

# Setting Up The Trust: Part IV

## Educating Trustees

*Presented by:*

### Haley Greer, JD

Executive Director  
The Arc of Texas  
[hgreer@thearcoftexas.org](mailto:hgreer@thearcoftexas.org)

### Peter J. Wall

Director, Fiduciary Services  
True Link Financial Advisors, LLC  
[www.truelinkfinancial.com](http://www.truelinkfinancial.com)  
[peter.wall@truelinkfinancial.com](mailto:peter.wall@truelinkfinancial.com)



## Presenter's Bio

### Peter J. Wall

The Director of Fiduciary Services for True Link Financial Advisors, LLC. 20 years of professional trust administration experience - Focus in Elder Law & SNT planning

#### Prior to joining True Link:

- Developed and helped lead the BOK Financial Disability and Elder Trust Solutions division
- President of the Centennial Estate Planning Council
- Member of the Board of Directors for Easter Seals
- President of VSA Access Gallery
- Member of the Academy of Special Needs Planners



**Special needs trusts, estate planning, taxation, and trust administration faculty member and presentations include:**

- 2016, 2018, 2019, 2020 & 2021 Stetson National Conference on Special Needs Planning and Special Needs Trusts
- 2019-2022 UT Law SNT Conference
- CBA 2012, 2014, 2015 & 2017 Elder Law Retreat
- 2013 National Down Syndrome Congress
- 2015 46th Annual Autism Society National Conference
- 2016 CBA Estate Planning Retreat
- 2017 & 2021 National Conference for National Guardianship Association
- 2019 Special Needs Alliance Conference
- 2019, 2020 & 2021 National NAELA Conference
- 2020 CA NAELA
- 2020 PFAC Annual Conference

# Presenter's Bio

## Haley Greer, JD

Director, The Arc of Texas Master Pooled Trust. Over 10 years experience in Pooled Special Needs Trust Administration. Lifelong disability advocate

### What I love about my job:

- Educating individuals with disabilities and their family members about how to prepare for the future.
- Using Person-Centered Thinking to improve quality of life.
- Supporting people with disabilities to speak up for themselves.
- Advocating alongside people with disabilities for better laws, rules and regulations.
- Volunteering with Texas Advocates, a self-advocacy organization run by and for people with disabilities.



### Special Needs Trusts, Pooled Trusts, ABLE Accounts and Future Planning Presentations:

- 2017 & 2021 Stetson National Special Needs Planning and Special Needs Trusts Pooled Trust Pre-Conference Presenter
- 2018-2022 UT Law SNT Conference
- Founding Board Member - Alliance of Pooled Trusts
- Texas Blind Children's Program Future Planning 101 Series since 2020
- 2016-2018 Texas Parent to Parent

# Overview

"A principles-based regime, more so than a rules-based one, can only work if administered by people with principles" and "a trusteeship brings with it 'no small degree of trouble and anxiety,' at least for the trustee who is conscientious."  
– Rounds, Jr., Charles E. and Rounds, III, Charles E. Loring and Rounds, 2014: *A Trustee's Handbook: Wolters Kluwer Law and Business*. 2014. Print.

## DUTIES

- Secure and protect trust assets
- **Loyalty & impartiality**
- Compliance with trust document terms/settlor intent
- Accountings & statement production
- Discretionary distributions
- Investment of trust corpus
- Making all trust property productive
- Taxes (Tax Cuts & Jobs Act of 2017)
- Compliance: **federal vs. state vs. county**

## LONGEVITY OF TRUST

- Setting beneficiary expectations
- Anticipated Income vs. Total Return

## "JACK OF ALL TRADES" or "MASTER OF NONE"?

- Counsel
- Financial Advisor
- Budget Analyst
- Public Benefits Consultant
- Family Mediator
- Psychologist

# Duties

## Duty of Loyalty

Act in the best interest of the beneficiary — period

## Duty of Care/Prudence

Act reasonably as any prudent person would

- **Note:** When a trustee has held themselves out as a professional in certain areas, a higher standard of care applies (esp. in litigation).
  - Consider delegation of certain duties.
    - Uniform Prudent Investor Act § 9 — prudent delegation of investment management
    - TX: Section 117.005, Texas Property Code

## Duty to Account

Accountings / reporting to beneficiaries, remainder persons, interested parties, courts, public benefits agencies, etc.

- ABA Model Rules - “full disclosure of material facts”

**fi·du·ci·ar·y (fi-dōō-shē-ēr-ē):** n. “One, such as an agent of a principal or a company director, that stands in a special relation of trust, confidence, or responsibility in certain obligations to others.”

*Latin: fiduciarius, from fiducia – “trust”*



**Ramsey v. Boatmen's First Nat'l Bank of K.C., N.A., 914 S.W.2d 384, 387 (Mo.App.W.D.1996) —**

Trustees are fiduciaries “of the highest order” and are required to exercise “a high standard of conduct and loyalty in administration of [a] trust.” The duty of loyalty “precludes self-dealing,” which in most cases would be considered a “breach of fiduciary duty.”

# Duties

## Conflict of Interest

- Occurs when any person (e.g., a fiduciary) is in a position to personally benefit from their actions made in their appointed capacity
- Favoring one beneficiary over another (duty of impartiality)
- Putting own needs/desires ahead of beneficiary
- Self-dealing

## Duty of Impartiality

- Treat all beneficiaries the same.
- Disregard race, sex, sexual orientation, age, religion, country of origin, political views, etc.

## Duty of Loyalty

Trustees are not surrogate parents or a beneficiary's moral compass.

### ABA Model Rules of Conduct – Rule 1.7, TX Rule 1.01

“Materially limited” advice requires full disclosure and client's informed consent in writing.



Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

## Title search: Setting Up the Trust, Part IV: Educating Trustees

First appeared as part of the conference materials for the  
2023 Essentials for Special Needs Planning (REPLAY) session  
"Setting Up the Trust, Part IV: Educating Trustees"