of the trust or the will, even if the exercise of the power produces a result different from a result required or permitted by KRS 386.450 to 386.504;
 - (c) Shall administer a trust or estate in accordance with KRS 386.450 to 386.504 if the terms of the trust or the will do not contain a different provision or do not give the fiduciary a discretionary power of administration; and
 - (d) Shall add a receipt or charge a disbursement to principal to the extent that neither the terms of the trust nor KRS 386.450 to 386.504 provide a rule for allocating the receipt or disbursement to or between principal and income.
- (2) In exercising the power to adjust under KRS 386.454(2) or (3) or a discretionary power of administration regarding a matter within the scope of KRS 386.450 to 386.504, whether granted by the terms of a trust, a will, or KRS 386.450 to 386.504, a fiduciary shall administer a trust or estate impartially, based on what is fair and reasonable to all of the beneficiaries, except to the extent that the terms of the trust or the will clearly manifest a contrary intention. Except as provided in this subsection, determination in accordance with KRS 386.450 to 386.504 shall be presumed to be fair and reasonable to all of the beneficiaries.

Effective: January 1, 2005

History: Created 2004 Ky. Acts ch. 158, sec. 2, effective January 1, 2005.