

LIFE PASSAGES¹ PSNT BEST PRACTICES GUIDELINES

“It is one of the most beautiful compensations of life that no man can sincerely try to help another without helping himself.” Ralph Waldo Emerson

Introduction

The area of Pooled Special Needs Trusts (PSNT) has seen tremendous growth over the last two decades. With that growth comes great challenges including: the challenge of keeping the beneficiary central to all services provided, the challenge to face and incorporate new technologies, and the need to balance growing the entity with assuring that the humanity of the clients is never lost. The purpose of this guide is to provide PSNT Executive Directors, Administrators and Boards of Directors with suggestions on how to operate their PSNT in a way that balances all of the competing factors.²

We recognize that PSNTs come in all different shapes and sizes,³ and we were trying to write guidelines that would cover the landscape, realizing that in doing so, not all of these guidelines would apply to every PSNT. A PSNT wishing to follow any of these best practices guidelines may need to pick those that would apply and modify them to fit their own special circumstances. These best practices can be adopted in their entirety, in part or modified to suit the specific needs of the PSNT.⁴

This guide is not intended to create a duty of care or standard that would be used in litigation against a PSNT but rather a guide that will be reviewed, edited, and expanded. Thus, this is why the document uses guide or guidelines rather than standard.

The mission, purpose and intent of PSNTs, is to serve beneficiaries and families, and continue to earn the support and trust of the government and the public. As the National Pooled Trusts Standards Committee (NPTSC) Guidelines offer, the “[m]ission [of a PSNT is] [t]o provide pooled trust services with integrity. The pooled trust program’s mission and primary purpose should be adherence to its fiduciary duties and the sole benefit status of each trust beneficiary’s account.”⁵

¹ The authors of these guidelines are Stephen Dale, John Dickerson, Professor Roberta K. Flowers and Professor Rebecca Morgan (referred to as the Team). The Team uses life passages to mean the various stages of life through which an individual passes and how individuals with special needs and PSNT administrators need to plan for these stages for the individuals. These guidelines were created as part of a project funded by the May and Stanley Smith Charitable Trust.

² These materials are designed to guide the day to day operations of a PSNT and are not intended to aid in the establishment of a PSNT.

³ “While effective pooled trusts share a broad range of best practices, variation still exists, indicating that a successful trust can take numerous shapes and forms.” See, *Pooled Special Needs Trust Best Practices*, by True Link Financial, available at <https://truelink-wordpress-assets.s3.amazonaws.com/wp-content/uploads/Pooled-Special-Needs-Trust-Best-Practices.pdf> at 16. True Link notes variations amongst PSNTs on various items, including whether to provide “case management in-house, providing extensive hands-on support to the families they serve,” *True Link* at 17, and fees, with some using flat fees, others asset-based fees, still others based on time/resources used. *True Link* at 18.

⁴ Many of these practices can apply to stand alone accounts for those PSNTs that also administer stand-alone trusts.

⁵ National Pooled Trust Standards Committee, *Guidelines for Pooled Trust Organizations*, Guideline 1, Mission (06/21/2019), referred in this document as NPTSC, and available at http://nationalplanalliance.org/wp-content/uploads/2019/08/GuidelinesForPooledTrustOrganizations_v2_2019_06_21-rev.pdf. © NPTSC. “These [NPTSC] Guidelines were developed as part of an informal working group, the “National Pooled Trust Standards Committee”, comprised of members listed below, all stakeholders in non-profit organizations providing pooled trust services for beneficiaries with disabilities. Each author holds an undivided ownership interest in and to the final product in perpetuity until such right is extinguished by assignment back to the National Pooled Trust Standards Committee. It is the intent of the Committee that these Guidelines will be used in future academic, professional and industry publications, so as to

This mission requires a commitment to the highest standards of ethical conduct. Defining standards for ethical practice requires a thorough dissection of all the difficult and varied circumstances faced by trust personnel. This guide may seem at times lengthy; but hopefully, it addresses the most difficult situations faced by PSNT and provide steps that will help PSNTs prevent those situations. The length and complexity of the best practices is directly related to the complexity of taking the responsibility to recognize and facilitate a lifetime commitment to the beneficiaries. Some of the examples are based upon actual policies in use by a certain PSNT and provided to us with permission to reprint. In those instances, acknowledgement is provided. If the reader wishes to incorporate those examples into their publications, the reader should contact the PSNT for reprint permission.

These best practices are the compilation of a review of policy and procedure manuals that currently are used by some PSNTs, conversations with a number of PSNT administrators, and editing by a group of experts in the field of PSNT. There are several sources that we used in this Best Practices Guide. We have relied on True Link Financial, *Pooled Special Needs Trust Best Practices* (2016) (referenced as True Link);⁶ National Pooled Trust Standards Committee, *Guidelines for Pooled Trust Organizations* (06/21/2019) (NPTSC) and Plan of New Jersey’s *Service Coordinator Handbook* (referenced as Plan of New Jersey).⁷ We also spoke with a number of leaders of PSNTs both as a group and individually, and with the members of the project’s think tank.

The authors wish to thank the members of the project’s think tank for their invaluable input.⁸ The authors particularly wish to thank the May and Stanley Smith Charitable Trust and the Poses Family Foundation for their financial support, which made this project possible.

The Life Passages Plan Team

advance and aid in standardizing the practices of pooled trust administration and management. To the extent these Guidelines are adopted or incorporated into subsequent publicly accessible third- party publications, proper attribution must be made to the National Pooled Trust Standards Committee and its authors.”

⁶ True Link, in its *Introduction*, explained the genesis of its PSNT Best Practices guide:

Through True Link’s ongoing work with pooled special need trusts, we have found that the most successful trusts distinguish themselves in one or more of the following ways: how they communicate with beneficiaries, use technology, develop administrative processes, manage financial assets, and build their teams. These trusts develop advantages—often thorough a time- intensive and iterative process—and overcome the odds to thrive in a resource-constrained environment.

How do we know when something is a “best practice”? Trust leaders tell us. When it comes to technology, for example, people’s own descriptions range from “Digitizing our documents has completely transformed our practice,” to “We succeed despite our technology—it’s terrible.” Our hope is that by collecting and publishing best practice, effective trusts will learn from the innovations of others and continue to break ground in the field, and newer trusts will be more likely to succeed.

True Link Financial, Pooled Special Needs Trust Best Practices, available at <https://truelink-wordpress-assets.s3.amazonaws.com/wp-content/uploads/Pooled-Special-Needs-Trust-Best-Practices.pdf>), at 1-2.

⁷ Plan of New Jersey’s *Service Coordinator Handbook* is an internal document.

⁸ Those involved and providing information are full time pooled trust administrators from various parts of the country.

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I. *Financial Management of the Trust*

Trustees are fiduciaries and have duties to the beneficiaries. Each state has its own Trust Code that sets out the duties of the trustees. Many of the state trust codes are based on the Uniform Trust Code. Article 8 of the UTC provides the duties and powers of trustees. These include:

Duty to administer the trust	Recordkeeping and identification of trust property
Duty of loyalty	Enforcement and defense of claims
Impartiality	Collecting trust property
Prudent administration	Duty to inform and report
Costs of administration	Discretionary powers, tax savings
Trustee's skills	General powers of trustee
Delegation by trustee	Specific powers of trustee
Control and protection of trust property	Distribution upon termination

It is important to remember that a Pooled Special Needs Trust is still a trust and the PSNT trustee is still a trustee. As a result, those administering PSNTS must comply with the applicable rules of their state's trust codes. What follows is our take on some of the duties of the trustee that have unique applicability to a PSNT. As always, the PSNT should consult their state's trust code.

1. **Distributions**⁹

- a. The PSNT should have a regular schedule for routine and recurring distributions.
 - i. The beneficiary and any authorized representative should be provided with the distribution schedule when the account is created and whenever there is a change to the schedule.
 - ii. Vendors with whom the PSNT makes recurring distributions for beneficiaries should also be apprised of the distribution schedule.
 - iii. The executive director (or other member of the leadership team) should be authorized to make limited exceptions to the distribution schedule.
 - iv. Every distribution should have at least one supervisory approval beyond the initial staff approval. There should be a third level for amounts above an amount set by policy.

Example: *NPTSC Guidelines, Guideline 6(c) provides that “[t]he beneficiary or that person’s representative as applicable should be informed of the pooled trust program’s typical time frame for processing distributions.”*

- b. The PSNT should identify who can routinely approve distributions, any limit on the amount of distribution and who can approve a distribution over the approved amount.

⁹ As the UTC § 801 notes, the trustee has a duty to administer the trust. In the case of PSNTs, the duty would include making distributions.

Suggestion ☹️ : A PSNT should consider approving a certain limit for discretionary distributions that an account manager is authorized to expend per beneficiary for the calendar year without further approval. The account manager must keep a record to track these distributions vis a vis the limit. If there is a request that would exceed the approved amount, the manager would seek approval of the supervisor. The PSNT should have a form for the account manager to use to document the distribution and the supervisor should do regular reviews of these discretionary distributions to make sure the process is correctly followed.

- c. The PSNT should have an internal review process for every (non-discretionary see-above) distribution that requires at least a two-step process.
 - i. First the account manager should determine the appropriateness of the expenditure.
 - ii. Second, the account manager should get approval from the Trust Director.
 - iii. Finally, the associate executive director (if any) or the Executive director approves the check request, examining the request for any anomalies.
- d. The PSNT should have a documented appeal process if a distribution request is denied. The appeal process should have reasonable time frames and allow for oversight of the process and a fair review. Any time a request is denied, the beneficiary and legal representative should be notified in writing of the appeals process.

Suggestion ☹️ : The following (1-5) are a documented denial process from a successful PSNT with 30 years of experience. We would suggest that you develop the appropriate written denial process that fits your organizational structure and provide that to beneficiaries. Here is the example:

1. If the beneficiary requests a review of the denial of the request, then the account manager forwards the request and the denial to the Executive Director.
2. If the Executive Director agrees with the denial, then the beneficiary is notified.
3. If the beneficiary requests further review, then the request and denial are submitted to the Trust Advisory Committee for Review. Note: We suggest a committee like this be made up of volunteer lawyers well informed about what is and is not admissible.
4. If the Trust Advisory Committee supports the denial, the beneficiary is notified.
5. If the beneficiary requests further review, then the request and the denial are submitted to the PSNT's board of directors for review. The board recommends either approval or denial. The board's decision is final.

Suggestion ☹️ : **The Trust Advisory Committee could be made up of volunteer attorneys who understand what is and is not appropriate.**

- e. Each distribution decision should be made and communicated to beneficiary within a reasonable time.
- f. Before a distribution is approved, the PSNT should confirm that the necessary documentation has been received.

- i. For example, the PSNT should obtain a copy of the court order that established or otherwise approved the creation of a (d)(4)(C) trust.
- g. The PSNT should keep a real time accounting of the beneficiary's budget so the PSNT can determine the impact of the distribution on the beneficiary's budget.
- h. The PSNT should provide regular accountings for the beneficiary at least quarterly.
- i. The PSNT should require original receipts before making a disbursement except in emergency situations, with a requirement that receipts be submitted within a specific time.
 - i. The PSNT should develop a written procedure that beneficiaries and third parties can use to submit receipts, and what forms of transmission of receipts are accepted (Example: mail, fax, etc.).
 - ii. The PSNT should examine every receipt prior to making a disbursement to ensure the receipt contains the necessary information.
 - iii. The PSNT should move toward a system of scanning every paper receipt and file it in the electronic folder for the individual beneficiary along with any electronic receipt.
- j. The PSNT should have a process in place to verify the legitimacy of reimbursements, requiring original receipts to avoid forged receipts.
- k. PSNTs should take precautions to prevent beneficiaries or family members from improperly using bank routing numbers.
- l. The PSNT may wish to use a debit card system for beneficiaries or a credit card system (The PSNT may wish to use a debit or credit card system for beneficiaries as allowed by, See POMS SI 01120.2011.1.e).
- m. The PSNT should establish a standardized and formalized process for discretionary disbursements and follow the process. The PSNT should always handle reimbursement requests and disbursements in the same way and always require the documentation prior to the disbursement.
- n. The PSNT should establish a policy on the timeliness of handling distribution requests and publish that for all beneficiaries.

Commentary: For routine, recurring distributions, such as paying the beneficiary's rent, the drafters believe that two working days is sufficient time to process the request. More time may be needed for unique requests.

- i. If the PSNT cannot grant the request the beneficiary should timely be informed of the decision in writing, along with the reason for the denial.
- ii. The PSNT should have a clear policy of internal review of disbursement requests including the person completing the initial request and document review, a secondary review and a final review.
- iii. The PSNT should establish a random process to check their distribution protocol and let all participants know that any disbursement may be subject to review at any time as part of this process.
- iv. The PSNT should have an appeal process in writing to give a beneficiary a chance to have a request that has been denied by the PSNT reviewed upon appeal.

Commentary: Perhaps no other place than here is process so important. There is a balance to be struck between attention to detail and prompt processing of distributions. Since mistakes can occur, the process needs to be clearly understood by all staff. True Link offers this best practice: “Strike a balance between diligence and efficiency in reviewing disbursement requests.”¹⁰ How does a PSNT accomplish this? Designate a small number of certain staff to undertake the reviews and invest in technology that allows for online review and approval, such as a web-based system.¹¹

2. Investments

- a. The PSNT should have a written investment policy that complies with their state’s version of the Prudent Investor Act and should follow that policy.¹² The policy should be given to the beneficiary when the account is created and be available thereafter on request.

Example: *NPTSC Guidelines, Guideline 8(a) provides that “[p]ooled trust programs should develop written investment policy statements that are available for review by the beneficiary or that person’s representative as applicable and consider prudent investments and risk tolerance.”*

- b. When creating the investment policy, the PSNT should be cognizant of the potential for tension between what may be good for the overall PSNT or for one beneficiary may not be good for all beneficiaries.
- c. The goal of the investment policy should be reflected in a board resolution setting the policy for the investment decisions. One very successful PSNT states their goal is to operate the trust as they would for a client that is already retired and needs the income – rather than a 30-year-old starting a retirement fund they will not need for 35 years.
- d. A copy of the investment policy should be provided as part of the materials for prospective beneficiaries or authorized representatives.

Example: *NPTSC Guidelines, Guideline 8(a) provides for making the investment policy statement available to beneficiaries and Guideline 8(d) provides that “[p]ooled trust programs should, upon request, make written investment policy statements available to each beneficiary or that person’s representative, if applicable.” Additionally, 8(e) calls for “provid[ing] information to teach a beneficiary or that person’s representative as applicable regarding who manages investments” on request.*

- e. The Investment policy should be reviewed at least annually.¹³
- f. The PSNT should rely on a team of investment advisors in developing and updating the policy, as well as formulating an appropriate asset allocation and the selection of individual marketable securities within the portfolio. The PSNT should also reduce an

¹⁰ *True Link* at 9.

¹¹ *True Link* at 9. True Link in its commentary offers that “pooled trusts with streamlined multi-person approval systems stay focused on the task at hand: documenting discretion and ensuring appropriate disbursements are made.” *Id.*

¹² For example, NPTSC Guidelines, Guideline 8(b) provides that “[I]nvestment managers should comply with the organization’s investment policy statements. *See also* Article 9 of the Uniform Trust Code.

¹³ The NPTSC Guidelines, Guideline 8(c) provides that “[p]ooled trust programs should conduct regular investment performance reviews of the performance of the investment manager and should provide a written report of the findings of such reviews to the organization’s Board of Directors.”

asset or sector concentrations that are identified during the review, as well as ensure appropriate cash/liquidity is available for distributions.

- g. The Board of Directors of the PSNT should complete an annual conflict of interest statement and it should be kept on file.

Commentary: In order for the investment advisors to give the PSNT informed advice, the PSNT will need to provide them with appropriate context regarding beneficiaries (such as life expectancy, likely distribution rate, nature and extent of disabilities and attendant costs, etc.). This in turn will better position the advisors to assess risk, develop a diversification strategy and create investment options.¹⁴


- h. The PSNT should require fee transparency from investment advisors.¹⁵

3. Insurance

- a. The PSNT should have adequate and appropriate insurance.
 - i. The various types of insurances to consider include: premises (whether owned, or rented), key person (director), directors and officers, errors and omissions, workers' compensation, health insurance for employees, cyber security insurance, employee theft, liability, business interruption, disaster insurance (floods, fires, mudslides, tornados, sink holes, etc.), appropriate riders if employees use their cars, an umbrella policy and insurance against employee theft.

Example: *NPTSC Guidelines, Guideline 4(h) directs that the PSNT have “directors and officers and professional liability insurance.”*

- b. The PSNT should ensure the beneficiary's property, including as appropriate renter's insurance, homeowner's insurance (which would include flood, wind and wildfire riders, if necessary), casualty insurance, automobile insurance and personal property insurance. The PSNT should confirm that any valuable personal property is scheduled separately if required by the policy. The premiums would typically be paid from the beneficiary's funds held by the PSNT. In the event the beneficiary has insufficient funds, the PSNT may pay the insurance premiums from the retained funds (if the joinder agreement so provides).¹⁶

Suggestion : Suggest the beneficiary video the property to establish the pre-loss condition of the property. The PSNT may need to provide the beneficiary with the video equipment.

¹⁴ *True Link* at 12.

¹⁵ *See True Link* at 12, discussing the need for the PSNT to “[b]e aware (and beware) of expenses ratios and internal fees.” (inquiring about “the fully loaded cost”).

¹⁶ The UTC requires the trustee to control and protect the trust property. *See* UTC § 809.

4. Audits

- a. Each year the PSNT should arrange for outside audits: (1) internal financial operations; (2) trust procedures, internal controls and activity, (3) Information Technology (IT) security and (4) the investment management of the fund.
- b. The PSNT should post its state-filed financial documents on its website and comply with standard nonprofit practices.

Suggestion ¶: A PSNT might consider having a periodic programmatic audit with one firm and an annual financial audit by another firm. This allows the PSNT to identify and respond earlier to trends and problems.

Example: *NPTSC Guidelines, Guideline 4(g) provides that “[o]rganizations should have regular audits of the organization, including internal financial operations, trust activity and Information Technology (IT) security.”*

Example: *Each state has requirements for reporting. In some states, the PSNT may have to file a report with the state’s Secretary of State.*

Suggestion ¶: Copies of the audit reports should be provided to beneficiaries or authorized third parties. The PSNT should also consider whether to post the reports, or summaries of them, on their website—either the public side or available through client portals.

Suggestion ¶: Any audit findings/exceptions should be timely remediated. The audits should be presented to and confirmed by the PSNT board.

5. Record Keeping¹⁷

- a. The PSNT should get originals or copies of original beneficiary documents that the beneficiary has received from government agencies such as SSA, Medicare, or Medicaid, as well as court orders, wills, trusts, settlement agreements, insurance policies, etc.
- b. If administering an MSA for a beneficiary, the PSNT should keep track of any MSAs for beneficiaries, including a policy for sufficient set asides to satisfy the MSA.
- c. The PSNT should regularly report to Medicaid, Social Security and any other required state agencies disbursements and comply with all reporting requirements of the state.

¹⁷ See, e.g., UTC § 810 (Recordkeeping and Identification of Trust Property).

Suggestion ¶: The PSNT should use tickler/calendar reminders for mandatory, annual reporting requirements.

Suggestion ¶: The PSNT should get a copy of any correspondence to CMS regarding the MSA amount and calendar any relevant dates regarding payments to CMS when a PSNT is administering an MSA.

- d. The PSNT should operate with transparency in the creation and operation of the PSNT, including record keeping.
- e. The PSNT should have a document retention policy that covers how original documents will be handled, stored and destroyed. Original documents kept in the PSNT office should be securely maintained in a way that protects the documents from theft, damage, or destruction.

Example: *NPTSC Guidelines, Guideline 6 TRUST CREATION TRANSPARENCY, especially 6(a) “[t]he pooled trust program should disclose the operational features of its Trusts to each prospective beneficiary or that person’s representative as applicable to set expectations of how the Trust may assist the beneficiary...”*¹⁸

Also, Guideline 2(m) directs that “[t]he organization’s program trust operationsbe reasonably transparent for a beneficiary or that beneficiary’s representative as applicable for that beneficiary’s account.”

- f. PSNT employees should document each transaction with supporting documentation and each beneficiary contact.
 - i. Every call should be logged and noted to the appropriate beneficiary account.
 - ii. An action report (to-do list) should be created as a result of a beneficiary’s request.
 - iii. The PSNT should make a decision on a routine recurring distribution request within a reasonable time and note the decision in the beneficiary’s file. Every contact with the beneficiary, whether initiated by the PSNT or the beneficiary should be noted in the beneficiary’s file.

Suggestion ¶: What is a reasonable time is fact specific. A routine recurring distribution could be determined appropriate or rejected within two working days and a check received within 5-7 days, whereas a request that needs to be taken to the PSNT committee would take more longer but still should be reasonable.

¹⁸ Guideline 6(b) covers information about any balance in a beneficiary’s account on the beneficiary’s death, 6(c) deals with the time to process a distribution and 6(d) recommends that a proposed beneficiary be encouraged to seek the advice of an attorney.

- iv. Decisions and other dispositions should be noted in the file, along with the date and method of communication to the beneficiary of the decision or disposition.


Example: *NPTSC Guidelines, Guideline 4(l) requires that each PSNT prepare “a brief trust summary of each trust under management which could include names and contact information for grantors, trustees, beneficiaries and remainder beneficiaries, unusual provisions, financial restrictions and examples of permissible purchases.”*

6. Communications

- a. The PSNT should have a policy that covers both the methods of communication with the beneficiary and the time frame within which a communication will be returned.¹⁹ This information should be conveyed orally and in writing to the beneficiary and any authorized third parties.
- b. The PSNT should consider security of email and when conveying personal or financial information, consider encrypted or other secure communications.
- c. Every contact from a beneficiary, whether in person, phone, email, or other, should be logged into the file for the beneficiary that includes the date, time, method of communication and summary of it.²⁰
- d. Every PSNT employee who has contact with anyone outside the organization should be trained on effective communication skills, including both verbal and non- verbal communications.

Commentary: Building relationships is critical for a PSNT organization and to that end, communication is just as important as the services provided. As True Link explains in best practice standard 1 Beneficiary Communication, “understand, communicate, review and reach out,” the “[h]igh-performing pooled trusts” approach their difficult balancing act of “protecting [the beneficiary’s] government benefits eligibility” while still purchasing items for the beneficiary “that enhanced [the beneficiary’s] quality of life” by a three-pronged approach of “understand[ing] the beneficiary’s situation, communicat[ing] critical information—especially restrictions— early on in the relationship, and maintain[ing] ongoing, regular contact.”²¹

True Link notes that communicating with prospective beneficiaries about the trust and its operation allows the PSNT a chance to “learn about the beneficiary’s situation, goals, and needs, and to lay the foundation for a transparent, productive relationship. Rather than just answering questions as they come in, trusts can proactively provide information about things that might need a little explaining, like the onboarding process, fee schedule, and disbursement guidelines.”²²

Suggestion  Use prospective beneficiary conversations not only to be hired, but use these talks to manage expectations, educate beneficiaries about limits on the use of the money and develop rapport with the beneficiary.²³

¹⁹ A trustee has a duty to inform and report. See UTC § 813.

²⁰ The NPTSC Guidelines, Guideline 4(c) is somewhat applicable to this point. It provides that the “organization should have systems for tracking information and processes for accurate and timely availability of the needed information.”

²¹ *True Link* at 2.

²² *Id.* at 3.

²³ *Id.*

Suggestion ♀: Consider this example from Plan of NJ, known as the “Contact Note Format”:

A. Contact Note Format

The acronym “S.O.A.P.” can serve as a mnemonic device to help you remember what to address in your contact notes. **You should not write the letters S - O - A - P**, but you can use this guide to make sure you include all of the components in body of your note.

S = Service provided – What was the purpose of the contact?

O = Observations – Describe objectively what you see and hear.

A = Assessment – How is the person doing with what you came to check out?

P = Plan – What is your follow up and next step together.

B. Sample Contact Note

(S) This writer visited BJ at her home on August 1, 2008 to get acquainted and to assess her general health and well-being. The visit included a discussion with Iwach Overu, BJ’s residential sponsor, conversation with BJ, and transporting BJ to Fridays for lunch and back.

(O) BJ’s residential sponsor, Iwach Overu, reported that her health problems include diabetes, Parkinson’s, Alzheimer’s, high blood pressure, scoliosis, and psychiatric conditions. Ms. Overu showed this writer how B’s medication is tracked and discussed a wheelchair that was recently purchased through Medicare for her. Ms. Overu requested a therapeutic chair with lumbar support to ease BJ’s discomfort from scoliosis and indicated that BJ needed clothing that could be purchased through Sears. Ms. Overu also reported that BJ had not attended her day program since November after she broke her ankle and spent time in rehabilitation.

(A) BJ ordered food consistent with her required diet. She was able to answer questions and express her interest in following the Yankees and the Giants. BJ expressed contentment with her living situation and her daily routine. However, BJ did state that she missed her day program and particularly the Bingo. BJ did not comment on the need for a therapeutic chair.


(P) This writer will

1. Research the need for and acquisition of a therapeutic chair and clothing through the trust fund and initiate action accordingly.
2. Get a release for the doctor and follow up on the day program issue.
3. Make an appointment to visit BJ the beginning of September.²⁴

- e. The PSNT should train employees on responding to beneficiaries who frequently call. The PSNT should also train employees on tips for de-escalating an interaction with an aggressive or upset beneficiary (especially when a distribution request is denied).
- f. When communicating with third parties, whether family of beneficiaries, service providers, or others, the PSNT must first have the consent of the beneficiary or authorized representative and every communication should be documented and then filed within the file of the beneficiary with whom the contact is concerned.
- g. The PSNT should have an efficient process for handling all incoming phone calls and emails. The PSNT should decide whether there will be one person who answers the phone and directs calls, or whether direct lines for each employee will be used.
- h. The PSNT should have a reliable process for handling emergency and after-hours calls.

²⁴ *Plan of New Jersey* at 15-16.

- i. The PSNT should have a clear policy for communicating with the originators of unfunded third-party trusts that have been established. This is an important relationship to foster and build and should not be lost in daily communication with beneficiaries. It is suggested that at least annually, the PSNT update the information with the originators of the third-party trust.

Suggestion : Communication with beneficiaries is an ongoing process and the quality of communication goes a long way toward the effectiveness of the relationship. Frequent, transparent, and clear communication with beneficiaries is crucial. The PSNT should routinely ask beneficiaries about any changes in the beneficiary’s circumstances. For those beneficiaries who regularly reach out, the PSNT should always ask the beneficiary “what’s new with you?” For those beneficiaries who do not regularly communicate with the PSNT, the PSNT should schedule routine check-ins with those beneficiaries just to get a status update.²⁵

- j. Communication is a two-way street. The beneficiary should be given an opportunity to provide feedback to the PSNT in whatever manner the beneficiary feels most comfortable. One example might be a beneficiary satisfaction survey or questionnaire. Another is to just ask the beneficiary.

7. Fees

- a. The PSNT should create a published fee schedule that is adopted or approved annually by the PSNT board. The Board should confirm that the fee schedule is reasonable under the applicable state law.²⁶
- b. Any fee structure changes should be determined at least six months in advance and be published to all beneficiaries affected and to any potential enrollees considering enrollment.

Example: *NPTSC Guidelines, Guideline 9(a) provides that “[f]ees charged by the pooled trust program should be reasonable” while 9(b) provides for “[t]he executive director in consultation with staff should develop a fee schedule that is reviewed and approved by the board of directors on a regular basis to see whether the fees are reasonable and are sufficient to meet basic organizational expenses...”*

- c. The PSNT should be transparent about its fee structure and be sure to provide it to potential clients at the first meeting.

Example: *NPTSC Guidelines, Guideline 9(c) directs that the organization give the proposed beneficiary or the beneficiary’s authorized “representatives or grantors as applicable” a copy of the fee schedule for that beneficiary “and ... indicate that fees are subject to change upon advance notice.”*

²⁵ See, e.g. *True Link* at 4-5 which suggests “[s]etting a needs-based engagement calendar for each beneficiary with reminders scheduled immediately following the onboarding call, can be an effective strategy. Calendar items can include regular check-ins with beneficiaries themselves, as well as advocates and service providers.”

²⁶ See, e.g., UTC § 708 (compensation of trustee).

- d. The PSNT should create a policy on exceptions to the fee structure.
 - i. For example, if a beneficiary runs out of money, will the PSNT continue to cover the beneficiary's (basic) expenses out of retained funds?
 - ii. The policy should explain how an exception is requested, the supporting information needed and who makes the decision about the exceptions.
- e. The PSNT in its organizational structure should clearly identify who has decision-making authority to waive or reduce any fees.
- f. The PSNT should make sure the allocation of fees between principal and income for trust accounting complies with state law.
- g. The PSNT should determine whether the fee structure is all encompassing or a la carte.

8. Tax Exempt Status

Each PSNT or their umbrella organization should obtain tax exempt status as a 501(c)(3) charity from the IRS.²⁷ All federal and state filings for a not-for-profit organization should be carried out in a timely manner. The PSNT should annually confirm that its tax-exempt status is in good standing and that all required reporting requirements have been met.

Example: *The NPTSC Guidelines, Guideline 2(b) directs the PSNT to “provide charitable services and seek donations and grants as needed in keeping with their charitable non-profit status.” Further, Guideline 4(o) directs that “[b]oard members and officers should serve without compensation (other than expense reimbursement) except to the extent they are employees of the pooled trust organization.”*

9. Transfers from one PSNT to another

- a. A PSNT should determine whether it will accept a transfer of a beneficiary's account from another PSNT or a standalone SNT that authorizes decanting to a PSNT.
 - i. If the PSNT does accept the transfer, the PSNT should create a list of items/information it will need from the transferring PSNT before accepting the transfer. This information could include a list of any outstanding expenditures, an accounting, any tax returns filed for the last 3 years, any applicable court orders or pending petitions, and a copy of the transferring PSNT's assessment/budget/plan.
 - ii. The receiving PSNT should not assume liability for any wrongdoing by the transferring PSNT by accepting the transfer.
 - iii. Except in limited circumstances, the request for the transfer should come from the beneficiary or the beneficiary's authorized representative.
- b. A PSNT whose beneficiary has requested the transfer of the beneficiary's account to another PSNT should
 - i. Accept the decision to move the trust but also seek to learn more from the decision. Inquire as to the reasons for the transfer and attempt to resolve any issues presented by the beneficiary as the basis for the transfer.

²⁷ NPTSC Guideline, Guideline 2(a) directs that the PSNT “be qualified as a charitable entity by the Internal Revenue Service under Section 501(c)(3) of the Internal Revenue Code.”

- ii. Advise the beneficiary and authorized family members of the potential impact of an out-of-state transfer. For example, if the transfer is to a PSNT located in another state, the beneficiary may or may not be eligible for public benefits under that state's rules and it is possible that the state's Medicaid agency may not approve the PSNT even though the current state's Medicaid agency in fact approved it.
 - iii. If the beneficiary insists on the transfer after the disclosure, the PSNT should have the beneficiary sign an acknowledgment of the potential negative consequences of the transfer and give informed consent for the PSNT to proceed with the transfer.
 - iv. Only after the beneficiary has been advised of the potential consequences of the transfer should the PSNT cooperate fully with the beneficiary and the receiving PSNT to timely accomplish the transfer.
 - v. The beneficiary's request for transfer should be made in writing and kept as part of the PSNT's file.
- c. In the event another PSNT is deemed unable to continue its role and the PSNT is asked to assume support to an entire PSNT, the receiving PSNT shall require a court order that clearly states there is no liability for any actions prior to the court order, and no responsibility to pay any outstanding bills that are not acknowledged by the court order. Such an order will include an immediate audit of all incoming accounts paid for by the PSNT being terminated.
- i. The PSNT should provide the beneficiary with a written explanation regarding the effect, if any, of the transfer and require the beneficiary to provide a written acknowledgment of receipt of the explanation.
 - ii. The transferring PSNT should provide the beneficiary or authorized representative with copies of any documentation provided to the receiving PSNT and receive a written acknowledgment of receipt of the documents from the beneficiary or authorized representative.
 - iii. If a court order is required to approve the transfer, the PSNT should file a petition with the court having jurisdiction over the beneficiary's PSNT for court approval of the transfer.

Example: *NPTSC Guidelines, Guideline 4(k) provides that: [l]ateral transfers to and from another similar pooled trust should not be unreasonably denied to promote choice and options for beneficiaries, as appropriate."*

10. Financial Provisions for PSNTs

- a. A PSNT should have unrestricted reserves of one-year operating expenses in case no new beneficiaries enroll for a year.
- b. In creating a new PSNT, the founders should have accumulated enough initial capital for 2-3 years of operational costs before starting the PSNT via cash, grants and donors.
- c. The PSNT should have additional provisions in place to ensure long-term financial sustainability.

11. Retained Funds

- a. The PSNT should have a policy on remainder funds, complying with the applicable laws.
 - i. The policy should describe the circumstances when funds remain, the uses of the remainder funds (whether for operations or for other beneficiaries), any time limit on terminating the joinder agreement, etc.²⁸
 - ii. The policy should be included in the joinder agreement, written in plain language, be noted prominently and require initials of the beneficiary or authorized third party.
 - iii. If a PSNT has too large an amount of remainder funds, the PSNT should review its budgeting process.

Suggestion ¶ : Every year the PSNT should review the accounts of any beneficiaries who died that year with remaining funds, to see if the beneficiary’s death was earlier than anticipated or due to an accident, or whether the PSNT should have done something differently regarding the oversight of that beneficiary’s account, especially when the beneficiary has not been accessing money from the PSNT.

Commentary: The PSNT administrators and Board should understand that remainder funds are not the same as reserves for operating expenses.

Example: *NPTSC Guidelines, Guideline 10(a) provides that “[f]unds retained by the organization upon the death of a pooled trust beneficiary should be used to benefit people with disabilities and to further the mission of the organization.”*

12. Confidentiality

- a. Having a policy on confidentiality alone isn’t enough. As part of mandatory training for all employees, the PSNT should train employees on confidential information and confidentiality.
 - i. Information that is confidential just does not include the client’s financials, but includes any information at all about the client, including that the client is a client of the PSNT.
- b. Clients should consent to the release of information prior to its release. The release of information should only be for appropriate business purposes.
- c. If it is necessary to provide any client information to any agencies, the client’s consent should be obtained at the beginning of the representation, as part of the joinder agreement.
- d. In cases where a client’s health information is obtained (including in situations where the client is evaluated for disability), the PSNT must ensure that each employee with access to such information is trained on the applicable laws and regulations and the

²⁸ In discussing remainder interests, True Link notes variations amongst PSNTs on this issue. “Some pooled trusts have strict policies that prevent the retention of any remainder interest. Others retain remainder interest and use it to run charitable programs, support operations or subsidize fees for lower-income beneficiaries.” *True Link* at 17.

- employee signs a statement of completing the training and abiding by the requirements of the laws and regulations.
- e. An intentional breach of client confidentiality should be treated as a firing offense.

13. Contracting with 3rd Parties and the Use of Agents:²⁹

- a. If a PSNT contracts with a third party, the PSNT should do the following before hiring the third party:
- i. If the third party is an individual rather than a company, the PSNT should conduct a background check, obtain references and check the references. If the third party is a company, the PSNT should ensure that the company is regularly performing background checks of its employees.
 - ii. The PSNT should obtain and check references.
 - iii. The PSNT should get three bids—choose the most appropriate, not necessarily the lowest bid
 - iv. The PSNT should conduct interviews—over the phone is acceptable.
 - v. The PSNT should make sure that the 3rd party selected is licensed, bonded and insured. The PSNT should make a copy of the license number and certificate of insurance and keep in the file.
- b. The PSNT should not pay the 3rd party the entire amount up front, but instead may contract to make installment payments on achievement of certain benchmarks.
- i. The PSNT should not make any payment to the third party at the beginning of the contract, but if the 3rd party insists on some payment up front, then the PSNT should only agree to a small amount, with discretion to the executive director to negotiate a higher amount, but no more than 50% of the contract price.
 - ii. The PSNT should confirm the job is completed before making the final payment. This may include having another inspect the premises or confirm the job completion.
 1. The PSNT should be sure to obtain and file any release of liens filed by the 3rd party at the inception of the contract.
 2. If the job isn't completed to the satisfaction of the PSNT, the PSNT should withhold final payment until the contract is fulfilled.
 - iii. When hiring a third party, the PSNT should enter into a written contract with the third party that clearly sets out the scope of work, the start and completion dates, the payment schedule, non-discrimination clause, as well as any boilerplate clauses required by law or on advice of counsel. The beneficiary or authorized third party should be given a copy of the executed contract.
- c. The PSNT should deal at arm's length with third parties. For example, the PSNT should not hire families or friends or an unlicensed handyman to make repairs to the beneficiary's home.

²⁹ See, e.g., UTC § 807, Delegation by Trustee.

Commentary: Although a friend of the family may offer to do the work a lot cheaper than a professional, the potential for things going wrong could outweigh any savings.

Suggestion^Q: In the event that a professional is not available to do the work, or it is in any other way not feasible to hire a professional, then when dealing with a family member or friend, the PSNT should follow similar procedures to hiring a professional, include language in the contract limiting liability and withholding payment until the job is completed to the PSNT's satisfaction. In all events a written contract must be obtained, rather than making an agreement on a handshake.

II. Trust Management Best Practices

14. Policies and Procedures

- a. Each PSNT should, with the input and contribution of the board, develop a comprehensive set of policies. The finalized policies should be adopted by the PSNT board of directors.³⁰ This set of policies should be provided to staff in a compilation that is regularly updated and able to be referred to in print or electronically.

Commentary: Since no two PSNTs are alike, some policies may be more appropriate for some PSNTs than others. The PSNT should be sure to develop all the policies needed for the PSNT to fulfill its goals.

- b. Every PSNT should have policies required by local, state and federal laws, such as wage and hour laws, workers compensation, and the Americans with Disabilities Act, to name a few.
- c. Every PSNT should have a policy on who has access to a beneficiary's personal identifying and financial information. Access should be limited to only those who need the information in order to do their jobs and the officers of the PSNT (if necessary).
- d. Every PSNT should have a policy on social media that covers, among other things, prohibitions on using the PSNT technology for an employee's **personal** use, and employee posting to the employee's **personal** social media from the office, even during personal time, and the prohibition against personal posting the employee's personal social media site any information about beneficiaries, co-workers and others with whom the PSNT staff interact in any way. The policy should also prohibit employees using the PSNT's logo or any other trademark in personal postings.
- e. The PSNT should have an internal conflict of interest policy approved by the PSNT board that applies to employees, administrators, officers and board members.
- f. In the event the PSNT is part of a larger not-for-profit organization; there must be clear firewalls between the PSNT, their donors, beneficiaries and key people and the not-for-profit. For example, the umbrella not-for-profit should not have access to the donors to the third-party trusts for the purposes of fund-raising.

³⁰ For example, NPTSC Guidelines, Guideline 4(a) provides that "[o]rganizational policies should be approved by the board of directors."

Example: *NPTSC Guidelines, Guideline 4(n) provides that “[t]he Pooled Trust Program ... have a conflict of interest policy. The pooled trust organization should require all board members and officers to disclose any real or potential conflict of interest at the time it arises and, in any event, should annually request disclosure of such real or potential conflicts. Where an individual has a conflict of interest, the board should take appropriate steps to protect the pooled trust organization from injury or undue influence arising from the conflict.”*

- g. The PSNT should have an external conflict of interest policy approved by the PSNT board that applies to employees working or volunteering part-time for other agencies, for anyone employed by or in governance of the PSNT serving on boards of organizations or doing business with entities when doing so creates an actual conflict or the appearance of a conflict of interest. The policy should require the disclosure of such outside business activity at the inception of the activity and with annual updates as long as the activity continues.

Example: *NPTSC Guidelines, Guideline 4(o) prohibits officers or members of the board from being paid or receiving any kind of compensation “from any entity doing business with the pooled trust organization.”*

- h. Each PSNT employee, administrator, officer and members of the board must sign an acknowledgment regarding the conflict of interest policy.
- i. Each PSNT should have a policy that prohibits an employee, administrator, officer or board member from having any involvement with a beneficiary outside of work-related duties.³¹
- j. Each PSNT should have a policy for employees on when to call law enforcement or 911 when a beneficiary or interested third party is acting out of control, rather than trying to handle the matter. The failure to comply with the policy should be considered a disciplinary infraction because doing so puts individuals at risk of harm.
- k. Each PSNT should have a policy that requires reporting of suspected abuse, neglect and exploitation when a beneficiary reports to them that they have been abused by any provider, caregiver, community member or family member and provide documentation that policy is followed in each case. The policy should have specific steps based upon the situation, *i.e.*, an allegation of rape has very specific steps that should be taken.
- l. Each PSNT should also have a policy that requires reporting of suspected self-harm by the beneficiary. PSNT staff should be trained on steps to take in such situations.
- m. Each PSNT should have a policy on steps to be taken if staff believe a guardian or key person involved with a beneficiary is acting in a way that is harmful or dangerous to the beneficiary, including steps in extreme cases to seek legal recourse to seek removal of that person’s legal status.
- n. Each PSNT should have a policy to address when it might be necessary for the PSNT to petition for the appointment of a guardian, conservator or guardian ad litem, or for instructions from the court.

³¹ See, e.g., NPTSC Guidelines, Guideline 7(a): “[t]he pooled trust program should maintain a professional relationship with the beneficiary....”

- o. Each PSNT should have a policy and process on notifying the appropriate individuals and authorities when beneficiaries describe behavior that is indicative of bullying, taunting, etc. The policy should cover whom to report and the responsibility of staff to respond.
- p. Each PSNT should have a policy on remainder funds and on reserves that is approved by the board and reflected in the joinder agreement.³² The policy should be disclosed to and acknowledged in writing by the prospective beneficiary at the creation of the account.
- q. Each PSNT should have a strong and clear policy on confidentiality. The policy should address (1) with whom can the PSNT share information, whether family members of beneficiaries, vendors or others, (2) the type and amount of information to be shared, and (3) the circumstances under which the sharing of information would be appropriate.
- r. PSNTs should always follow their own policies and procedures and include a statement in the employee handbook on the ramifications for failing to do so. If an employee doesn't know the policy, the employee should know to ask the supervisor, rather than making up an answer on the fly.
 - i. If a beneficiary can give informed consent, the PSNT should obtain such consent from the beneficiary regarding the sharing of information. The consent should be in writing and clearly note that the beneficiary can revoke this consent at any time. The beneficiary should be given a copy of the consent.
 - 1. The scope of consent should be clearly laid out in the document.
 - ii. If a 3rd party has legal authority to provide consent for the beneficiary, if the beneficiary is still capable of giving consent, the PSNT should look to the beneficiary for consent.
 - iii. If a 3rd party has legal authority to provide consent, the PSNT should require the 3rd party to provide a copy of the document (if any) authorizing the 3rd party to provide consent. The document should be kept in the beneficiary's file.

Example: *The NPTSC Guidelines, Guideline 4(b) provides that “[t]he organization should have policies and procedures for the confidentiality of information and the privacy of beneficiaries.*

- s. The PSNT should recognize that its employees are fiduciaries and have a policy that outlines the performance of fiduciary duties.
 - i. As a routine matter, on hiring of an employee, each PSNT should provide the employees with information about being a fiduciary and how to discharge their duties as fiduciaries.
- t. If employees of the PSNT use their personal cars for company business, the PSNT should have a policy on mileage reimbursement, insurance, liability and appropriate uses of personal cars.
 - i. The employee must provide the PSNT with written proof of ownership or documentation they are allowed to use the vehicle as well as written proof of

³² See, e.g. NPTSC Guidelines, Guideline 4(f) which directs that “[o]rganizations and their boards of directors should actively and regularly evaluate their operating reserves.”

- insurance; and road worthiness and safety of the vehicle before the employee can use the employee’s personal vehicle for PSNT business.
- ii. If an employee transports a beneficiary in the employee’s car, the transportation should only be for authorized activities. The PSNT should obtain a rider on insurance to cover any harm that might occur to a beneficiary when riding in an employee’s personal vehicle. The employee should not assist or lift the beneficiary to/from/in/out of the vehicle. Transporting a beneficiary for non- authorized activities is a firing offense.
- iii. Reimbursement for mileage should be no more than the federal allowable rate.
- u. PSNTs should use secure time keeping-billing methods and keep accurate, detailed records.
 - i. To determine the appropriateness of an expenditure, the PSNT should make sure that the expenditures contain enough detail that the beneficiary or authorized 3rd party will have sufficient information about the expenditure.
 - ii. Entries should be made contemporaneously with an expenditure or no later than the next business day.
 - iii. Supporting documentation should be obtained for each expenditure.
 - iv. If the time/billing records are kept electronically, the PSNT should be sure to have adequate firewalls and cybersecurity systems in place.
 - v. Those individuals who have authorized access to a beneficiary’s funds should be bonded.
 - vi. The PSNT should have an internal audit system to ensure appropriateness of time, billing and approval of expenditures.³³
 - vii. The PSNT should have an external review of financial policies at least once every three years as part of an independent audit of the PSNT.
- v. A PSNT should have a policy on who is to respond when the beneficiary has an emergency.
 - i. The beneficiary and authorized third parties should be given a copy of the policy and the names and emergency contact information for the PSNT.
 - ii. Those employees on call after hours should understand the necessity of being reachable at any time in the event of an emergency.
 - iii. If an on-call employee fails to make him/herself available during an emergency, absent good cause, the employee should be terminated.
 - iv. The PSNT should consider the provision of a safe place for employees during a disaster that has backup generators and supplies so the employees can continue to be reached by beneficiaries (*See*, § 21 on Disaster planning).

Commentary: There are two scenarios that should be addressed in an emergency preparedness policy. The first is when a disaster strikes that effects the PSNT’s ability to conduct business. The PSNT needs to be sure that it can continue operations after the emergency has abated. The second is when a vendor requires an up-front payment from the PSNT before providing services to a beneficiary during or right after an emergency. For example, in the case of evacuation, the PSNT may need to pay for lodging for the beneficiary and the vendor may require an upfront payment or guarantee from the PSNT.

³³ See, e.g., NPTSC Guidelines, Guideline 4(g) noting the need for “regular audits of the organization, including internal financial operations....”

15. Strategic Partnerships

- a. The PSNT should identify organizations and agencies that would be beneficial to the PSNT with which to have a working relationship.
 - i. These could include an elder law section of a local or state bar association, local government agencies (such as permitting), state agencies (such as Medicaid), federal agencies such as SSA or HHS or charitable organizations.
- b. The PSNT should identify employees who might be available to serve on boards of such agencies or organizations and encourage them to seek such leadership positions.
- c. The PSNT should include a marketing line item in its operating budget that includes sponsorships for charitable fundraising activities.

Caution: In creating strategic partnerships, the PSNT should be cognizant of actual or potential conflicts of interest, or even the appearance of a conflict of interest.

16. Media

- a. A PSNT should have a policy on dealing with the media. As part of the policy, an individual should be identified who will handle all media inquiries. Others should be trained to refer all media inquiries to the individual and not try to respond to the media. The policy should ensure that employees understand confidentiality of beneficiary information.

17. Technology

- a. Every PSNT should make sure it has secure firewalls, antivirus and other cybersecurity systems in place.
- b. Every PSNT should be sure to train employees on the appropriate use of technology and the risks of inappropriate use of it. The PSNT employee manual should address security concerns while working remotely.

<p>Suggestion ⓘ: The manual should address the risks of accessing unsecured or public Wi-Fi, using a laptop in public, business continuity and technology accessibility for business continuation in the event of a natural disaster or emergency.</p>

- c. The PSNT should have a tracking system that requires each employee to log-on in order to track the transactions for individual beneficiaries.
- d. The PSNT should use accounting software that allows the PSNT to track transactions for individual beneficiaries.
- e. The PSNT should have adequate cybersecurity insurance.

Commentary: Technology has become ubiquitous and its use widespread. However, the PSNT needs to examine technology as it supports the mission of the PSNT. Technology is a tool, but not a replacement for humans. When determining methods of communication, a PSNT may choose to use email as a primary method of communication. There are many conveniences and advantages to email, but it may not always be the best method for communication.

Further, the PSNT should remember that not all beneficiaries have access to, or the ability to use, technology for communication. To that end, the PSNT should recognize that multiple methods of

communication are important, and in some instances a phone call, a fax, or even snail mail may be the better way to proceed for a particular beneficiary.³⁴

Even though the PSNT may need to use alternative methods of communication with certain beneficiaries, the PSNT should still recognize the value of technology as a tool for more effective operations and efficiencies. To that end, the PSNT should strive to become paper-less (that is, less paper, not paper-free) so the PSNT will need a high-volume scanner and other technology that allows for efficiencies. For example, True Link observed that

Paperless pooled trusts employ a range of tools to digitize documents. Instead of collecting signatures via paper and pen, they use services like HelloSign, eSignLive, or DocuSign, which offer electronic signature technology as well as comprehensive audit trails. These systems can be used to expedite communication with beneficiary advocates and external partners, and facilitate internal authorization when multiple approvals are required.³⁵

True Link analyzed the advantages of a PSNT going digital noting the potential for growth, efficiencies, cost and time savings and better inter-agency communications. The report also noted that 3rd parties found advantages to digital documents when requesting them from the PSNT.³⁶

Suggestion ☹ : Use technology to make the PSNT operations more efficient and better able to serve beneficiaries. Technology can lead to better record-keeping, an electronic paper trail for reporting and timelier responses to beneficiary requests. Recognize that there will be up-front costs and a learning curve, but the end result will lead to efficiencies and improved effectiveness.

18. Real Estate

The PSNT should have a policy on whether to use the beneficiary's funds to buy the beneficiary a house or whether to accept title to real estate on behalf of a beneficiary. In determining whether to do so, the PSNT should keep in mind the unique issues that real estate ownership presents, the additional costs associated with real estate ownership, the Sole Benefit Rule and the POMS regarding real estate ownership.

Commentary: The POMS notes that the sole benefit rule comes into play regarding home ownership. See POMS SI 01120.201.F.2. If others live in the house with the beneficiary, the sole benefit rule is implicated, and these other occupants will need to pay rent to the trust.

Commentary: Other issues implicated by ownership of real estate include maintenance, taxes, depreciation (or appreciation), insurance, liability issues and more. The PSNT should consider a budget for ownership before deciding whether to purchase or take title to real estate.

³⁴ See *True Link* at 8, noting that “offer[ing] ... beneficiaries multiple ways to submit requests [can lead to] greater compliance, fewer hours spent fielding calls, and addressing concerns, and quicker disbursement turnaround times.” The takeaway, according to True Link: “it’s easier to teach ... staff to do the same task multiple ways through good technology than it is to persuade all beneficiaries to do the same task the same way.” *Id.*

³⁵ *True Link* at 6.

³⁶ *True Link* at 7.

III. Personnel and Physical Plant

19. Hiring and Firing: Potential Employees, Employees and Vendors

- a. Potential Employees
 - i. As a matter of routine, a PSNT should complete a criminal background check, fingerprinting, a reference check, a drug test and a credit check for each prospective employee.³⁷ Each prospective employee should provide a valid and current photo ID. If the employee is going to ever be transporting a beneficiary a current driver's license and insurance card must be provided. It is the responsibility of the employee to notify the PSNT of any loss of driving privileges or insurance coverage.
- b. Vendors
 - i. A PSNT should check references for any vendor and confirm that the vendor is licensed and insured. A reference check should also be conducted before hiring a vendor.
 - ii. Before doing business with any vendors that will have access to physical space of the PSNT, the PSNT should determine whether any employees of vendors have been screened, bonded, etc. by the vendor and if not, then the PSNT should consider conducting a criminal background check, fingerprinting, a reference check, a drug test and a credit check for each such vendor or have a policy that each PSNT employee must secure files and log off computers so anyone not employed by the PSNT who has access to the space will not have access to confidential information.
- c. Employees
 - i. Each new employee should have a stated probationary period and this should be clearly noted in a letter of employment.
 - ii. Each employee should be provided with an employee manual that includes information about policies and procedures (including technology policies), penalties for violation of policies and procedures, and actions that could lead to immediate termination.
 1. Employees should sign an acknowledgment of the policy manual.
 2. Employees should confirm in writing that they have read the manual.
 3. Employees should be required to undergo an initial and then periodic training on the PSNT policies and procedures.³⁸

Commentary: The PSNT may hire a cleaning service, and if that is the case, before engaging the service ask about the employee screening used by the cleaning service. If instead of a service, the PSNT hires individuals to clean the office space, then the PSNT needs to do its own check of the individual before hiring the individual. Further if any PSNT employees might be working late when the individual is on the premises, screening the individual before hiring will help ensure the safety of the PSNT employees.

³⁷ See, e.g., *Plan of New Jersey* at 4.

³⁸ NPTSC Guidelines, Guideline 3(a) provides that “[o]rganizations ... hire competent staff and provide staff with ongoing training.”

- iii. The PSNT should offer practices and incentives to employees to encourage retention. It is critical to maintain continuity of staff both for beneficiaries to have confidence and knowledge of the staff they work with and for program integrity.
 - 1. The PSNT should develop a regular “stay interview” with staff focusing on their contribution to the organization, their personal goals for development and the mission of the organization. For new employees this should be done within the first 30 days, repeated at six months and then become an annual event separate from any annual evaluations.
 - 2. Every employee of the PSNT should have an annual evaluation with review of mutually set goal, requests for training and direct feedback on performance from their supervisor.
 - 3. The PSNT should have an annual training program for staff that is focused on the needs of individuals – employment goals for example – so, they become more knowledgeable about the ways they can support beneficiaries.
 - 4. The PSNT in conjunction with their staff should develop a series of incentives that recognizes continuity and longevity. The incentives can be tailored to the individual PSNT and can take a variety of forms other than monetary incentives.

Example: *A PSNT may allow a casual dress day or bring in puppies from a local rescue for an afternoon break.*

- iv. The PSNT should ask staff to define professionalism and customer service and create its definition of professionalism with the staff input.
 - 1. The PSNT board should adopt a professionalism and customer service policy that applies from the top down.
 - 2. Staff should be asked for examples of professional conduct and unprofessional conduct, with those examples incorporated into the policies and procedures manual.

20. Training

- a. The PSNT should have a required training program for all new employees and then regular continuing required training for all employees.
 - i. Required topics should include the mission of the PSNT, the role of the PSNT, supporting a quality of life of beneficiaries, history of the PSNT, Governance of the PSNT, their role and responsibilities, HIPAA, confidentiality and informed consent, implicit biases, employee attitudes, POMS, sole benefit, policies and procedures, and record keeping
 - ii. Topics for continued training could include building natural supports, building relationship and effective methods of communication, handling beneficiaries who are angry or demanding, assessment tools, various disabilities, government programs and benefits, dealing with an angry beneficiary or

- family member, dealing with local agencies, cyber security, what happens when a beneficiary runs out of money, etc.³⁹
- iii. Additional training should be related to program areas like vocational opportunities, health and wellness, and developing community interactions as outlined in the BEST Tool.
 - iv. The PSNT should regularly share success stories with staff of critical steps taken by the PSNT that effectively changed the lives of the beneficiary for the better.
 - v. Employees should be given an opportunity to evaluate a training session, suggest topics for future trainings and to serve as trainers or facilitators.
 - vi. The PSNT should keep a record of each staff member’s participation in training, and this should be part of their annual evaluation.
- b. Every PSNT should conduct annual employee reviews, using a written tool that employees can either use to self-evaluate or read prior to evaluation.⁴⁰ The review process should also give employees a chance to confidentially evaluate supervisors.
 - c. Every PSNT should develop a plan for employee retention and incentives for engagement.
 - d. Every PSNT should have an exit interview process to learn from any staff leaving what caused them to leave and what if anything can be learned to improve the work environment for all.

Commentary: Well-trained and dedicated staff are the most valuable asset a PSNT has. The PSNT should be sure that staff education is a priority and staff retention an ongoing goal.⁴¹

Suggestion ¶ : A PSNT should consider the creation of a “retention strategy”⁴² and benchmarks for employees who strive for greater responsibility within the organization. Promotion from within can have great advantages, but the PSNT also needs to recognize that they need to provide appropriate training, professional opportunities and support for employees, so the employees are not promoted only to fail.

- e. The PSNT should also offer training to family caregivers, professional caregivers and beneficiaries, including topics such as financial literacy (especially for beneficiaries), record keeping, receipts, sole benefit rule, etc.
- f. As a value added, a PSNT might consider offering additional training for family caregivers and professional caregivers should also focus on their personal well- being in the role they have undertaken.

³⁹ See, e.g., NPTSC Guidelines, Guideline 3(b) which directs that employees “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. 3(c) directs that employees have “or know where to obtain knowledge of the population served and receive ongoing training regarding the population served and changes in disability services.”

⁴⁰ The NPTSC Guidelines, Guideline 3(d) calls for regular employee evaluations.

⁴¹ See, e.g., *True Link* at 15, discussing that top performing PSNTs “invest in staff development and retention because they know that institutional knowledge is invaluable.” *Id.* at 15.

⁴² *True Link* at 16.

21. Distribution of Duties

- a. Each staff member should have discrete responsibilities and a job description.
- b. Staff should be cross-trained so that operations continue even if an employee is on vacation, ill, etc.
- c. A member of the leadership team should monitor the workload of each staff member and redistribute the cases as needed.
 - i. Case load numbers are not always a good indicator of workload, in that some beneficiaries need more time and attention while others need little.

Suggestion ⓘ : Regular reports and group meetings can help with workload flow.

22. Physical Plant

- a. The PSNT should decide whether to have a location to meet with beneficiaries that is part of the PSNT physical plant or a separate facility.
- b. All physical parts of the PSNT should be fully accessible, ADA-compliant and meet state/local building codes.
- c. The PSNT should have adequate security for people (employees, vendors, beneficiaries and business invitees) and for information. Thus, the PSNT should consider the use of keycard or biometric entries, emergency call buttons, cameras and lighted parking.
 - i. If cameras are used on the premises, appropriate notices should be posted regarding the use of cameras.
 - ii. The PSNT should consider the issues presented by the storage of video, including security and length of storage and who can access the stored video.

IV. Emergency Planning

23. Disaster Planning

- a. A PSNT must have a disaster plan and policy for both the organization and for the beneficiaries.
 - i. A PSNT must have a disaster plan for the organization that recognizes the need to secure the equipment, data, and original documents; protect employees and beneficiaries; and allows for ongoing operations.
- b. Although the physical space may not be available for some time, the PSNT must be able to continue business or resume business as soon as possible.
- c. Beneficiaries dependent on the PSNT for paying bills and arranging services will need to have that support continued even though the physical location of the PSNT is inaccessible.
- d. The disaster plan must contemplate that when a natural disaster strikes, all entities and individuals will be scrambling for services, infrastructure repairs, and basics, such as food, clothing and shelter.
 - i. The plan needs to arrange for adequate provisions prior to the natural disaster and for at least three weeks post-disaster.

- ii. The PSNT should assume that electricity, cell service, water, gasoline, and food supplies will be interrupted and have a plan in place to respond to beneficiaries' needs during these outages.
- e. A PSNT must have adequate insurance that includes property and casualty, business interruption, and liability insurance.
- f. A PSNT should ask each facility where one of the PSNT beneficiaries resides for a copy of the facility's disaster plan and review it for adequacy.
- g. The PSNT should have an alternative means of communication available until local governments and cell providers are able to restore standard communications.

24. Emergency Procedures

Suggestion ☹️: The PSNT should distinguish between emergencies and disaster preparedness and train employees on each.

- a. The PSNT should train employees on how to respond if a beneficiary has a medical emergency in the presence of the employee.
- b. The PSNT should have backup files offsite-whether in a physical location or cloud storage.
- c. The PSNT should have a business interruption plan to allow the PSNT to resume operations as soon as possible.
- d. The PSNT, in developing its emergency response plan, needs to balance employee safety and security with the needs of and supports for beneficiaries.
- e. The PSNT should provide every beneficiary, authorized caregiver and authorized family member with an emergency phone number and ensure that a PSNT employee is available at any time to answer that number.

V. *Beneficiary Related Best Practices*

25. Beneficiary-Centered Processes

The Beneficiary Experience: How does the operation of the PSNT look from the viewpoint of the beneficiary, the family, and others who care about them?

26. Considering the entire person

- a. **The goal of the PSNT should be to consider the entire person and their quality of life.** The PSNT should be an effective organization providing support to the beneficiary with timeliness, accountability and transparency. In addition, the PSNT should be an effective partner with the beneficiary in building a better life looking to critical areas that often have been overlooked in the past. The PSNT should have a process to regularly engage all beneficiaries in developing their plan for a quality life in critical areas.

27. Employment⁴³ Opportunities for Beneficiaries

One of the areas that has most often been overlooked by the PSNT in the past has been employment opportunities for beneficiaries. As a result, our best practices guide recommends a renewed approach for all beneficiaries to explore employment opportunities.

- a. As part of the assessment of the beneficiary, the PSNT should inquire of the beneficiary the beneficiary's interest in employment opportunities, whether for pay or as a volunteer. These interests should reflect the beneficiary's interests and desires for work, not just available jobs.
- b. PSNT staff should be trained on the various vocational opportunities for beneficiaries.
 - i. For those beneficiaries who need support, the PSNT should include in the beneficiary's budget a job coach or job companion in the budget if there is no federal, state or local government funding for such positions.
 - ii. The budget may also need to include transportation, clothing and other expenses associated with vocational opportunities.
- c. Staff of the PSNT should familiarize themselves with vocational training, college programs, and employment resources in their community, their state and nationwide, such as the Association of People Supporting Employment First (APSE); state specific vocational rehabilitation services funded under the Rehabilitation Services Administration (<https://www.careeronestop.org/ResourcesFor/WorkersWithDisabilities/vocational-rehabilitation.aspx>), The Arc, U.S. Department of Labor Office of Disability Employment Policy and the World Institute on Disability.

28. From the beginning to the end, the PSNT should have processes in place that ensure that the focus is on the beneficiary in all facets of the administration of the beneficiary's account in the PSNT.

- a. The PSNT should learn as much as possible about the beneficiary, not just the benefits for which the beneficiary is or may become eligible and the beneficiary's needs, but what gives the beneficiary joy and provides the beneficiary with a quality of life.⁴⁴
- b. A PSNT should use a routine process for learning about the beneficiary that allows the PSNT administrator to know the beneficiary as a person, rather than as a case.
- c. As much as possible, the PSNT should emphasize the beneficiary's autonomy and quality of life rather than focus on the task at hand.
- d. The PSNT should strive to empower each beneficiary when making decisions about expenditures and other matters and make decisions in a way that allows a beneficiary autonomy.⁴⁵ Whenever possible, the PSNT should use tools that allow the


⁴³ We use the word employment to indicate paid or volunteer employment, and in this document consider it synonymous with vocational opportunities.

⁴⁴ True Link Best Practices suggests that PSNT staff "take detailed notes on the beneficiary's needs, living situation, capacity, spending habits, anticipated future purchases, and government benefits..." and use the information to determine "a monthly spending plan to help the beneficiary, as well as the trust, budget appropriately." True Link notes that all information gathered should be "entered electronically into an internal client database." In fact, True Link notes the most efficient trusts "enter data in real time" during the meetings with the beneficiaries. *True Link* at 3.

⁴⁵ See, e.g., NPTSC Guidelines, Guideline 7(a): "[t]he pooled trust program should maintain a professional relationship with the beneficiary and that person's representative as applicable, consider the needs of the beneficiary and respond to requests for trust distributions."

beneficiary's participation in decision-making, such as supported decision-making. Key to this process is spending time insuring to the extent possible beneficiaries understand the resources available to them and the limits of those resources.

- e. A beneficiary's request should not be denied just because the PSNT fears the possibility of liability.
- f. When creating a budget for the beneficiary, the PSNT should consider those expenditures and matters that provide a beneficiary with joy and, whenever financially feasible, include those in the budgeting process, even though the PSNT administrator may consider the items to be frivolous or unnecessary. However, the PSNT administrator should take the beneficiary's long-term needs and safety against such expenditures. It is essential for the PSNT to distinguish between the importance to the individual beneficiary rather than the PSNT or other's opinions.
- g. The PSNT should obtain the informed consent of the beneficiary (if the beneficiary is capable of giving informed consent and if not, the representative of the beneficiary), including a HIPAA consent. Consent should be obtained before any information about the beneficiary is shared with a third party.
- h. PSNT staff should never assume that the inability to verbally communicate precludes any other form of communication. In the case of persons who are nonverbal, the PSNT staff must develop alternative means to engage the beneficiary. The PSNT staff should have auxiliary aids and other effective (and ADA compliant) communication devices available to assist in communicating with the beneficiary. The PSNT should also arrange for interpreter services for those whose primary language is not English.
- i. The PSNT should always remember that the individual beneficiary is just that---an individual and ensure that staff are trained to understand this and have operating procedures that are designed to treat the beneficiary as an individual.
- j. The mission of the PSNT should incorporate a focus on the quality of life of the individual beneficiary rather than just on the provision of services.
- k. When meeting with a prospective client/beneficiary, the PSNT should explain how decisions are made, the information needed under BEST to provide an accurate profile of the beneficiary, explain operating procedures and ascertain beneficiary expectations.⁴⁶ As well, the PSNT should explain the investment management part of the PSNT, such as how the funds are invested within the PSNT, who manages the investments, personal tax reporting requirements/tax liability considerations, etc.

Suggestion : In meeting with the prospective client/beneficiary, the PSNT representative should be careful to not mislead the prospective beneficiary or over-promise programs and services. The prospective beneficiary should have specified a cooling off period between the time of signing the joinder agreement and the time the check is deposited.

⁴⁶ For example, NPTSC Guidelines, Guideline 6(b) requires that the PSNT give “a prospective beneficiary or that person’s representative as applicable ... the details of how remaining funds are distributed on upon the beneficiary’s death, including the possibility of payback of funds to Medicaid agencies and retention of remaining funds by the organization pursuant to” federal law.

- l. The PSNT should have a specific timeframe for processing requests that is shared with all beneficiaries. For example, a request is processed and a check prepared or a beneficiary is notified that a request is denied within two full working days.
- m. The PSNT should have an electronic means for beneficiaries to access their accounts, check balances and see amounts available to them for disbursements.
- n. The PSNT staff or representatives should visit every beneficiary in person or virtually through telecommunication at least semi-annually and provide a record of a contact. Any change of status should initiate a personal visit.

Commentary: When visiting a beneficiary, the PSNT representative should prepare in advance for the visit and use a checklist (contained in BEST) to ensure the maximum and best information is gathered during the visit. The checklist would include observations regarding surroundings, the beneficiary's appearance, health care and treatment, etc. If appropriate, the PSNT representative visit should include observation during mealtime.⁴⁷

In person visits are critical but the frequency may depend on the needs of an individual beneficiary, the amount in the beneficiary's trust and the costs incurred in visiting the beneficiary (especially those where lengthy travel is required). For some beneficiaries, semiannual visits may be enough. For others, more often visits may be needed due to critical changes occurring with the beneficiary, although the frequency may change depending on the beneficiary's situation. It is our opinion that an annual in-person visit is insufficient.

Commentary: In some instances, especially in rural areas where the PSNT staff may be several hours away from the beneficiary, the PSNT might consider the use of technology for real time visits as a substitute for some in-person visits.

Example: *NPTSC Guideline 6 covers Trust Creation Transparency. In particular Guideline 6(a) states that "[t]he pooled trust program should disclose the operational features of its Trusts to each prospective beneficiary or that person's representative as applicable to set expectations of how the Trust may assist the beneficiary. The program should provide information related to trust irrevocability, sole benefit restrictions, in-kind support and maintenance restrictions, Trustee discretion, and restrictions on direct payments to beneficiaries."*

Further, Guideline 6(d) recommends that "[t]he pooled trust program ... encourage a prospective beneficiary or that person's representative as applicable to meet with independent counsel to discuss trust features and specific circumstances of Trust creation.

Finally, Guideline 5 Practices, especially 5(b) cautions the PSNT that it "not make a warranty of eligibility for public benefits."

⁴⁷ See, *Plan of New Jersey* at 7-9.

Suggestion ¶ : Consider carefully the documents used by the PSNT as well as the content of the PSNT website. Those each communicate a specific impression of the PSNT with prospective beneficiaries and involved third parties. The documents and the website should be written in clear, understandable and informative language.⁴⁸

- o. Each PSNT should operate in such a way as to keep humanity in their services.

Suggestion ¶ : A PSNT may send individualized birthday, anniversary and appropriate holiday greetings to beneficiaries. A PSNT may choose to hold a party for beneficiaries or in some way acknowledge and celebrate individual beneficiaries. If the activity is benefitting all beneficiaries, the PSNT should not charge the cost of the activity against the beneficiary's account.

A PSNT should develop tools to engage and support beneficiaries in understanding the funds available, share documents and their goals and life plans. This tool should be accessible to Trust staff working with beneficiaries when making decisions about expenditures. The BEST tool is one a PSNT might consider. The BEST Tool will provide the PSNT an interactive and real time tool to use with their beneficiaries for their benefit not as another assessment and will provide the PSNT with a planning tool that also support financial literacy skills of the beneficiary.

29. Beneficiary Budgets

- a. The PSNT should create a budget for each beneficiary.⁴⁹ The goal of the budget is to build a quality life for the individual to the extent possible and to expend all funds prior to death of the beneficiary.
- b. Before creating a budget for the PSNT beneficiary, the PSNT should complete an assessment (BEST) to determine the beneficiary's goals, expectations, dreams and factors that provide the beneficiary with a quality of life.
- c. The budget that the PSNT creates should be based on the amount of money the beneficiary deposits with the PSNT but taking into account the beneficiary's life plans. The PSNT should recognize that the money is to be spent on the beneficiary's behalf, and not saved for future generations. The PSNT reserves the right to go beyond the annual budget for special circumstances and this should be communicated in writing to the beneficiary. The budget should also take into consideration any outside income/assets or any government or private benefits received by the beneficiary.
- d. The budget should also take into account the beneficiary's life expectancy as determined by the life expectancy tables which includes flexibility for people with

⁴⁸ True Link offers examples of "high-performing trusts" describing "the quality and clarity of [those] materials. Trusts that create user-friendly forms, easy checklists, visual resources, and documents geared toward the population served... reported higher success rates with the onboarding process. Some trusts take this even further, sending duplicate materials to advocates, loved ones, and service providers so everyone is on the same page. Still others create customized packets for beneficiaries depending on the type of benefits received." *True Link* at 4.

⁴⁹ *But see* NPTSC Guidelines, Guideline 7(b) which provides that

The pooled trust program should have full discretion to decide if a beneficiary should have a written spending plan for each beneficiary that is provided to each beneficiary and that person's representative as applicable. This may include review of prior year spending, anticipated life of the trusts, and considerations of principal and interest spending.

multiple disabilities, the beneficiary's health and disability. This table should be reviewed periodically and adjusted as needed. A key determinant of effectiveness should be a review of the number of beneficiaries who die before their trust is expended.

- e. Once the budget is created, the PSNT should review and explain the budget with the beneficiary, if the beneficiary is capable of comprehending, as well as anyone else the beneficiary chooses to be part of the discussion. When considering whether a beneficiary is comprehending the discussion, the PSNT should recognize that a beneficiary with diminished capacity may still comprehend the information depending on the form in which the information is presented, as well as the time of day and location of the conversation. If the beneficiary is unable to comprehend the conversation, then the PSNT should have the conversation about the budget with the individual(s) legally authorized to speak on the beneficiary's behalf.
- f. Once the budget is final, the beneficiary or authorized third party should sign an acknowledgement of the budget and be given a copy.
- g. The budget is a living document and should be periodically updated, especially in the event of a significant occurrence.

Example: *NPTSC Guidelines, Guideline 4(d) recommends the provision of "individual trust accountings.... on a regular schedule."*

PSNT staff should remember that a budget balances the beneficiary's needs against the amount of money in the account. However, the PSNT should never let the potential for remainder funds guide any decision to approve or deny a request. PSNT staff should support the goals of the person, follow the law on allowable expenses, and consider each situation individually. Their personal values about an expenditure as being too lavish or too cheap, should not impact their decision to allow or deny any request.

Example: *NPTSC Guidelines, Guideline 7(c) directs that a "pooled trust program ... not take retention by the organization into consideration when making distributions."*

- h. In situations where it appears likely that the beneficiary will exhaust the funds in the PSNT, the PSNT should prepare a phase-out or "weaning" budget.

30. PSNT Providing Additional Services to Beneficiaries

- a. A PSNT may decide to offer services beyond that of administration of the pooled trust. Any fees for wrap-around services and extraordinary fees should be clearly listed on the published fee schedule.

Commentary: Some PSNTs that offer additional services may serve as a representative payee for a person receiving Social Security benefits, as a fiduciary for someone receiving Veterans benefits, or care management services.

- b. A PSNT needs to recognize the potential for conflicts of interest when deciding whether to hire a third-party to provide case manager/care manager or to provide those services in house.

Commentary: Assume a beneficiary needs a care manager to arrange for services for the beneficiary. If the PSNT offers expanded services, the PSNT may choose to use an in-house care manager to arrange for these services. But what if a third-party care manager can provide those same services cheaper than what the PSNT would bill the beneficiary? The PSNT may be tempted to keep the transaction in-house, since it would benefit the PSNT's bottom line, but it would cost the beneficiary more.

There may be valid reasons for the PSNT to keep the transaction in-house. For example, the PSNT may be able to arrange the services for the beneficiary faster than the third-party service provider. If there is a reason to justify the higher expenditures for services provided by the PSNT, the PSNT should be sure to document the beneficiary's file to reflect this. In order to avoid the perception of self-dealing, written authorization to provide in-house care management services should be provided prior to delivery of the service. The authorization can be a Life Plan document, a Joinder Agreement or other writing evidencing the request. The PSNT should have and follow a policy that public support services will be utilized prior to private trust assets being used. A competent beneficiary or authorized representative may make a written request that trust assets be used in lieu of public support services.

Summary

These guidelines are designed to be comprehensive, but we recognize that not all of these guidelines will fit every PSNT. We hope that these guidelines will be used by PSNTs in the U.S. to the extent appropriate and feasible. These guidelines may be reproduced with attribution to the Life Passages Planning Project and the May & Stanley Smith Charitable Trust. In reproducing these guidelines, we ask that edits or changes be reviewed by the Life Passages Planning Project to avoid attributing a contrary position to the Project.

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