

# Invest In **LIFE**



## Growing Your Options

Developmental Disabilities  
**Life Opportunities Trust**

Washington State Developmental Disabilities Endowment Trust Fund  
July 30, 2010

# LIFE OPPORTUNITIES TRUST OVERVIEW

## Welcome

Congratulations! You've taken the first step toward planning for the financial well being of a family member with a developmental disability or yourself. This handbook will provide you with information about the Life Opportunities Trust, guide you through the enrollment process, and answer some common questions.

## What is the Life Opportunities Trust?

In 1999, the State of Washington made it easy for families and individuals with developmental disabilities to prepare for their future financial stability. The Legislature passed a bill establishing the Developmental Disabilities Endowment Trust Fund.

Now called the Life Opportunities Trust, this public-private partnership creates a stable resource to enhance the quality of life for citizens with developmental disabilities.

As a special needs trust, the Life Opportunities Trust protects and preserves assets that would otherwise disqualify someone from government benefits, such as Supplemental Security Income and Medicaid. The trust also allows for families and individuals to save for important services that may not otherwise be provided by the government, such as work training, assistive technology, respite care and more.

The Developmental Disabilities Life Opportunities Trust is an easy and effective way to prepare for the future...and life's unexpected expenses!

## Why Invest in this Trust?

Families with children with developmental disabilities throughout Washington are in vastly different financial and economic situations. Some people simply hire lawyers and/or financial consultants to help prepare the appropriate documents to ensure the stability and legality of their special needs trust. And they often pay up to \$5,000 in fees to complete the paperwork and filing to establish a trust fund. Others may not have the know-how or the financial means to pay thousands of dollars to set up a special needs trust and appropriately invest in it. Here is where the Life Opportunities Trust comes in. This special needs trust takes the challenge out and puts affordability back into the equation for investing in the future.

The Life Opportunities Trust has several benefits for families.

- ✓ Shelters and preserves assets
- ✓ Invests in the future

- ✓ Saves for important services
- ✓ Enrolls in an affordable trust
- ✓ Requires \$25 a month minimum investment
- ✓ Avoids costly legal fees to set up a private fund
- ✓ Receives state matching funds on fees
- ✓ Utilizes professional investment management

Unlike other special needs trusts, the State of Washington has put its financial and organizational support behind the Life Opportunities Trust.

## **Trust Fund Partners**

The Developmental Disabilities Endowment Governing Board establishes Trust Fund policy. The 7-member, Governor-appointed board includes four members who are family members of an individual with a developmental disability.

The Arc of Washington State provides enrollment information, assistance and administration of the individual trust accounts.

The Washington State Developmental Disabilities Council provides support to the governing board and manages the trust's contracts and program development.

The Washington State Investment Board invests the trust's funds along with more than \$53 billion from other fund sources.

## **Who is Eligible to Participate?**

Individuals are eligible to be trust beneficiaries if they meet three conditions at the time of enrollment: (1) beneficiaries must reside in Washington State, (2) must meet the state definition of developmental disabilities as determined by a representative of the Department of Social and Health Services, and (3) must be under the age of 65 at the time of enrollment.

To verify eligibility by meeting the state definition of developmental disability, you may provide a copy of a : (1) medical coupon if it is marked "DD Client", or (2) letter from the Division of Developmental Disabilities that references the beneficiary as a client (i.e. a letter stating who is your case manager, etc.), or (3) you can contact the prospective beneficiary's current case manager to request a letter indicating that the individual is a client of the Division of Developmental Disabilities. You will need this proof in order to enroll.

## How Can Funds be Used to Help?

Financial consultants often advise people to invest for both long and short-term goals. The Life Opportunities Trust makes this easy to accomplish. The Trust allows for families and individuals to save funds for use decades from now, as well as providing access to money in the near future to pay for many supplemental services and supports, which may be used to improve an individual's quality of life.

### ***Some uses may include:***

- Education, information and training opportunities
- Living arrangements, including personal assistance services, skill building, financial management, medical monitoring, meal preparation, shopping, home maintenance and house cleaning
- Unusual or extraordinary disability-related shelter expenses
- Capital expenses, including environmental modifications and transportation
- Respite care
- Disability-related support groups
- Transportation costs
- Vacation, travel and recreation
- Employment supports and tuition
- Advocacy and legal services
- Social productivity and personal fulfillment activities, such as volunteering, club membership and recreation
- Assistive technology, including computers and electronic equipment
- Clothing
- Medical care, counseling, therapies and other health related services, including alternative practitioners, not covered by public benefits
- Birthday and holiday presents for the beneficiary to give to others
- Individual trust account expenses, including enrollment, bookkeeping, tax return preparations and filing, tax payments, annual management expenses and other trust related fees
- Items the Trust Manager deems appropriate and reasonable within the guidelines of the Governing Board

## Incentives and Costs to Participate

Unlike special needs trusts that may cost thousands of dollars in legal fees to set up, the Life Opportunities Trust and its Trust Fund Partners are able to keep costs to a minimum with sound oversight and management. This allows more of your dollars to go toward your financial future, instead of costly fees.

**We are currently offering a “match” on all fees incurred by participating in our program. This includes the initial enrollment fee at 100%, the tax preparation and filing fee at 100% and the first \$75.00 of the annual management fee.**

In order to earn the “match” on the fees you may contribute to it on a schedule that meets your needs, whether that’s monthly, periodic or annual payments. The only minimum requirement to keep your account in “good standing” is to invest the equivalent of \$25 a month.

An account must become vested before a beneficiary may use the state matched funds for services and supports. An account becomes vested by accumulating a minimum of \$25 per month of private contributions for three consecutive years. Contributions in excess of \$25 per month may be applied to future months for the purpose of qualifying for matched funds, but may not be applied to past months for vesting purposes.

After becoming vested an individual trust account must maintain active participation, the investment equivalent of \$25 a month of private contributions in order to remain qualified for ongoing state matched funds.

### **Enrollment Fee**

There is a onetime enrollment fee of \$600.00. This is a fee to open the account. However the account will open with a \$600.00 balance in matching funds.

### **Tax Return Preparation and Filing Fees**

The trust is required to prepare and file an individual tax return for each account. The fee is negotiated annually and matched 100%. \*Contact the Arc of Washington for the current rate. (see page 15 for contact information)

### **Annual Management Fee**

After one year of participation and each year thereafter, the account will be charged an annual management fee of \$75 or 1% of the account’s balance (whichever is greater).

The fee will not exceed \$750. \*The state will match \$75 of the fee.

All fees will be deducted from private contributions and will then be matched.

If at any time you have questions, please do not hesitate to contact the Arc of Washington State at 888.754.8798 or email [tamara@arcwa.org](mailto:tamara@arcwa.org) or [trust@arcwa.org](mailto:trust@arcwa.org).

## **THE ENROLLMENT PROCESS**

Now that you understand more about the Life Opportunities Trust and its many benefits to you and your family, it's time to enroll. The following simple instructions will take you step by step through the enrollment process.

### **Ensure Eligibility First**

- Beneficiaries must reside in Washington State at the time of enrollment
- Beneficiaries must meet the state definition of developmental disabilities as determined by a representative of the Division of Developmental Disabilities

*If you do not have anything in your files ( see page 3 for examples) proving the prospective beneficiary meets this criteria, then contact the Division of Developmental Disabilities or the individual's case manager to request a letter verifying that the individual is a client. Only residents of Washington State with a developmental disability that meets the criteria of the Division of Developmental Disabilities are eligible to be a beneficiary of a trust account. This proof of eligibility must be submitted with your completed enrollment packet.*

- Beneficiaries must be under the age of 65 at the time of enrollment.

### **Determine Which Trust Account is Right for You**

The Life Opportunities Trust offers two types of individual trust accounts to meet the needs of families and individuals. The source of the funds going into the account determines which trust you need to open.

- A Trust I, Third Party Trust is an account in which anyone other than the beneficiary may contribute their funds. Upon the death of the beneficiary, the remaining private contributions and earnings are distributed according to instructions you have provided in the Joinder Agreement.
- A Trust II, Self-Settled Trust is an account in which only the beneficiary's funds may be contributed. Upon the death of the beneficiary, the state is entitled to recover dollar for dollar for services provided.

### **Request an Enrollment Packet**

Contact the Arc of Washington State to have an enrollment packet sent to you. The packet contains the Master Trust Document, which governs the trust accounts, and the Joinder Agreement, which is the legal document needed to open an account.

When requesting a packet, be sure to indicate whether you will be opening a Trust I or Trust II account. To download or review these documents online, visit [www.ddlot.org](http://www.ddlot.org)

### **Review and Complete the Joinder Agreement**

Review the Joinder Agreement and legibly fill in all requested information. If at any time you have questions, enrollment consultants are available to review the document – page by page if needed. Please call or may email with any questions you may have. (See page 15 for contact information)

### **Notarize Your Signature**

Once you have completed the Joinder Agreement, the Primary Donor, listed on page 3, will need to have his or her signature notarized. Some banks provide this service for a nominal fee.

When the Trust Manager receives the signed and notarized copy of the Joinder Agreement, we will sign and have our signature notarized and send you a completed copy of the Joinder Agreement.

### **Prepare the Enrollment Fee Check**

Make your enrollment fee check or money order payable to Endowment Trust Fund for \$600. You may also include a contribution check with your enrollment packet.

### **Mail the Completed Forms to the Arc of Washington State**

Send the completed and notarized Joinder Agreement, enrollment fee check and proof of eligibility to:

**Developmental Disabilities  
Life Opportunities Trust  
c/o The Arc of Washington State  
2638 NE State Ave  
Olympia, WA 98506**

## FREQUENTLY ASKED QUESTIONS

### ***Establishing a Trust***

***I already have a trust for my child who has a disability and want to keep it. May I also set up a Life Opportunities Trust?***

Yes. You may want to set up a Life Opportunities Trust in addition to other trusts in order to gain access to the Trust Fund Partners' expertise.

***May I move funds from an existing private trust into the Life Opportunities Trust?***

Potentially you may be able to transfer funds from an existing trust into the Life Opportunities Trust. You will need to consult an attorney to review your specific situation.

***I already have a trust for my child who has a disability, and another child is serving as trustee. How is the Life Opportunities Trust better?***

The Life Opportunities Trust, managed by reliable Trust Fund Partners, provides continuity and fund oversight throughout the lifetime of the beneficiary. This trust does not depend on an individual, such as another child acting as trustee, to manage and adjust investments over time or stay current on federal and state regulations. The Life Opportunities Trust takes care of the day-to-day management so you don't have to. Yet family members may still be actively involved in helping beneficiaries use funds for supplemental services.

***What would it cost to set up a special needs trust on my own?***

For an exact answer, you will need to ask an attorney how much he/she will charge. Based on comparable trusts and associated expenses, a private special needs trust may cost between \$1,000 and \$5,000 to set up, and ongoing management fees to operate.

### **Eligibility**

***What happens if a beneficiary of a Trust I becomes ineligible by moving out of Washington; or by no longer meeting the state definition of developmental disability in RCW 71A.10.020(3)?***

If the beneficiary becomes ineligible, the Primary Representative may elect one of the following options, subject to final approval by the Governing Board:

1) The balance of the beneficiary's individual trust account will be placed in another existing special needs trust established for the beneficiary. Any

costs related to the transfer will be charged to the beneficiary's individual trust account.

2) The individual trust account will remain open, and the account will be assessed fees at a level that will support all account maintenance costs. The beneficiary will no longer be eligible for state matching funds as of the ineligible date.

3A) If ineligible by moving, the beneficiary's individual trust account will be terminated and distributed as if the beneficiary died.

3B) If ineligible by DD definition, the Trust Manager will direct distributions to or for the benefit of the beneficiary.

The Primary Representative is required to notify the Trust Manager if the beneficiary moves out of Washington or no longer meets the state definition of developmental disability.

***What happens if a beneficiary of a Trust II becomes ineligible to participate in the program by moving out of Washington State; or no longer meets the state definition of developmental disability?***

If the beneficiary becomes ineligible due to moving out of state, the Primary Representative may elect one of the following options, subject to final approval by the Governing Board;

**#1, #2 & #3 Same as Trust I**

If the beneficiary becomes ineligible due to no longer meeting the state definition of development disability and there are assets remaining in the individual trust account, the state is entitled to recover dollar for dollar up to the total medical assistance paid on behalf of the beneficiary under the State's Medicaid Plan.

If after the state recovery of funds, there are remaining assets, the Primary Representative may elect one of the following options, subject to final approval of the Governing Board;

**#1 & #2 Same as Trust I**

#3 The Trust Manager shall make or direct distributions to or for the benefit of the beneficiary as requested by the Primary Representative.

## Disbursements

### ***How may I access funds for supplemental services or supports?***

Written requests for disbursements may be sent to the Trust Manager for review.

### ***Who authorizes disbursements?***

The Trust Manager will review all disbursement requests from people authorized in the Joinder Agreement. Only the Governing Board and/or Trust Manager may authorize disbursement. In the event of disbursement denial, the Trust Manager will provide a written explanation for the denial.

## Changes to the Trust

### ***May I change the Disposition Plan?***

Once an individual trust account is funded, the primary donor cannot amend the Joinder Agreement to change the Disposition Plan. A change may be made only by a court order or other dispute resolution mechanism.

### ***May I change the list of people authorized to request disbursements?***

Yes. You may change the list of people authorized to request disbursements at any time. Send written requests to the Arc of Washington State, c/o Trust Fund (see page 15 for contact information).

### ***May I change how much I invest in the plan?***

Yes. You may invest in the plan in whatever way best meets your needs. In some months you may have additional money to invest. However, if investments fall below the minimum equivalent of \$25 per month, state matching funds may be unavailable.

### ***May I change the beneficiary?***

No. Once a fund is established for an individual beneficiary that may not be changed.

## Matching Funds

### ***How many accounts for a single beneficiary may receive state matching funds?***

Only one individual trust account for a single beneficiary may qualify to receive state matching funds. However, additional individual trust accounts may be established for the same beneficiary.

***How does an individual trust account qualify for state matching funds?***

All accounts will initially receive matching funds up to established limits, but beneficiaries may not access those matched funds until the account has become vested. Vesting requires that an account maintain active participation by contributing the equivalent of \$25 a month for the first three years.

***What happens when an individual trust account becomes inactive?***

When an individual trust account becomes inactive, it is no longer qualified to receive state matching money and will be removed from the list of accounts assigned to access state matching funds. The primary representative will be notified prior to the list removal.

## **TAX QUESTIONS**

### **Tax Questions for Trust I (Third Party Trusts)**

The following is an abbreviated summary of certain federal tax matters. Individual tax results may vary. Consult a tax advisor for specific implications of your participation in the trust. This summary is not intended to provide individual tax advice and is subject to the terms of the Master Trust Document and Joinder Agreement. If the individual trust account will at any time contain the beneficiary's own funds, refer to TAX QUESTIONS FOR TRUST II (SELF-SETTLED TRUSTS).

***Is the beneficiary's individual trust account subject to federal income tax?***

Each individual trust account is subject to federal income tax on its investment earnings (such as interest and dividends). If all of those earnings are used on behalf of the beneficiary during the calendar year, federal income tax does not apply to the trust. However, the beneficiary may be subject to tax.

***Who prepares the tax forms and pays federal income tax owed?***

The Developmental Disabilities Endowment Fund will prepare and file an IRS Form 1041 for each individual trust account. The fund will issue a check from the individual trust account for any tax owed. A copy of the IRS Form 1041 will be mailed to the primary representative.

Once income tax has been paid on earnings, tax does not have to be paid again when funds are spent on behalf of the beneficiary.

***What are the tax implications for the primary donor or person establishing an individual trust account?***

*Income Tax:* The donor is not required to pay federal income tax on earnings generated by the individual trust account.

*Gift Tax:* Contributions to an individual trust account will be considered a gift for federal tax purposes. The law requires that individuals file a gift tax return (Form 709) for each year that they put money into the individual trust account. Even though the law requires that a gift tax return be filed, there may be no gift taxes owed. For more information, refer to the IRS rules regarding gift taxes.

*Tax Deductions:* A contribution to an individual trust account is not deductible as a charitable contribution because the funds directly benefit a specific individual.

***What are the tax implications for the beneficiary of an individual trust account?***

*Income Tax:* When the individual trust account's earnings are disbursed on behalf of the beneficiary (and not retained in the account), the beneficiary must claim the amount of those disbursements as taxable income. If the beneficiary owes income tax, he or she will be required to prepare and file an income tax return, as well as pay any income tax due. The Developmental Disabilities Endowment Fund will provide the primary representative with a completed IRS Schedule K-1 (Form 1041) showing the investment earnings to be included in the beneficiary's income tax calculation.

(If income tax is paid on the investment earnings while in the individual trust account, tax does not have to be paid when funds are spent on behalf of the beneficiary.)

*Gift Tax:* The beneficiary will not owe gift tax on contributions placed in an individual trust account.

***Will the beneficiary owe income taxes on state matching contributions?***  
A beneficiary should not have to pay income tax on the matching contributions made by the state.

## **Tax Questions for Trust II (Self-Settled Trusts)**

The following is an abbreviated summary of certain federal tax matters. Individual tax results may vary. Consult a tax advisor for specific implications of your participation in the trust. This summary is not intended to provide individual tax advice and is subject to the terms of the Master Trust Document and Joinder Agreement. If the individual trust account does not contain any of the beneficiary's own funds, refer to **TAX QUESTIONS FOR TRUST I (Third Party Trusts)**.

***What are the tax implications for a person who establishes an individual trust account?***

*Income Tax:* Because the beneficiary is the sole contributor of a self-settled trust, he or she will be required to pay federal income tax on earnings generated by the individual trust account.

***Who prepares the tax forms and pays federal income tax owed?***

If required, the beneficiary will be responsible for preparing and filing a federal income tax return. The Developmental Disabilities Endowment Fund will prepare an IRS Form 1041 for the individual trust account and send it to the primary representative. This form will document all of the investment earnings that the beneficiary may be required to report on his or her federal income tax return. Upon request, the Trust Manager will make a disbursement from the individual trust account to pay for taxes attributable to the account. Once income tax has been paid on the earnings, tax does not have to be paid when funds are used on behalf of the beneficiary.

***Is the beneficiary's individual trust account subject to federal income tax?***

No, the beneficiary's individual trust account is not subject to federal income tax on its investment earnings because the beneficiary will be required to pay any federal income tax attributable to this account.

***What is the beneficiary's responsibility for paying tax related to the individual trust account?***

*Income Tax:* If the beneficiary owes income tax, he or she will be required to prepare and file an income tax return, as well as pay any income tax due. The Developmental Disabilities Endowment Fund will provide the primary representative with a completed IRS Schedule K-1 (Form 1941) showing the investment earnings to be included in the beneficiary's income tax calculation.

Upon request, the Trust Manager will make a disbursement from the individual trust account to pay for taxes attributable to the account.

**What are the State Investment Board's investment strategies?**

The funds are invested conservatively at the direction of the Endowment Trust Fund Governing Board. For current investment information and the status of the fund see the State Investment Board website at: [www.sib.wa.gov/financial/pdfs/ddefperformance.pdf](http://www.sib.wa.gov/financial/pdfs/ddefperformance.pdf)

## TERM DEFINITIONS

**Beneficiary** is an eligible person for whom an individual trust account has been established. \*

**Disbursement** is a withdrawal of funds from an individual trust account

**Disbursement plan** is a plan submitted at the time of enrollment that identifies the goods or services most likely appropriate to supplement the needs of the beneficiary. (Schedule C of the Joinder Agreement)

**Disposition plan** is a plan submitted at the time of enrollment that directs how any remaining private funds will be disbursed from the individual trust account upon the death of the beneficiary. \*

**Individual trust account** is the account that holds assets for the beneficiary.

**Joinder Agreement** establishes the primary donor's consent to invest funds according to the master trust document; includes the disbursement and disposition plans for the individual trust account; and designates the primary representative and additional people authorized to request disbursements.

**Master Trust Document** establishes and defines the operation and guidelines of the Developmental Disabilities Endowment Fund (dba Life Opportunities Trust); and governs individual trust accounts. Separate master trust documents apply to the Trust I, Third Party Trust and the Trust II, Self-Settled Trust.

**Matching funds** refer to money that the state contributes to individual trust accounts, based on program requirements.

**Primary donor** is the person who sets up an account for a beneficiary, and submits and signs the Joinder Agreement. \*

**Primary representative** is the person authorized to request disbursements, receives account statements and is named in the Joinder Agreement as the person the Governing Board and/or Trust Manager may communicate with regarding a beneficiary's interests.

**Vested account** is an individual trust account that has initially qualified for matching funds by meeting requirements over a 3-year period.

*\* These three items are permanent and can never be changed on the Joinder Agreement.*

## **CONTACT INFORMATION**

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