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## Getting Started!

*A guide to establishing a pooled trust account*



*Achieve with us*



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## ***About The Arc Oregon***

The Arc Oregon is a non-profit advocacy organization established in 1954 by families of children with intellectual and developmental disabilities. These families joined together to advocate for a better, more inclusive and accepting world for their children. For more than 65 years, The Arc Oregon has strived to achieve its vision of a world in which all persons have the support and opportunities they need for personal development and independence, interdependence with family and friends, and inclusion in the community. The Oregon Special Needs Trust (OSNT) serves to further that vision by offering a means of safeguarding financial security and enhancing the quality of life for any person with a disability.

The Arc Oregon is an affiliated state chapter of the national organization, The Arc United States, based in Washington, D.C., and enjoys strong partnerships within the disability community in Oregon, including its 9 local chapter affiliates.

## ***What is a Trust?***

A trust is a legal agreement whereby money is given to a person or entity to manage it on someone else's behalf. The person for whom the trust is established is called the Beneficiary.

## ***Overview of Special Needs Trusts***

Also known as a Supplemental Needs Trust, the purpose of a Special Needs Trust is to provide a means of supplemental support to enhance the quality of life for a person receiving government assistance, without jeopardizing the benefits he or she receives.

A Special Needs Trust can be a private trust for an individual, or it can be a pooled trust wherein a single "Master Trust" is used to serve many individuals. Both private and pooled trusts must be drafted so that the trust is irrevocable, and that available funds are used only for the sole benefit of the beneficiary. A pooled trust may only be established and administered by a non-profit organization.

Administration of a Special Needs Trust must follow strict guidelines set forth by state and federal agencies in order to maintain eligibility for public benefits for the beneficiary. This applies to both pooled and private trusts.



## ***About the Oregon Special Needs Trust***

The Oregon Special Needs Trust (OSNT) is a **pooled trust** in which funds are pooled for investment and trust management purposes. However, each beneficiary has his or her own sub-trust account, which is individually monitored and managed.

At The Arc Oregon, we believe that planning for the future is a critical component of caring for a loved one with a disability. The OSNT was implemented to offer families a dependable, affordable vehicle for providing financial security and an enhanced quality of life for their loved ones, while preserving the benefits they depend on in their daily lives.

After several years of research and development, which included a great deal of assistance from several other chapters of The Arc around the country, the OSNT was established in 1999. Currently, the trust has about 700 open accounts and holds over \$21 million dollars in assets.

Although the original intent of the trust was to offer a vehicle for families to provide for loved ones upon the death of parents or guardians, the trust quickly became an effective means of safeguarding money for individuals whose own resources threatened their ongoing eligibility for public benefits as well.

The OSNT is managed by the OSNT Program Manager and the Executive Director of The Arc Oregon. The OSNT Committee and the Board of Directors of The Arc Oregon provide additional oversight and guidance as needed.

### **ELIGIBILITY**

Although the mission of The Arc organization is focused on individuals with intellectual and/or developmental disabilities, the OSNT is **open to any person with a disability** according to Social Security standards.

### **BENEFITS OF THE OSNT**

There are certain advantages that the OSNT offers for beneficiaries and their families that a private trust cannot offer. Some features of the Oregon Special Needs Trust include:



- **Affordability:** With fees that are lower than typical banks and other institutions, the OSNT offers an affordable alternative to private trusts for most families and individuals. Unlike most banks that require a high minimum deposit to establish a trust account, the OSNT does not have a minimum for initial deposits. Additionally, the cost of hiring a professional trustee for a private trust is much higher than the administration fees charged by the OSNT.
- **Expertise:** Most family members or other trustees of private trusts do not understand the complicated and ever-changing rules associated with the administration of a special needs trust. The Arc assists with government reporting and assumes responsibility for staying current with all of the rules and regulations that dictate how funds can be used in order to maintain eligibility for government assistance.
- **Continuity:** Private trusts with individual family members or friends serving as trustees often lack consistency because circumstances change in the lives of the trustees, or they find it too difficult to effectively manage. The greatest benefit of having a professional trustee administering the trust is the continuity that can be achieved over a long period of time.
- **Neutrality:** As part of an independent non-profit organization, the OSNT manages sub-trust accounts with an objectivity that may not be possible when family members serve as trustees. Family dynamics and personal interests of trustees often result in difficulties when administering a private trust.
- **Advocacy:** The OSNT has a long history of advocating for and interacting with people with disabilities. In addition to our expertise in trust management, we offer insight into meeting the needs of people with disabilities and apply that knowledge and experience to the administration of each sub-trust account.

## SUITABILITY

The OSNT Program may not be appropriate for everyone. We strongly encourage all prospective beneficiaries and/or their representatives to consult with their attorneys, case managers, and/or other advisors before seeking participation in the OSNT. Although we do not endorse or refer to any particular attorney, we have included a list of attorneys in this booklet that are familiar with estate and trust planning.

Some things to consider when thinking about establishing a sub-trust account are:



- ↗ **Fees:** In addition to the enrollment fee and potential legal fees for initial enrollment, ongoing maintenance and administration fees are charged each year. This means that there may be more efficient ways to spend small amounts of money in the best interest of the qualified person.
- ↗ **Control:** Funds deposited into a trust account become the property of the Trust and all disbursement requests are approved or denied at the sole discretion of the OSNT.
- ↗ **Irrevocable:** Once a sub-trust account is established, the funds cannot be withdrawn, nor can the terms of the agreement establishing the sub-trust account be amended, altered or revoked.

The Beneficiary and his/her representatives are solely responsible for determining whether this trust meets the needs of the individual. Because our knowledge of the circumstances of any particular individual is very limited, we cannot determine if the OSNT represents the optimal solution for a person. However, if upon reviewing the enrollment materials we feel that a sub-trust account is not in the best interests of the beneficiary, we may seek further information before accepting the beneficiary's account into the trust.

### ***Types of Sub-trust accounts***

There are two types of sub-trust accounts available through the OSNT:

- ↗ Beneficiary funded (1<sup>st</sup> Party)
- ↗ Donor funded (3<sup>rd</sup> Party)

### **SAFEGUARDING BENEFITS WITH BENEFICIARY FUNDED ACCOUNTS**

These types of sub-trust accounts are also known as self-settled or first-party. Money that belongs to, or is held by, a person with a disability may be deposited into this type of sub-trust account. Money used to open a first-party sub-trust account may come from a variety of sources:

- ↗ Social Security back payment
- ↗ Injury settlement
- ↗ Inheritance left directly to the beneficiary
- ↗ Personal resources in excess of the maximum asset limit for SSI, OHP or other public benefit programs



Many people with disabilities have found the OSNT to be an effective tool for maintaining their eligibility for government benefits, while still benefiting from the money by using funds for supplemental needs that are not covered by other programs.

### **ADVANCED PLANNING WITH DONOR FUNDED ACCOUNTS**

Donor funded sub-trust accounts, also known as third-party, help families plan for the financial future of their loved one. Typically, these accounts are funded by parents or grandparents through a will, living trust, retirement account or life insurance policy.

If the account is established while the donor is alive, but won't be funded until the donor passes away, then it is called a zero-balance or unfunded account. Unfunded sub-trust accounts are charged a low annual maintenance fee and the original Joinder Agreement may be updated by the donor at any time prior to their death.

#### ***Future Planning Consultation***

Once an account is established, you may choose to schedule a FREE one-hour future planning consultation. In this consultation, the OSNT Program Manager will walk you through the various aspects of planning for the future of your loved one. You will also have the opportunity to explore and understand the tools available from The Arc US Center for Future Planning on their website [FuturePlanning.TheArc.org](http://FuturePlanning.TheArc.org)

Topics that may be included are:

- ↗ Daily routines, needs and supports
- ↗ Living arrangements
- ↗ Finances
- ↗ Medical information
- ↗ Decision-making support
- ↗ Education history
- ↗ Employment, leisure activities, behaviors, relationships

#### ***Early Enrollment***

The benefit of establishing an account prior to the donor's death, rather than having an attorney or personal representative complete the process after their death, is that we will then have the opportunity to become familiar with the beneficiary and the family's wishes for that person before stepping in at, what is likely to be, a difficult time in their life.



We develop a detailed profile on each beneficiary and ask donors to update that profile each year so that we have a better understanding of the beneficiary and a historical reference for their needs that will help us in supporting them after the donor's death.

### ***Early Funding***

Donor funded accounts may be funded prior to the donor's death; however, the donor must understand that once the money is deposited into the sub-trust account, it no longer belongs to the donor and can only be used for the benefit of the beneficiary.

### ***Multiple Donors***

Once established, multiple donors may deposit funds into a donor funded account, but only the original signer of the Joinder Agreement has any authority to change subsequent beneficiaries or authorized persons.

All deposits into a donor funded sub-trust account should be made payable to "The Arc Oregon FBO Beneficiary's name" and include the account number on the check.

### **DUAL ACCOUNTS**

Due to Medicaid payback rules, donor funds and beneficiary funds cannot be deposited into the same sub-trust account.

If a situation arises where the beneficiary has his or her own money to deposit, but only has a donor funded account established, we can assist the beneficiary in enrolling in a separate sub-trust account. Likewise, donors wanting to deposit funds for the benefit of a person who only has a beneficiary funded account will need to establish a separate donor funded account.

If a beneficiary has both types of accounts, in most cases we will issue disbursements from the beneficiary funded account first and will not access the donor funds until the beneficiary funded account is depleted.

### ***Medicaid Payback Rules***

As a result of the Omnibus Budget Reconciliation Act of 1993 (ORBA '93), any Special Needs Trust funded with a beneficiary's own money must include a provision that allows for Medicaid to recover any money paid out on behalf of the beneficiary, if there is any money left in the trust sub-trust account when the beneficiary passes away. This provision is what allows the money to be kept in the sub-trust account without being counted as an asset for the beneficiary.





Pooled trusts, such as the OSNT, are specifically allowed to retain some or all the remaining funds at the time of a beneficiary’s death. The funds may be used to assist other members of the pooled trust, or to otherwise assist individuals with disabilities in accordance with the organizations mission.

Pursuant to The Arc Oregon’s agreement with the State of Oregon, the OSNT retains 50% of first-party funds remaining in a sub-trust account at the time of the beneficiary’s death. We use this money to provide a variety of supports for other people with disabilities through a grant application process.

### **Fees**

The Arc Oregon is a non-profit organization and the fees collected through the OSNT Program help to support the important work we do with and for all Oregonians who experience disabilities.

We strive to set our fees so that the interest, dividends and other earnings from the trust’s pooled investments will cover the cost of the fees applied to each sub-trust account. This goal is designed to preserve the funds deposited for use by the sub-trust account beneficiary directly, not for paying fees. Since earnings are affected by investment market fluctuations we cannot guarantee that earnings will always completely offset the fees, but we regularly review our fee structure and financial investments in our efforts to reach that goal.

Fees are evaluated annually by the OSNT staff and committee, and any recommended changes are forwarded for approval by The Arc Oregon Board of Directors.

### **FEE SCHEDULE SUMMARY**

The following fees are effective as of January 1, 2016:

| <b>Annual Renewal Fee</b> |        | <b>Additional Fees</b> |           |
|---------------------------|--------|------------------------|-----------|
| Unfunded (Zero-balance)   | \$88   | Enrollment Fee         | \$750     |
| Under \$5,000             | \$20   | Administration Fee     | 1 %       |
| \$5,000 to \$9,999        | \$150  | Bank Fee**             | See below |
| \$10,000 to \$19,999      | \$210  | Stop Payment Fee       | \$30      |
| \$20,000 to \$34,999      | \$345  | Tax Preparation Fee    | \$40      |
| \$35,000 to \$49,999      | \$455  | Closing Fee            | \$100     |
| \$50,000 to \$74,999      | \$585  |                        |           |
| \$75,000 to \$99,999      | \$690  |                        |           |
| \$100,000 to \$199,999    | \$895  |                        |           |
| \$200,000 and over        | \$1000 |                        |           |



*\*\*Bank Fees are applied as noted below based on the balance of the entire pooled trust. As the assets in the pool increase, the fee applied to each account holder will decrease.*

*.95% on the first \$1,000,000  
.75% on the next \$2,000,000  
.55% on the next \$2,000,000  
.45% on assets over \$5,000,000*

### **ENROLLMENT FEE**

This is a one-time cost of opening the sub-trust account. This includes:

- Initial communications and meetings to determine eligibility and suitability for opening a sub-trust account.
- Completing and processing the necessary forms and documents for opening a new account with the OSNT and the Bank trustee.
- Creating a detailed beneficiary profile that will guide us in managing the sub-trust account in the best interest of each person based on their specific situation and needs.
- A comprehensive Welcome Packet mailed or hand-delivered to the beneficiary, donor, and/or Primary Authorized Representative.

### **ADMINISTRATION FEE**

The administration fee is an annual fee. It is billed to the account on a monthly basis and covers the cost of managing the account. Administration includes receiving and reviewing disbursement requests, processing disbursement checks and deposits, maintaining accurate accounting of sub-trust accounts, providing online access to sub-trust account transaction history, ensuring compliance with state and federal rules and regulations, and serving as a resource to beneficiaries and their advisors regarding the trust.

### **BANK FEE**

The bank that holds and invests the pooled trust money charges this fee on an annual basis (applied quarterly) for managing the investments in the trust (through Key Bank National Association), processing deposits, issuing disbursement checks, sending monthly sub-trust account statements, and tracking/reconciling sub-trust accounts. This fee is calculated based on the sub-trust account balance at the end of each calendar month.



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### **ANNUAL MAINTENANCE/RENEWAL FEE**

The Annual Renewal Fee is based on the balance in the sub-trust account as of December 31<sup>st</sup> of each year. This flat fee covers the cost of annual reconciliation and reporting as well as all annual account reviews and renewal.

Annual renewal fees for unfunded or zero-balance donor accounts will remain the same until the account is funded. Your rate will not change even if there is an overall rate increase on OSNT fees.

### **STOP PAYMENT FEE**

There may be a fee assessed for any disbursement check that is lost or stolen, requiring that a stop payment be placed on the check. Checks that will not be used should be marked “Void” and returned to the OSNT office to avoid the need for a stop payment. In addition, if a check submitted to the OSNT for deposit into a sub-trust account incurs a stop payment or other fee, such as an NSF fee, that fee will be collected through the sub-trust account.

### **TAX PREPARATION FEE**

This is the amount charged by the Trustee (Key Bank) to prepare individual subaccount year-end tax documents. This fee is deducted annually.

### **CLOSING FEE**

When an account is ready to be closed due to depleted funds, death or transfer, the closing fee covers final accounting tasks and paperwork needed to close the sub-trust account.

### **DISBURSEMENT FEE**

There is no fee for disbursement requests.

### ***Return on Investments***

The investment policy of the OSNT is to earn returns on investments necessary to cover the costs of maintaining a sub-trust account and to protect the funds deposited by donors and beneficiaries from significant market losses. The OSNT Program Manager and Committee work closely with our professional investment manager to meet this goal through regular review and adjustments to investments as needed to account for changes in the market.



All earnings from the pooled trust are distributed into individual accounts on a monthly basis.

## **Taxes**

All sub-trust accounts are subject to taxation for all investment income earned through interest, dividends and market gains and losses incurred in that calendar year.

Each year the Trustee will prepare appropriate tax forms and forward those forms to the beneficiary or his or her authorized representative.

Beneficiaries and/or their personal representatives are responsible for filing the appropriate state and federal tax returns. The Arc Oregon cannot give financial or legal advice and recommends that all tax related questions be directed to an attorney or qualified tax preparer.

## **Establishing and Funding a Trust**

The enrollment process for a first-party or a third-party sub-trust account is similar, but extra steps may be needed if a beneficiary is funding his or her own sub-trust account and is not financially capable. Please see the *Court Order* section on page 15 for more information in that area.

We are here to help and would be happy to assist you at any point during the enrollment process.

### **STEP 1 – GATHER SUPPORTING DOCUMENTATION**

In order to establish eligibility and suitability for participation in the trust program, the following documents are required:

- ↗ Verification of benefits for any government assistance programs for which the Beneficiary is eligible
- ↗ Most current Individual Support Plan (ISP) or Treatment Plan
- ↗ Copy of picture ID or birth certificate of the beneficiary
- ↗ Confirmation/documentation of the source of funds for deposit.

The beneficiary's case manager, services coordinator, or personal agent will most likely have the documentation required to confirm eligibility for public benefit programs.

Other documents may be needed depending on the type of account being established, including:



- ↗ Guardian and/or Conservator documentation
- ↗ Power of Attorney
- ↗ Court Order

To assist you in determining what documents are needed, we have included an **Application Checklist** at the end of this booklet.

## **STEP 2 – COMPLETE THE JOINDER AGREEMENT**

The **Joinder Agreement** is a required legal document that details the terms of establishing the sub-trust account. The Joinder Agreement must be completed, signed and initialed in all the designated areas, and notarized. Incomplete Joinders will be returned to the submitter and will need to be resubmitted once complete.

### ***Acceptable Signatures on Joinder Agreement***

Only the Beneficiary (if financially capable), a **parent, grandparent, guardian** or **court appointed conservator** may sign the Joinder Agreement.

A **Power of Attorney** may be authorized to sign the Joinder Agreement and fund the account if the Power of Attorney explicitly gives the authority to do so.

Representative Payees or caregivers may NOT sign a Joinder Agreement on behalf of a beneficiary unless authorized to do so through a court order.

## **STEP 3 – SUBMIT APPLICATION PACKAGE WITH DEPOSIT**

To facilitate a quick and efficient approval process, all documents should be submitted in a single packet to the OSNT office.

- ↗ Only **ORIGINAL** Joinder Agreements will be accepted.
- ↗ Enrollment fee must be included, payable to “The Arc Oregon”.
- ↗ Check for initial deposit, if being funded immediately, made payable to “Oregon Special Needs Trust FBO beneficiary’s name”.

Although you may submit the enrollment materials by mail, the OSNT Program Manager would prefer to meet with you in person to review all the materials and review the trust program with you and your family and/or advisors when you are ready to submit your application packet.

Please contact our office when you are ready to schedule a personal appointment with the OSNT Program Manager to enroll in the trust program.



## **STEP 4 - CONFIRMATION**

Your application packet will be reviewed within 3 working days of receipt. If there is a problem with the application, such as insufficient documentation or an incorrect or incomplete Joinder Agreement, the Program Manager will contact the person who signed the Joinder Agreement to discuss the issue and assist in completing the enrollment process.

Once all appropriate documentation is received the application packet is submitted to the Executive Director for review and approval. Upon final approval, a Welcome Handbook is sent or delivered to the donor, beneficiary or the Primary Authorized Representative.

### ***About Court Orders***

Although the federal law authorizing the use of pooled trusts does empower a parent, grandparent or guardian to establish a sub-trust account, the person who is transferring first-party funds into the trust must have the legal authority to do so.

If the beneficiary is not competent to understand and enter into a legally binding agreement, then a court order approving the establishment AND funding of the pooled trust sub-trust account is required.

If an individual is deemed financially incapable pursuant to ORS 125.005(3), and has been assigned a conservator, a court order is still required because the State of Oregon does not extend authority to conservators to establish or fund an irrevocable trust. You may visit our website at [OregonSNT.org](http://OregonSNT.org) to find some examples of standard language that has been used in the past when drafting a petition to the court.

If it is determined that a court order is needed and the beneficiary has limited means to pay for the associated costs, a request may be submitted for the OSNT Legal Expense Grant. For more information visit [www.OregonSNT.org/grant-program/](http://www.OregonSNT.org/grant-program/).

### ***Accessing Trust Funds***

#### **ANNUAL SPENDING TARGET**

The Annual Spending Target is the recommended maximum amount of money per calendar year that a beneficiary may access from the sub-trust account. All sub-trust accounts are subject to an annual spending target.



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The purpose of a spending target is to ensure that funds are available on a long-term basis, if not throughout the beneficiary's lifetime. If, based on the beneficiary's age and/or the amount of money deposited into the sub-trust account the funds will not reasonably last a lifetime, the OSNT Program Manager will work with the beneficiary and/or the Primary Authorized Representative to develop a plan for using the money over a specified period of time.

### **MINORS AS BENEFICIARIES**

If the Beneficiary is a minor (under 18 years old), the trust can only pay for items directly related to the care and expense of the condition(s) which qualify the child for participation in the trust program. Parents and guardians may not be reimbursed for expenses related to their own legal obligation to provide for a child's basic needs, including food, shelter, clothing and education.

As a rule, if the requested disbursement is for something our laws and cultural norms generally expect parents to provide for their children, then the OSNT will be reluctant to use funds from the child's sub-trust account.

### **DISBURSEMENT REQUESTS**

Remember that putting money into a trust is not like opening a bank account; the beneficiary cannot take out the money whenever they want. All spending requests must be approved by the Program Manager and all approvals are at the sole discretion of the OSNT.

Requesting a disbursement is easily done by completing a disbursement form and submitting the form and supporting documentation to the OSNT Program Manager via online form submission, US mail, email or fax. It may take up to two weeks to receive a check after submitting a disbursement request, so beneficiaries and their representatives are encouraged to plan in advance for purchases, and to contact the OSNT Program Manager to discuss purchases before making them.

Each request is reviewed with consideration for individual situations and potential impact on preservation of public benefits.



## ELIGIBLE GOODS AND SERVICES

The list of goods and services that can be purchased with a special needs trust is quite extensive. It would be impossible to list them all here. Below are items that are commonly requested and covered. Please keep in mind that this list is only a guide and ***should not be viewed as an entitlement to these items.***

### GOODS

Clothing  
Computers/Software  
Electronics (television, stereo, etc.)  
Eyeglasses/Contacts  
Furniture  
Gasoline  
Hobby Supplies  
Household Appliances  
Household Products/Supplies  
Mattress/Box Springs  
Medical Supplies and Equipment not Covered by Other Benefits  
Musical Instruments  
Personal Care Items  
Pet Supplies  
Prepaid Funeral Expenses  
Toys/Games  
Vacations  
Vehicles

### SERVICES

Athletic or Recreation Fees  
Attendant Care  
Auto Repair/Maintenance  
Cable TV  
Cell Phone Services  
Eye and Dental Care  
Hair and Nail Care  
Home Modifications/Improvements  
Insurance - Auto/Renters  
Internet  
Medical Expenses not Covered by Other Benefits  
Music Lessons  
Pet Care/Veterinarian Bills  
Professional Fees – Attorney, Accountant, Financial Planner  
School Tuition  
Tickets to Movies, Concerts, Events  
Transportation  
Vehicle Modifications for Accessibility





## INELIGIBLE GOODS AND SERVICES

In order to maintain compliance with state and federal laws, and to maintain a sub-trust account beneficiary's eligibility for public benefits, the following items cannot be paid for or purchased with trust funds:

- ↗ Property Taxes
- ↗ Utilities – gas, water, electric, garbage collection
- ↗ Home Owner's Insurance
- ↗ Groceries or Dining Out
- ↗ Rent/Mortgage Payments
- ↗ Medical expenses, support services, or other expenses that are otherwise covered by benefits for which you are eligible, including group/foster home staff wages
- ↗ Gift certificates, gift cards or other cash equivalents, including checks made payable to the trust beneficiary
- ↗ Any item that could be considered a non-exempt resource or asset
- ↗ Expenses incurred after your death

Additionally, OSNT policy prohibits use of trust funds for the following:

- ↗ Alcohol
- ↗ Tobacco
- ↗ Firearms
- ↗ Gambling
- ↗ Illegal substances/activities

This is not an exclusive list and anything that is not for the sole benefit of the trust beneficiary and/or is not in accordance with the Trust Plan will not be paid from the trust.



## BASIC RULES FOR DISBURSEMENTS

1. Disbursement requests must be signed by the beneficiary or Primary Authorized Representative as listed in the Joinder Agreement.
2. Checks will be made payable in advance directly to third party vendors for purchases and payments. We are happy to work directly with vendors to facilitate acceptance of trust checks.
3. Requests for credit card bill payments must be accompanied by a copy of the full credit card statement and receipts for each line item for which payment is being requested. Any charges without a receipt will not be paid. **We will not pay for late fees or interest charges.**
4. Receipts, invoices, purchase orders and/or payment remittance slips in the name of the beneficiary will be required for each disbursement. No further disbursements will be made until all outstanding documentation is received.
5. Under no circumstances will checks be made payable to the beneficiary or to any authorized person who plans to give the money back to the beneficiary. This would be considered unearned income to the beneficiary and may adversely affect public benefits.

## Reporting

### NOTIFICATION

Beneficiaries or their representatives are responsible for reporting income to government agencies as required. Any agency providing means-tested benefits to the beneficiary should be notified that a trust account has been established on behalf of the beneficiary.

### RECERTIFICATION

Upon request, the OSNT will provide verification of funds for recertification of public benefits. The letter will confirm the nature of the trust account and explain why the funds are not, by law, countable resources for means tested benefits.

### ACCOUNT STATEMENTS

Monthly statements are provided to beneficiaries and/or Primary Authorized Representatives with a detailed accounting of all deposits, disbursements, earnings and



fees. Online access to trust account activity is available for authorized persons but is only an informal history of transactions for the convenience of sub-trust account holders and their representatives.

## ***Policy Changes***

The administration of a Special Needs Trust is dependent on rules and regulations established by federal and state lawmakers. In order to remain compliant and maintain beneficiary eligibility for government benefits, we may need to change our policies from time to time. Should changes in our policies occur due to changes in the law or due to the OSNT determining that changes are needed to better serve our clients, we will send written notice to all beneficiaries and authorized representatives explaining the nature of and reason for the change.

Informative newsletters are also mailed quarterly to keep you informed of what is happening with the pooled trust program and to address specific issues as they arise. All our quarterly newsletters are available on our website ([OregonSNT.org](http://OregonSNT.org)).

## ***Funeral Planning***

The State of Oregon allows for prepaid funeral plans by paying into a Funeral Trust Fund through a provider certified by the state. The list of Oregon certified providers can be found online at [www.Oregon.gov](http://www.Oregon.gov). We encourage all our sub-trust account holders to use sub-trust funds to make such arrangements. Funeral expenses cannot be paid with trust fund dollars after the death of the beneficiary.

Beneficiaries looking to open a sub-trust account with a small amount of money (under \$3,000) might consider using that money to make funeral arrangements instead, especially if no additional deposits are expected into the sub-trust account.

## ***Closing an Account***

A sub-trust account with the Oregon Special Needs Trust is irrevocable. That means that once the account is established, the funds may not be withdrawn or transferred, and the account cannot be closed by the beneficiary or donor. This is an important consideration when deciding whether a Special Needs Trust is an appropriate option.

## **DEPLETED ACCOUNTS**

The account may be closed by the Program Manager if there is not enough money left in the sub-trust account to cover the fees associated with maintaining the account.



## **MOVING TO ANOTHER STATE**

If the beneficiary moves to another state, the OSNT Program Manager will work with the Beneficiary and/or Primary Authorized Representative to determine if similar and reputable trust is operating in the beneficiary's new state of residence. If so, we will assist in transferring the account to the new trust. If not, we will continue to service the account and will do the necessary research to make sure that we are clearly following the specific rules for that state regarding Medicaid and other public benefit programs.

## **DEATH OF THE BENEFICIARY**

A sub-trust account terminates upon the death of the beneficiary. Authorized representatives must notify the OSNT staff and provide a copy of the beneficiary's death certificate before any remainder funds can be disbursed.

Funds remaining in a donor funded account will be distributed based on the donor's wishes as noted in the original or amended Joinder Agreement.

Fifty percent (50%) of funds remaining in a beneficiary funded account are retained by the OSNT for the benefit of the Trust and other people with disabilities. The remaining 50% is used to satisfy any lien request from the State related to any Medicaid benefits provided to the beneficiary during their lifetime. Any funds not retained by the Trust or paid to the State will be distributed to remainder beneficiaries.

## **TRANSFER TO AN ABLE ACCOUNT**

In limited circumstances, a sub-trust account balance of less than \$5,000 may be transferred to an Oregon ABLE Savings Plan account.

### ***About ABLE Accounts***

The Stephen Beck Jr. Achieving a Better Life Experience (ABLE) Act was passed by Congress in December of 2014. The Oregon ABLE Savings Plan was established in 2016 as a way for people with eligible disabilities to save money in a tax-free account without losing their state or federal benefits. The protections offered by ABLE accounts are like that of a special needs trust, but there are many differences between the two options related to eligibility, contributions, use of funds, and Medicaid payback provisions.

We can help you assess your current situation and to weigh the pros and cons of both ABLE accounts and special needs trusts. It is also possible to establish both an ABLE



account and a special needs trust, so please ask us how they might work together to meet the needs of the beneficiary.

For more information on ABLE accounts, visit [OregonABLESavings.com](https://OregonABLESavings.com) and/or download our **OSNT + ABLE Information Sheet** from our website at [OregonSNT.org](https://OregonSNT.org).

## **Get Started**

Whether you are a person with a disability, a family member, friend, advisor or caregiver, we hope that this booklet has provided you with the information you need to make an informed decision about establishing an OSNT sub-trust account.

We are happy to assist you in this process. Once you have reviewed the information provided here, please feel free to contact us to discuss your personal situation, ask questions, or get started in the process of opening an account by scheduling a meeting with the OSNT Program Manager.

There is an **Application Checklist** on the back cover of this booklet, and a fillable electronic version of the **Joinder Agreement** is available on our website at [OregonSNT.org](https://OregonSNT.org).

We look forward to working with you and your loved ones.

## **CONTACT INFORMATION**

Mailing | The Arc Oregon  
Address | 2405 Front Street NE  
Suite 120  
Salem OR 97301

Phone | 503.581.2726

Fax | 503.363.7168

Website | [OregonSNT.org](https://OregonSNT.org)  
[TheArcOregon.org](https://TheArcOregon.org)

Email | **Cici Gaynor**  
Program Manager  
[cgaynor@thearcoregon.org](mailto:cgaynor@thearcoregon.org)

**Jessica Dollarhide**  
Program Assistant  
[jdollarhide@thearcoregon.org](mailto:jdollarhide@thearcoregon.org)

**Paula Boga**  
Executive Director  
[pboga@thearcoregon.org](mailto:pboga@thearcoregon.org)



## Attorney List

The Arc Oregon does not endorse or recommend any attorney. This list is provided as a general reference and is limited to attorneys who have demonstrated their ability to assist families and beneficiaries in obtaining necessary court orders.

There are other attorneys who can provide this service as well and we encourage you to seek out an attorney that you feel comfortable with. If you choose to search for other legal professionals, we recommend that you look for attorneys who are experienced in the area of Elder Law, Trust Administration, Estate Planning, and/or Special Needs Planning.

|                      |  |                       |  |
|----------------------|--|-----------------------|--|
| <b>Bend</b>          | <b>Will Dennis</b><br>438 NE Irving Avenue<br>Bend OR 97701<br>P: 541-388-3877<br><a href="mailto:wd@willdennislaw.com">wd@willdennislaw.com</a>   | <b>Portland Metro</b> | <b>Dady K. Blake</b><br>1607 NE 41 <sup>st</sup> Avenue<br>Portland, OR 97232<br>P: 503-249-0502   F: 503-249-8500<br><a href="mailto:dady@dadylaw.com">dady@dadylaw.com</a> |
| <b>Beaverton</b>     | <b>C. Thomas Davis</b><br>12220 SW First Street<br>Beaverton OR 97005-2848<br>P: 503-644-9000<br><a href="mailto:estates@davisgalm.com">estates@davisgalm.com</a>                                    |                       | <b>Whitney Yazzolino</b><br>2173 NE Broadway Street<br>Portland, OR 97232<br>P: 503-284-6778<br><a href="mailto:whitney@oregonelderlaw.com">whitney@oregonelderlaw.com</a>   |
| <b>Corvallis</b>     | <b>Marilyn J. Brasier</b><br>104 SW Second St<br>Corvallis, OR 97339<br>P: 541-752-6416  |                       | <b>Tim McNeil</b><br>1015 NW 11 <sup>th</sup> Ave, Suite 243<br>Portland, Oregon 97209<br>P: 503.452.5050   F: 503.452.5054  |
|                      | <b>Alan Lanker</b><br>810 SW Madison Avenue<br>Corvallis, OR 97333-4513<br>P: 541-754-1411<br><a href="mailto:alan@mareklanker.com">alan@mareklanker.com</a>   |                       | <b>Sam Friedenberg</b><br>River Park Plaza<br>6500 SW Macadam Ave, Suite 300 Portland,<br>OR 97239<br>P: 503-245-0894   F: 503-245-1562                                      |
| <b>Klamath Falls</b> | <b>Melvin D. Ferguson</b><br>514 Walnut Avenue<br>Klamath Falls, OR 97601<br>P: 541-850-2828   F: 541-883-1923   |                       | <b>Orrin Onken</b><br>21901 NE Halsey, Suite 202<br>Fairview, Oregon 97024<br>P: 503-661-2540   F: 503715-5755<br><a href="mailto:oronken@orolaw.com">oronken@orolaw.com</a> |
| <b>McMinnville</b>   | <b>Dianne L. Haugeberg</b><br>620 NE 5 <sup>th</sup> Street McMinnville, OR 97128<br>P: 503-472-5141   F: 503-472-4713<br><a href="mailto:dlhaugeberg@hrglawyers.com">dlhaugeberg@hrglawyers.com</a> |                       | <b>Michael Edgel</b><br>1800 Blankenship Rd, Suite 370<br>West Linn, OR 97068<br>P: 503-765-8400<br><a href="mailto:michael@edgellaw.com">michael@edgellaw.com</a>           |
| <b>Roseburg</b>      | <b>Stephen Mountainspring</b><br>810 SE Douglas, PO Box 1205, Roseburg<br>OR 97470<br>P: 541-673-5541<br><a href="mailto:steve@roseburglaw.com">steve@roseburglaw.com</a>                            |                       |  |



## **Enrollment Packet Checklist**

We encourage you to use this checklist when preparing your application packet for submission to the OSNT. Sending a complete package will help us to establish your new sub-trust account without delays caused by missing or incorrect information.

- Original Joinder Agreement
- Social Security award letter
- Verification of Medicaid/OHP and/or Medicare benefits
- Verification of any other public benefits being received by the beneficiary
- Individual, Educational, or Behavioral Support Plan (ISP, IEP, BSP, Plan of Care)
- Verification of the source of funds being deposited, e.g.
  - Living Trust or Will
  - Injury or other legal settlement award
  - Social Security back payment award letter
- Copy of beneficiary's photo ID or birth certificate
- Copy of beneficiary's Social Security Card
- Guardianship or Conservatorship documentation (if applicable)
- Power of Attorney (if applicable)
- Court Order ~ Required for any beneficiary funded account where the beneficiary is financially incapable
- Copy of any Funeral Trust plan or other arrangements already in place
- Check for enrollment fee payable to "The Arc Oregon" or written authorization to deduct payment of enrollment fee from initial deposit.
- Check for initial deposit payable to "The Arc Oregon FBO Beneficiary's Name"



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## **Glossary**

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| <b>BENEFICIARY</b>                      | A person for whom a sub-trust account has been established within the OSNT.   |
| <b>CONSERVATOR</b>                      | A person appointed to manage and protect the income and assets of a person who is financially incapable. Conservatorship is appointed and supervised by the court. For purposes of establishing an OSNT sub-trust account, the court may assign a temporary conservator for the sole purpose of establishing and funding the sub-trust.   |
| <b>DISBURSEMENT<br/>or DISTRIBUTION</b> | Any payment made directly from a sub-trust account for the benefit of the beneficiary.  |
| <b>DONOR</b>                            | A person who executes a Joinder Agreement for the purpose of establishing and funding a sub-trust account for a beneficiary with assets that do not belong to the beneficiary, such as an inheritance or gift.  |
| <b>ENROLLMENT</b>                       | The process of completing and submitting a Joinder Agreement and supporting documentation in order to open a sub-trust account in the OSNT.   |
| <b>FINANCIALLY<br/>INCAPABLE</b>        | As defined in Oregon Revised Statute (ORS) 125.005(3): “a condition in which a person is unable to manage financial resources of the person effectively for reasons including, but not limited to, mental illness, mental retardation, physical illness or disability, chronic use of drugs or controlled substances, chronic intoxication, confinement, detention by a foreign power or disappearance. ‘Manage financial resources’ means those actions necessary to obtain, administer and dispose of real and personal property, intangible property, business property, benefits and income.” |

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| <b>GRANTOR</b>                 | The person who establishes and funds, or is authorized to establish and fund, a sub-trust account on behalf of the beneficiary. In a beneficiary funded trust, the beneficiary may be the grantor of his or her own trust, but the grantor may also be a conservator or the court. In a donor funded trust, the Donor is the Grantor.                                |
| <b>GUARDIAN</b>                | A person appointed by the court to provide for the care, comfort and maintenance of another person. In Oregon, a guardian may be appointed for an adult person only as is necessary to promote and protect the well-being of that person. Guardianships for adults must be designed to encourage the maximum self-reliance and independence of the protected person. |
| <b>IRREVOCABLE TRUST</b>       | A trust that cannot be amended, altered or revoked by the grantor or beneficiary once it has been funded.  |
| <b>JOINDER AGREEMENT (JA)</b>  | The contractual agreement establishing the Grantor's consent to establish a sub-trust account and establishing disbursements, fees and management of an individual account on behalf of a beneficiary.   |
| <b>KEY PERSON</b>              | The person(s) named in the Joinder Agreement with whom the OSNT staff is authorized to communicate regarding an individual beneficiary's interests. Authorized persons may also be allowed to submit disbursement requests on behalf of the beneficiary.   |
| <b>POOLED TRUST</b>            | A trust that combines the assets of many individuals into a single trust fund for the purpose of investment and management of the funds.   |
| <b>POWER OF ATTORNEY (POA)</b> | A legal document that creates written authorization to represent or act on another's behalf.   |

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| <b>PRIMARY AUTHORIZED REPRESENTATIVE (PAR)</b> | The primary contact person who is authorized to request disbursements, complete Updated Joinder Agreements, and otherwise serve as the main point of contact regarding a sub-trust account.  |
| <b>PROGRAM DIRECTOR</b>                        | For the purposes of this and related documents, the terms Program Director and Program Manager may be used interchangeably. Both refer to the person responsible for managing the daily operations of the OSNT, and who reports directly to the Executive Director.  |
| <b>REMAINDER FUNDS</b>                         | The assets remaining in a sub-trust account at the time of a beneficiary's death. Funds remaining in a donor funded account are disbursed according to the donor's wishes as outlined on the Joinder Agreement. Funds remaining in a beneficiary funded account are retained by the Trust or divided between the State of Oregon Medicaid Department and the OSNT prior to distributing remaining assets to remainder beneficiaries. |
| <b>REMAINDER BENEFICIARY</b>                   | The person(s) or entity identified by the grantor to receive the remainder funds from a sub-trust account.   |
| <b>SPECIAL OR SUPPLEMENTAL NEEDS TRUST</b>     | A trust used to provide supplemental care; care that is over and above what the beneficiary is able to obtain through his/her own earnings and/or through government benefits. A properly worded and executed Special Needs Trust will not jeopardize government benefits.   |
| <b>SPENDING TARGET</b>                         | The annual projected spending budget determined each year for each sub-trust account.  |
| <b>SUB-TRUST ACCOUNT</b>                       | An individual account established for a beneficiary in a pooled trust.   |

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| <b>THIRD PARTY TRUST</b> | A trust account funded with assets from someone other than the beneficiary. More commonly referred to as a <b>“donor funded”</b> trust account. These funds typically come from an inheritance that is left specifically to the trust for the benefit of the beneficiary, rather than directly to the beneficiary. |
| <b>TRUST</b>             | A trust is a relationship whereby property is held by one party for the benefit of another.  |
| <b>UNFUNDED ACCOUNT</b>  | A sub-trust account set up without any initial deposit, but rather in anticipation of receiving inheritance dollars in the future. Also referred to as a <b>Zero-Balance Account</b> .   |

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**Notes**

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*"You are a Godsend and I want to thank you so much for your assistance and professionalism. You are amazing and I appreciate your efforts so much...God has blessed me with an avenue to not lose my benefits... and you have already gone out of your way to help me. Thank you so much."*

*Trust Beneficiary*

*"My brother has schizophrenia... The people at The Arc always treat him with respect and kindness. Per my request they let me know when he requests disbursements and we discuss it. I appreciate The Arc..."*

*Family Member*

*"Thank you for all of your advice and assistance...You are a knowledgeable professional. I will highly recommend you to other attorneys and future clients."*

*Attorney*

The Arc Oregon  
**Oregon Special Needs Trust**  
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*Achieve with us.*

*This booklet is for general informational purposes only. It is not to be construed as any sort of legal, financial or other professional advice or opinions on specific matters. Persons with disabilities and their families are strongly encouraged to consult with an attorney, financial planner, or other professional who has the knowledge and expertise in the area of estate or financial planning as it pertains to the special needs of people with disabilities.*