

**Wills and Trusts Test Specifications  
Part A of the General Bar Examination  
(Published March 2023)**

- I. Intestate succession
  - A. Intestate estate
  - B. Rules for distributing intestate estate
    - 1. Spouse's share
    - 2. Share of other heirs
    - 3. Inheritance per stirpes
    - 4. Half-blood heirs
    - 5. Afterborn heirs
    - 6. Adopted persons and persons born out of wedlock
    - 7. Debts owed to the decedent
    - 8. Escheat
- II. Wills
  - A. Execution
    - 1. Capacity
    - 2. Requirements for witnesses
    - 3. Requirements relating to signatures
  - B. Self-proving wills
    - 1. Requirements for self-proving will

2. Effect of self-proving will
- C. Revocation
1. By writing
  2. By act
  3. Effect of subsequent marriage, divorce, birth or adoption
  4. Revival by revocation
  5. Revocation of codicil
- D. Republication of wills
1. By codicil
  2. By reexecution
- E. Devise to a trustee
- F. References to other documents or events
1. Incorporation by reference
  2. Separate writing identifying devises of tangible property
- G. Effect of fraud, duress, mistake and undue influence
- H. Will contests
1. Time for bringing will contest
  2. Penalty clauses for will contest
  3. Burdens of proof
- I. Gifts to lawyers and other disqualified persons

- III. Elective share of surviving spouse
  - A. Differences between elective estate and probate estate
  - B. Right to, and amount of, elective share
  - C. Time limit to exercise elective share
  - D. Effect of election on homestead
- IV. Pretermitted spouse and children
- V. Homestead and exempt property
- VI. Rules of construction
  - A. Intent of testator as controlling principle
    - 1. Reformation to correct mistakes
    - 2. Wills read to devise all of testator's property
  - B. Antilapse for deceased devisee
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  - D. Simultaneous death
  - E. Failure of testamentary provision
  - F. Ademption
    - 1. Nonademption of specific devises
    - 2. Changes in securities
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  - G. Decedent's killer not entitled to receive property under will

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- A. Agreements concerning succession
- B. Waiver of spousal rights
- C. Waiver of homestead rights

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- 1. Venue of probate proceedings
- 2. Proof of wills
- 3. Probate of will written in foreign language
- 4. Lost or destroyed wills
- 5. Discovery of later will
- 6. Estates of missing persons
- 7. Effect of probate
- 8. Revocation of probate

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- 1. Qualifications
- 2. Preferences in appointment
- 3. Nonresidents
- 4. Duties and powers
  - a. Possession of estate

- b. General powers and authorized transactions
  - c. Fiduciary duties and breach
  - d. Conflicts of interest
- 5. Removal
- 6. Suspension of statutes of limitation in favor of personal representative
- 7. Joint personal representatives
- 8. Individual liability of personal representative
- 9. Exculpation of personal representative
- 10. Final discharge
- C. Creditors
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  - 2. Notifying creditors
  - 3. Limitations on presentment of claims
  - 4. Payment of and objection to claims
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- D. Special provisions for distribution
  - 1. Delivery of devises and distributive shares
  - 2. Encumbered property; liability for payment
  - 3. Order in which assets abate
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  2. Standing to seek modification
- B. Non-judicial modification of irrevocable trust
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  2. Duty of loyalty
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4. Duty of prudent administration
  5. Trust accountings and duty to keep beneficiaries informed
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  7. Trustee's duty to settlor of revocable trust
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- C. Trustee's compensation and reimbursement for trust expenses
- D. Breach of trust
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  2. Damages for breach of trust
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