

# Public Administrator's Office

## Frequently Asked Questions

### **Q: Who may act as a personal representative/administrator?**

When probate is required, a personal representative must be appointed by the court. In cases where there is no named executor, or a person passes away without a Will, the court may appoint the closest relative of the decedent willing and able to act, in the following order of priority:

- a. Surviving spouse
- b. Children
- c. Grandchildren
- d. Other issue
- e. Parents
- f. Brothers and sisters
- g. Issue of brothers and sisters
- h. Grandparents
- i. Issue of grandparents
- j. Children of predeceased spouse
- k. Other issue of a predeceased spouse
- l. Other next of kin
- m. Parents of a predeceased spouse
- n. Issue of parents of a predeceased spouse
- o. Conservator or guardian
- p. Public Administrator
- q. Creditors
- r. Any other person

### **Q: When is an estate handled by the Public Administrator?**

The most common circumstances under which the Public Administrator may be appointed include:

- When no executor or administrator has been appointed and there is property at risk of waste, loss, or misappropriation.
- When proceedings are contested or assets are at risk.
- When an heir nominates the Public Administrator or the Will names the Public Administrator as executor.
- When there are no known heirs of the estate.
- When the named executor fails to act and no person with a higher priority is willing or able to act.

### **Q: What is an estate?**

An estate is any asset owned by an individual that has value. Estates may consist of cash, personal property, real property, or any combination thereof. Whatever the value of a

decedent's estate, it must be properly distributed pursuant to the provisions of the California Probate Code.

**Q: Are all estates handled the same?**

Pursuant to California Probate Code, there are three basic categories of estates determined by the value of assets.

1. Indigent Estates

Indigent estates are without sufficient funds to pay for the final disposition of the decedent's remains, and no heirs to make these arrangements. When assets of an estate are insufficient to pay for disposition, law requires disposition be handled by relatives of the decedent. If there are no relatives, or relatives are without sufficient funds to pay for final disposition of the decedent's remains, the County assumes that responsibility. (Please see link to the Coroner's website for indigent burial.)

2. Summary Estates

There are two sub-categories of Summary estates determined by the value of assets.

- a. Estates which do not exceed \$50,000 in value. In many instances, the Public Administrator may act without court authorization to marshal and distribute the assets of these estates pursuant to the Probate Code.
- b. Estates valued between \$50,000.01 but in no case exceed \$150,000 in value. The Public Administrator may act after authority to summarily dispose of a small estate if approved by the court. Certain administrative procedures, such as the sale of real property, continue to be subject to additional court approval.

3. Formal Probate Estates

These are estates which exceed \$150,000 in value. A Formal estate is handled by the Public Administrator under the supervision of the Superior Court. The Public Administrator files a petition for appointment and Letters of Administration. Procedures subject to court approval include: sale of real property, paying expenses of administration, and distribution of assets. Before an estate can be closed, a complete record of accounting is prepared and submitted to the court to document all activities before the Public Administrator is discharged.

**Q: What are the basic responsibilities of the Public Administrator?**

It is the Public Administrator's duty to collect and manage assets, keep records, pay expenses and debts, ensure taxes are paid, and distribute estate assets according to a Will if found, or the laws of intestacy. The Public Administrator acts in place of the decedent and has a fiduciary duty to protect the estate.

**Q: What is the average length of time necessary to conclude estate administration?**

The length of time necessary for a particular estate is difficult to estimate. Some estates with only cash assets may be ready to close more quickly than others that include cash, stocks, and real property. Each estate case must be thoroughly investigated, heirs located, assets collected

and sold appropriately, and then a final accounting and distribution of assets must be approved by court.

Court approval is mandatory for particular actions; a hearing date is requested and then must be calendared by court personnel. Waiting for a matter to be heard in court also contributes to the length of time necessary to conclude an administration.

**Q: When will the estate be distributed?**

The length of time for a thorough investigation, appraisal and sale of personal and real properties, determination of heirship, possible tax filings, final accounting, and court hearings, are all factors which impact the length of time necessary to prepare an estate for final distribution.

When all assets have been accounted for and liquidated, expenses and debts have been paid, taxes filed, and court approval has been obtained, the estate is then ready to be closed. Upon approval of the court, estate assets will be distributed.

**Q: What fees are Public Administrators entitled to collect?**

The Public Administrator is entitled to a fee for services performed, just as are named Executors and Personal Representatives. In California the fees are set by the Probate Code and are based on the value of the estate. All fees are subject to court approval and are not paid until so approved.