



Ardent Community Trust of Pennsylvania

TRUST POLICIES

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ACT

The Ardent Community Trust of Pennsylvania (ACT) has an extensive history in administering First Party, Third Party and Pooled Special Needs Trusts. Since 2001 when ACT was established, our trust administrators have endeavored to enhance the lives of beneficiaries while protecting their governmental benefits.

From the beginning the vision of ACT was to provide individuals and their families a charitable organization which understood their issues, shared the vision of independence and worked to provide a safe vehicle to preserve resources, safeguard individual's governmental benefits and provide families the security of knowing their loved ones financial interests would be cared for by a compassionate charity.

The following are the policies ACT follows in an effort to provide beneficiaries and those who care for them the security and peace of mind they desire in selecting a Trust.

ACT's Mission: To serve as trustee for a variety of special needs trusts with integrity and in a manner that exceeds best-practice fiduciary standards, protecting public benefits and financial assets for the beneficiary.

Communicating the Mission:

To enhance the life and provide greater peace of mind to beneficiaries, their families and others responsible for their welfare, The Arc Community Trust of Pennsylvania's mission is to serve as trustee for a variety of special needs trusts with integrity and in a manner that exceeds best-practice fiduciary standards, protecting public benefits and financial assets for the beneficiary.

Charitable Status

ACT is a qualified charitable entity by the Internal Revenue Service under Section 501(c)(3) of the Internal Revenue Code.

Adherence to ACT Bylaws

The policies provided within this document are subject to the Bylaws of The Arc Community Trust of Pennsylvania (ACT). Within ACT's Bylaws is a committee structure and governance directives as well as the requirement for ACT to retain the appropriate agency insurances as well as directors and officers insurances.

ACT Legal Counsel

In effort to identify, measure, monitor, and control the legal risks inherent in the trust business, ACT will select and retain competent legal counsel, either in-house or external. Accounts considered for acceptance that involve pending or threatened litigation, complex or unusual documentation, or ambiguous language will be reviewed by counsel.

OVERVIEW OF POLICY

While trustees are not expected to guarantee perfect results, trustees may be required by courts to demonstrate that they acted in good faith, in accordance with the trust's provisions and purposes and the interests of the beneficiaries, and in accordance with applicable law. Some of the duties and powers of trustees are set forth in PA Uniform Trust Act at Section 7771 et seq., including the duties of: loyalty; impartiality; prudent administration; incurring only reasonable costs; exercising such skill or expertise as trustee has or represents itself to have; exercising reasonable care, skill and caution in delegating duties and powers; controlling and protecting trust property; record keeping and identification of trust property; enforcement and defense of claims; duty to inform and report; and exercising discretionary powers in good faith. To demonstrate compliance with duties, particularly with respect to the good-faith exercise of discretionary powers, ACT may be required to produce records that support ACT's decisions.

Accordingly, ACT has developed policies, procedures and appropriate documentation that substantiate the Trustee's careful, rational, skillful, and impartial decision-making and communicate ACT's understanding of its duties and of its accountability to beneficiaries and creditors of the trust as periodically overseen by the courts.

ACT is governed by a Board of Directors which is composed of a group of working and retired volunteer professionals and disabilities stakeholders who are responsible for overseeing all aspects of the operations of ACT, including:

- Overall stewardship of the organization's charitable mission
- Responsibility for the prudent investment of assets
- Due diligence on all donations to and all grants from ACT
- Review and approval of contractual arrangements unless discharged to a committee or Executive Director
- Making policies and procedures designed to ensure that ACT is in compliance with rules and regulations affecting tax-exempt charitable organizations and SNT administration

The Board of Directors is responsible for the proper exercise of fiduciary powers by ACT. Matters pertinent thereto, including the determination of policies, the investment and disposition of property held in a fiduciary capacity, and the direction and review of the actions of all officers, employees and committees utilized by the association in the exercise of its fiduciary powers are the responsibility of the board. In discharging this responsibility, the Board of Directors may assign, by action duly entered in the minutes, the administration of such of ACT's trust powers as it may consider proper to assign to such director, officer, employee, or committee as it may designate.

Only through its written records can the Board demonstrate that it has satisfactorily exercised its authority and responsibility. Consequently, the minutes of the Board should reflect discussions and decisions reached regarding significant trust related matters. Although the Board should review information regarding significant ACT activities, summaries of such information are acceptable. However, detailed reports or committee minutes should be available to the Board upon request.

THE TRUSTEE'S BASIC DUTIES

The duties and responsibilities of a trustee of a special needs trust include the following:

- Avoid any activity that conflicts with the purpose of the trust—which is to enhance the quality of life of the beneficiary.
- Spend money or refrain from doing so, in order to further the Trusts purposes.
- Respond to the beneficiary's personal needs for goods and services that aren't covered by SSI or Medicaid.
- Keep up with SSI and Medicaid income and resource rules so that the trustee's spending doesn't affect the beneficiary's eligibility for SSI and Medicaid.
- Invest and manage trust property following the terms of the trust and state law.
- Comply with legal requirements, including notice and provision of information to the beneficiary, Power of Attorney, Guardian or legally appointed agent.
- Work together with the beneficiary, the beneficiary's guardian, if the court has appointed one.
- Keep accurate records, prepare reports that the SSI and Medicaid programs require, and file necessary federal and state tax returns.
- Terminate the trust, if circumstances warrant doing so.
- Manage or distribute trust property after the beneficiary dies or the trust is terminated.

Competence

- ACT will follow the terms of the trust instrument and applicable law.
- ACT will hire competent staff and provide staff with ongoing training.
- Staff should possess or know where to obtain knowledge of trust laws specific to the applicable state, Medicaid laws and regulations specific to the applicable state; Social Security laws and regulations; HUD Section 8 laws and regulations; laws pertaining to other major programs; and law changes.
- Staff should possess or know where to obtain knowledge of the population served and receive ongoing training regarding the population served and changes in disability services.
- ACT will conduct periodic evaluations of staff.
- ACT will not make a warranty of eligibility for public benefits.
- ACT, with permission from the beneficiary or that person's representative as applicable, should provide public benefits authorities with an individual financial accounting upon request to avoid public benefits disqualification

Personnel Policy

ACT's personnel policy provides detail on qualifications of personnel, organizational structure, employee ethics, administration, and employee benefits. A code of ethical standards covers such matters as: acceptance of gratuities, gifts, favors, and bequests; acceptance of loans from fiduciaries, beneficiaries, customers, or agents; disposition of fees earned by employees for personal services rendered in the performance of fiduciary duties; employees exerting influence on fiduciary customers for personal gain; and employees maintaining confidentiality of ACT's fiduciary relationships.

DISQUALIFY ACT FROM ACCEPTING A TRUST

ACT may refuse appointment as trustee, resign as trustee; name a disinterested co-trustee or other fiduciary to make a decision, make application to a Court for instructions or undertake trust modification as appropriate. If a new Trust contains any of the below items, the Trust File and all its content is to be presented to the Executive Director for review and decision on request for amendment, acceptance or denial.

1. **Undue restrictions on use of principal;** if there are restrictions on principal, seek provisions in the document allowing trustee, to make an otherwise allowable disbursement or distribution, to pay, from principal:
 - a) lawyer, tax prep, brokerage and investment management, trustee fees, fiduciary income taxes, case management costs and fees, and maintenance, repair and taxes for real estate owned by the trust; and
 - b) Distributions for beneficiary's income taxes and tax preparation costs,
 - c) Don't allow provisions that deny the trustee the right to use unitrust or a power to adjust between income and principal.
2. **Requirements to purchase or hold certain assets** (a single stock or real estate) or other investment restrictions.
3. **Requirements to meet with beneficiary on a regular schedule**
4. **Restrictions on fees of trustees or their agents** (investment firms) or directions to charge those funds to a sources other than the trust (Language to be used: "Trustee shall charge fees in accordance with its schedule of fees as may be amended from time to time.")
5. **Appointment of co-trustees** (except where the co-trustees' powers are limited to approving or disapproving distributions, not disbursements, and not investments.)
6. **Requirements to determine whether there are legal claims or liens, or the duty to find all entitlements to which the beneficiary is entitled.**
7. **Unique Language likely to create issues with SS or DHS.** (e.g., support, welfare or maintenance)
8. References to **Attachments or Schedules that do not exist**, or to additions of funds that are not included with the documents proposed to be signed.
9. References to **specific items that the trustee is not allowed to purchase** from the trust.
10. Trusts that name **no remainder beneficiary**.
11. Trusts where **no trust information sheet, or no photo identification, or no W-9**, are provided with respect to the beneficiary.
12. Trusts having assets that would better be disposed of through the use of ABLE accounts, irrevocable burial trusts, and purchase of exempt assets desired by the prospective beneficiary.
As of 2019, most funds of beneficiaries who were disabled prior to age 26 and remain disabled, which funds are not in excess of \$15,000 may best disposed of in a manner other than through addition to a Self-Funded special needs trust.
13. **Self-Funded Trusts for beneficiaries who are not able to prove that they have a disability** entitling them to SSI, SSDI, or MA.
14. **Self-funded trusts for beneficiaries who are 65 years of age or older** (pooled trusts can receive such funds, but not generally without ACT's reliance on ACT's legal counsel due to payback requirements for such a transfer without consideration).
15. Trusts where there is an expectation that the trustee **will hold, purchase, or maintain real estate or particular investments.**

Internal Operation and Financial Integrity

Trust Creation Transparency

- At the initial meeting with the beneficiary and/or their legal representative, ACT will disclose the operational features of its Trusts to set expectations of how the Trust may assist the beneficiary. ACT will provide information related to trust irrevocability, sole benefit restrictions, in-kind support and maintenance restrictions, Trustee discretion, and restrictions on direct payments to beneficiaries.
- ACT will provide beneficiaries or their legal representative who enter the pooled trust, the details of how remaining funds are distributed upon the beneficiary's death, including the retention of remaining funds by the organization pursuant to 42 USC 1396p (d)(4)(C).
- The beneficiary or that person's representative as applicable will be informed of the typical time frame for processing distributions.

Documentation

Examples of decisions that should be thoroughly documented include: (a) distribution decisions; (b) decisions that set investment policy; (c) initiation or termination of investments and/or the hiring and firing of investment managers/funds; (d) principal and income allocations; (e) verbal communications with beneficiaries; and (f) decisions to hire experts or agents (investment managers, lawyers, accountants).

Generally, ACT, through engagement with beneficiaries, beneficiaries' guardians, agents under power of attorney, families, and/or advocates, shall seek and record information relating to the life circumstances, entitlements, and financial needs of beneficiaries of its trusts through the use of interviews, client information forms, budgeting process, and/or other means as may be developed from time to time.

ACT Staff will utilize the appropriate data management system and Trust administrative platform to track beneficiary information, disbursement requests and legal as well as informal trust correspondence and updates. The data and forms collected will follow the document retention, privacy and destruction policy.

Trust Accountings

Informal individual trust accountings will take place every other year. Formal trust accountings will take place upon court request and/or at the termination of the trust.

Audit

ACT will retain an independent firm to conduct a formal annual audit of the financial operations. ACT will complete and annually submit the IRS 990. The Board of Directors will approve both the financial audit as well as the formal 990. ACT will conduct an internal audit of Trust activity and Information Technology (IT) security.

Trust Statements

ACT will provide or provide access to, trust statements of activities including distributions and investment activity. Statements will be provided monthly unless otherwise stipulated in the Trust document or by request of the beneficiary or their legal representative.

Trust Funding Issues

- **Roth IRA, 401k or 403b Investments**

An individual may withdraw money from their IRA and place it in the trust. They must pay appropriate taxes on withdrawals from a traditional IRA prior to placement into the Trust. The IRS generally waives the 10 percent penalty for early withdrawals -- before age 59 1/2 -- if the Trust client is disabled.

- **Deposits for Older Beneficiaries**

In accordance with current Federal law, **no contributions of cash or other assets** shall be accepted on behalf of a beneficiary of a First Party Special Needs Trust who has attained age 65, regardless of the person or entity making the contribution. Contributions to Pooled Special Needs Trusts on behalf of a beneficiary who has attained age 65 will be accepted subject to written notification to the person or entity making the contribution that the contribution may subject the beneficiary to a penalty period if they intend to apply for Medical Assistance Nursing Home Care benefit. Notification must be maintained in the trust file.

- **Other Property**

Tangible personal property such as jewelry, coins, or art, unmarketable interests in closely held businesses, and other unusual assets will **not be accepted** as an asset owned by the trust. Any request to add tangible personal assets into the trust must be approved by management and by the Board of Directors prior to ACT taking possession of the property.

- **Real Estate**

In general, ACT does not consider the acquisition and improvement of real estate ("RE") to be appropriate expenses to incur for trusts administered by ACT. For exceptional circumstances involving those beneficiaries who nonetheless desire that a trust pay for the acquisition and/or improvement of RE, ACT shall maintain RE procedures to protect beneficiaries from unnecessary risks and expenses inherent in the acquisition and improvement of RE.

Document Retention and Destruction Policy

The ACT Document Retention and Destruction Policy provides for the systematic review, retention and destruction of documents received or created by the Arc Community Trust of Pennsylvania ("ACT" or "the Organization") in connection with the transaction of ACT business. This policy covers all records and documents, regardless of physical form (including electronic documents), contains guidelines for how long certain documents should be kept and how records should be destroyed.

ACT will retain all documentation received regarding a Trust for the duration of the Trust. ACT follows the document retention procedures outlined below following the complete and final disbursement pursuant to court adjudication of trust accounting. Documents that are not listed, but are substantially similar to those listed in this schedule, will be retained for the appropriate length of time.

Trust Records

Original Trust	Permanent
Joinder Agreement	Permanent
Amendments to Trust	Permanent
Client Personal Information	7 years
Correspondence	7 years
Legal Documentation	Permanent
Tax Information	7 years
Disbursement Requests	7 years
Check Documents	7 years
Investment History	7 years
Trust Closing Information	Permanent
ACT File Notes	7 years

- **Electronic Documents and Records**

Electronic documents will be retained as if they were paper documents. Therefore, any electronic files, including records of donations made online, that fall into one of the document types on the above schedule will be maintained for the appropriate amount of time. If a user has sufficient reason to keep an email message, the message should either be printed in hard copy and kept in the appropriate file or moved to an “archive” computer file folder. Backup and recovery methods will be tested on a regular basis.

- **Emergency Planning**

ACT’s records will be stored in a safe, secure and accessible manner. Electronic documents and financial files that are essential to keeping the Organization operating in an emergency will be duplicated or backed up at least every week and maintained off site.

- **Document Destruction**

The Organization’s Executive Director with input from the Controller, is responsible for the ongoing process of identifying its records which have met the required retention period and overseeing their destruction. Destruction of financial and personnel-related documents will be accomplished by shredding. Document destruction in a matter will be suspended immediately, upon any indication of an official investigation or when a lawsuit is filed or appears imminent. Destruction will be reinstated upon conclusion of the investigation.

- **Compliance**

The Controller will periodically review these procedures with legal counsel or the organization’s certified public accountant to ensure that they are in compliance with new or revised regulations.

Privacy Policy

ACT is committed to safeguarding each beneficiary’s personal information throughout the trust relationship. When the trust terminates, the financial and personal information will remain confidential.

ACT collects certain confidential information from settlors, beneficiaries and other stakeholders during initiation of the trust relationship as well as on an ongoing basis. This information can include, but is

not limited to, contact information, Social Security numbers, insurance policy information, financial records and medical records.

ACT maintains physical custody of confidential information at its office, or at its secure offsite storage location. Any documentation containing confidential information is shredded before being discarded. Information stored electronically is kept on a secure server. Employees are prohibited from using or disseminating confidential information except as necessary for the performance of his or her job in accordance with ACT's Confidentiality Policy.

ACT employs outside investment advisors and shares confidential information with them for the purpose of maintaining accounts and processing transactions. ACT shares confidential information with government agencies that administer benefit programs as required by law. ACT also shares confidential information in response to court orders, legal investigations, or otherwise as required by law. ACT may share confidential information with unaffiliated entities upon express or implied authorization by a beneficiary or a responsible party. ACT may share information stripped of any identifiers for the purpose of statistical collection or in response to appropriate agency requests. ACT does not share any confidential information for the purpose of marketing or offering of services or products by nonaffiliated entities.

Trust Closing

Closed accounts will be reviewed by the ACT supervisor of Fiduciary Services to determine if the responsibilities under the instrument have been properly discharged and account administration was in accordance with ACT policies and procedures and in accordance to the trust document.

Distribution from Beneficiaries Trust Account

Distributions

ACT Trustee has absolute discretion over distributions, so the beneficiary cannot have a legal right to force a distribution for a trust. ACT will not take retention by the organization into consideration when making distributions.

All requests exceeding \$15,000.00 must be approved by the Board President of ACT or the assigned board member in the President's absence. In addition, items deemed to be extraordinary in nature such as vehicles, technological devices, must be approved through court order or by the school district if under an educational trust agreement.

Real estate cannot exceed 20% of the Trust Corpus without Board approval. A purchase of such an item requires the ACT to receive board and Court Approval.

A trust with real estate will assume the property management fee as expressed in the current fee schedule. Any payment by the Trustee of the expenses for the real property, such as taxes, rent, heat, gas, water, electricity, mortgage, garbage removal and sewer would affect the beneficiary's eligibility for benefits as they would be considered income to the beneficiary. Home improvements or renovations are not considered income, but may require approval of DHS and/or a lien on the property for DHS.

Home Related Expenses

The Trustee's purchase of cable T.V. or satellite T.V. services, telephone service, internet service, newspaper and other news related magazines and periodicals will not impact the beneficiary's eligibility for benefits. The Trustees purchase of computers, computer software and any upgrades for the computer are also permissible expenditures. Household furnishings and furniture can be purchased by the trust;

Acquisition of Significant Assets

The purchase of significant assets such as a house or car, and other major items, e.g. furniture must meet the special needs of the Beneficiary. The trust agreement may require additional steps be taken before the purchase can be made, such as petitioning a court for consent. Decisions regarding expending monies from the trust principal must be made prudently and be justifiable from a budgetary perspective, ensuring the purchase is for the sole benefit of the beneficiary and where the beneficiary has been adjudicated by a court to be incapacitated, payments from principal generally require court approval.

For large purchases requiring title, such as a car or house, the trust or an approved designee must be the title holder and approved by the ACT board. Court approval on large purchases may be required, as may a lien on the trust in favor of DHS.

Automobile

Under SSI rules, the person with disabilities is only entitled to one vehicle. The special needs trust can purchase one vehicle but must follow the policy for acquiring a significant asset. If the individual is disabled and a handicap vehicle is required, then \$50,000 – \$75,000 might be appropriate. **A purchase of such an item from a First-Party Trust generally requires the ACT to receive Court Approval where the beneficiary is incapacitated or is a minor.** The Trust must maintain sufficient monies to provide for the other needs of the trust beneficiary over her lifetime.

Travel/Entertainment

Unless trust, SSA or other government rule provides otherwise: The Trustees can make expenditures from a First-Party Trust generally for the travel and entertainment expenses of the beneficiary as long as the funds are not expending too rapidly. If the beneficiary is unable to travel alone, distributions from the SNT for **a travel companion are permitted (one person possibly 2)**. In order for the SNT to pay for the 2nd travel companion, documentation such as a letter from the beneficiary's doctor stating the necessity of a travel companion may be required. SI 01120.201F.3.b. SSA does not count ISM a beneficiary receives during a temporary absence (such as a vacation) from their permanent residence. However, if the trust pays shelter expenses for the beneficiary's permanent residence, ISM would still be reported to SSA for the permanent residence. SI 00835.040C.2; ACT can approve reasonable expenses of travel for a member of a family to visit a beneficiary to provide needed care for the beneficiary where the request indicates that the beneficiary needs the family member to be present to provide the care.

Burial Arrangements

Irrevocable **Pre-Paid funeral and burial arrangements** can be purchased by the trust for the benefit of the beneficiary. The arrangements should not be owned by the beneficiary as it could impact SSI benefits; SI 01120.201H.2.b; and Medicaid benefits.

Professional Fees

Legal and Accounting Fees can be paid by the Trustee without impacting the beneficiary's eligibility for benefits. Fees can be taken from the trust unless otherwise stipulated by the Trust Document.

Technology

A trust administrator will review a beneficiary/student's file to ensure that the trust has not expired, determine that appropriate funds are available and review the trust document and/ or settlement agreement in order to ensure that a computer purchase is a true legitimate and allowable expense in a SNT and legitimate educational expense for an educational trust. A computer may be defined but not limited to as a desktop, netbook, notebook or laptop. There are times when a certain monetary amount for a computer purchase will be specified in a trust document and/or settlement agreement. Any caps/limits that are specified in trust documents and/or settlement agreements will be complied with.

The disbursement shall not exceed the balance available in the trust at any given time. It is suggested that the cost of a warranty also be included with the purchase. As technology is constantly changing, a trust administrator may use their discretion to disburse funds for a computer purchase once every (3) years.

Within an Educational Trust or where specified in a SNT the computer is to be purchased for the beneficiary/student with the intent to support the development of his/her full educational potential. It is intended to be used by the beneficiary/student only and is meant to be for the sole benefit of the beneficiary/student's educational needs. It is the responsibility of the beneficiary/student and/or his/her parent(s)/guardian to keep the computer safe and secure.

Clothing

The Trustee can purchase clothing for the beneficiary without affecting the beneficiary's eligibility for benefits.

Miscellaneous

The Trustee can purchase and make payment of durable medical equipment, therapy, medication, alternative treatments, tuition, books, tutoring, care management and taxes of the beneficiary. However, the beneficiary must exercise due diligence that such expenses are not effectively covered by Medicaid. A letter of denial from Medicaid may be requested before the trustee proceeds with payment.

Investment of Assets

Investments

ACT has established an Investment Policy Statement, which governs all funds that ACT administers, with the exception of burial reserves, real estate, or Medicare Set Aside arrangements. The Investment Policy Statement is promulgated and approved by the Board of Directors and shall not be amended or avoided for a Trust absent the approval thereof. The Investment Policy Statement governs trust funds whether held in an individual trust account or a pooled account. Lateral transfers to and from another similar pooled trust should not be unreasonably denied to promote choice and options for beneficiaries, as appropriate.

At the inception of an account, the Executive Director will review the information that is available and will choose an appropriate investment model in light of the circumstances as they are known at the time. Factors that must be reviewed prior to determining the appropriate investment model to apply include:

- The type of trust (educational, pooled, etc.)
- The size of the trust account and whether any additional deposits are expected
- How soon the beneficiary intends to begin using the trust assets
- The beneficiary's needs, including large anticipated purchases (home, automobile)
- The beneficiary's risk tolerance

Accounts will be reviewed periodically to confirm that the chosen investment model remains appropriate. See investment policy for detailed overview.

Fee Schedules

ACT charges a reasonable fee for trust administration and fiduciary management for all active trusts for which ACT is serving as trustee, whether ACT is acting as a sole trustee or as a co-trustee with another person or entity. ACT employs standard schedules of fees for administration of trusts and is entitled to collect the fee for trust administration regardless of the existence of a co-trustee. ACT has promulgated a fee schedule for Special Needs Trusts and for Educational Special Needs Trusts.

Legal fees incurred by ACT will not be paid by a beneficiary's account if the expense is not related to that account or prohibited by court order or the Trust document. A decision that legal fees are related to individual trust accounts should be approved by the Trust Administrator.

Review and Monitoring

The ACT Trust policy and procedure will be reviewed and monitored every year by the Executive Director. Every three years the ACT Trust policy and procedure will be formally reviewed and approved by the Executive Director and the Board of Directors