

Bedford, New Hampshire

Trustees of Trust Funds

Orientation Guide



Purpose of This Document:

This guide explains the duties, responsibilities, and expectations of a Trustee of The Trust Funds for the Town of Bedford, New Hampshire. [Last revised October 2018]

About Your Appointment/Election:

The Trust Funds of the Town of Bedford are administered by a board of three (3) trustees.

Trustees terms are staggered such that one trustee shall be elected at each annual town meeting for a term of three (3) years. The term of each trustee shall be three (3) years. The term of each trustee expires in a different year, providing continuity and overlap.

Vacancies will be filled by a Bedford Town Council appointment and shall continue until the next town election at which time the position will be filled by a duly elected individual.

Annually the three trustees elect a chair and a treasurer.

Any person who accepts the role as a Trustee of the Bedford Trust Funds takes the following oath of office:

- *“I, < >, do solemnly and sincerely swear and affirm that I will faithfully and impartially discharge and perform all duties incumbent on me as a Trustee of Trust Funds, according to the best of my abilities, agreeably to the rules and regulations of this constitution and laws of the state of New Hampshire. So help me God.”*
NH Constitution, Part II, Article 84.

Contents:

This guide is divided into the following topics:

- **Definition of a Trustee of the Trust Funds...** provides the statutory definition of a Trustee of the Trust Funds under New Hampshire state law, including how to become a member of the group for the Town of Bedford.
- **Role of a Trustee of Trust Funds...** describes the role of members of the Trustees of Trust Funds (TTF).
- **Reading Material...** lists the text of several RSA laws governing the actions of the Trustees of the Trust Funds and important reference material for new TTFs.
- **FAQs...** lists frequently asked questions and answers of new members to the Trustees of the Trust Funds team.

Definition of a Trustee of the Trust Funds

The definition of a Trustee of the Trust Funds (TTF) is described in the *Handbook for Trustees of Trust Funds / Cemetery Trustees / Library Trustees*, as published by the Charitable Trusts Unit of the Attorney General's Office, State of New Hampshire, 33 Capitol St, Concord, NH:

- "Trustees of the Trust Funds (TTFs) are the custodian of the town's perpetual care funds, charitable trusts, private donations, and capital reserve/expendable trust funds. TTFs make the decisions regarding expenditure from these funds based on the wishes of the donor in the case of privately held funds and release capital reserve funds and expendable trust funds to the appropriate government officials upon request. [They] make the decisions on how these funds are to be invested based upon the statutes and the investment policy adopted by the Trustees."

Role of a Trustee of Trust Funds:

The role of a Trustee of Trust Funds includes several duties as well as limitations. There are also several considerations by the Town of Bedford and related laws that affect the performance of TTFs in the discharge of their duties.

Duties:

Trustees of Trust Funds (TTFs) act as fiduciaries for the town of Bedford. As fiduciaries, they accept several duties, last summarized in the State of NH Attorney General's Charitable Trust Division "Trustees of Trust Funds Training Session – 2014" (TTF 2014 Training Session) as follows:

- **Duty of Loyalty:** TTFs must act in the best interest of the trusts held in their custody rather than in furtherance of personal interests or of the interests of third parties. NOTE: Unless the trust instrument specifies otherwise, no entity has the authority to override the Trustees' decision making power in the administration of these funds except the Attorney General and the Probate Courts.
- **Duty of Care:** TTFs must pay attention and act carefully when acting as a Trustee of the Trust Funds, including the duty to take reasonable steps to monitor the management and investment of the trust funds and be satisfied that any decisions made are in the trusts' best interests.
- **Duty to Manage:** TTFs have the duty to manage with due diligence and administer the trusts in accordance with the directives of the donor or vote of the town, as well as to establish an investment policy.
- **Duty of Obedience:** TTFs have the duty to act within the scope of authority as stated in the Statutes.

Limitations:

The actions of a Trustee of the Trust Funds (TTF) have limitations of scope and authority, as summarized in the TTF 2014 Training Session as follows:

- Trustees of Trust Funds are permitted to hold and administer only those gifts and trusts that serve a public and not a private purpose.
- Trustees of Trust Funds are not permitted to hold and administer discriminatory trusts.
- Trustees of Trust Funds have custody of all private money and certain types of public (taxpayer) money.
- Trustees of Trust Funds are responsible for the proper administration of all funds in their custody whether public or private.
- Trustees of Trust Funds serve as the town's fiduciaries (refer to *Duties* section above).
- The Trustees of Trust Funds are responsible for the administration of private donations and trusts given to a town or city, however, they do not have the authority to initially accept (or reject) private money given to the town or city. **NOTE:** The power to accept or reject private donations rests with the voters unless the voters delegate that authority to specific public officials.

Considerations:

There are considerations for the Town of Bedford and other agencies when dealing with matters within the purview of the Trustees of the Trust funds (TTF) including:

- When a fund is created under *RSA 31:19-a*, it is held and administered by the Trustees of the Trust Funds.
- If the town meeting votes to create an irrevocable expendable trust under the provisions of *RSA 31:19-a*, the only way to discontinue the fund (even if it has a zero balance) is to file a petition with the Probate court.

“Right to Know” Statute

All activities of TTFs are subject to the “*Right to Know*” RSA 91-A statute.

Meetings Must Be Open

- ❑ No session at which evidence, information, or testimony in any form is received shall be closed to the public.
- ❑ Non-public sessions are permitted in very narrow circumstances

You can have nonpublic meetings for discretionary reasons – limited to the following:

- Hiring, dismissal, promotion, compensation, discipline of a public employee;
- Matters, if publicly discussed, would adversely impact a person’s reputation.
- Must be done by motion and a roll call vote.
- State the statutory reason for the non-public session.
- Minutes must be taken.
- Only matters properly considered in non-public session can be acted upon.

- Must be disclosed within 72 hours. *May be kept sealed if 2/3 of members determine that disclosure would adversely affect the reputation of a non-member of a public body OR render proposed action ineffective OR pertains to terrorism.*

Reading Material

NOTE: *New Hampshire is not a “home rule” state – public officials do not have discretion unless it has been specifically given by an act of the legislature.*

The follow items provide a valuable source of material for any Trustee of the Trust Funds.

- **Trustees Handbook –**
<https://www.doj.nh.gov/charitable-trusts/documents/trustees-handbook.pdf>
- **NH RSA 35 Capital Reserve Funds for Towns –**
<http://www.gencourt.state.nh.us/rsa/html/iii/35/35-mrg.htm>
- **NH RSA 31 Powers of Towns**
<http://www.gencourt.state.nh.us/rsa/html/iii/31/31-mrg.htm>
- **NH RSA 91-Town Records, Meetings, and Right to Know (RTK)**
<http://www.gencourt.state.nh.us/rsa/html/vi/91-a/91-a-mrg.htm>

PLEASE NOTE

You can use this link to research the history of legislative changes to these RSAs:

<http://www.gencourt.state.nh.us/rsa/html/indexes/default.html>

Frequently Asked Questions

Q: I was appointed to the TTF. “What’s next?”

A: As an appointed member of the TTF, you are committed to serve until the town elections on the first Tuesday in March of the following year. If you wish to serve past your current commitment, you must file with the Town Clerk during January, be on the ballot in March, and be affirmed by the Town elections in March.

Q: When and where do the TTF meetings take place?

A: The TTF meetings are called by the Chair. Venues vary, but are usually in the Town Office Building Conference Room. The meetings are held a minimum of quarterly and more often as needed.

Q: When will I get my copies of the required reading items?

A: The basic reading material is embedded in this document under *Reading Material*. Additional material shall be supplied by the Chair and other members of the TTF as required.

Additionally, you should read the Bedford Trustees of the Trust Funds Investment Policy Statement which is available on the Town website under the Trustees of the Trust Funds.

Also, the Town of Bedford Annual Report contains the TTF annual report as part of the historical public record.

Q: Do we have a contact list?

A: The TTF maintains an internal contact list, which is issued by the Chairman and reissued as membership/information requires revision. Other contact information can be found as a separate link on the Trustees’ section of the Bedford Town Website.

Q: Do we have our own email address?

A: Yes. The I/T resources for the Town will assign you an email address for the BedfordNH.org domain, formatted as TrustFundsNN@BedfordNH.org (where NN is your unique, assigned number.)

You are required to change your password upon initial login and secure the use of your Town email account and server information from unauthorized access at all times.

Appendix: Reading MS-9 and MS-10 Reports

MS-9 Reports

MS-9 reports list all subaccounts for the Town and SAU investments under management for the reporting period. The investment advisor prepares both a June 30th and December 31st year-to-date report, for use with the SAU and town fiscal year closes, respectively.

Subaccounts are trusts, capital reserves, and expendable trusts, including perpetual care graves. NOTE: You do not use the MS-10 for perpetual care graves. The MS-9 report itemizes information about each subaccount, with details organized in three sections: Principal, Income, and Grand Totals, as shown below.

	DATE OF CREATION
	NAME OF TRUST FUND
	% PORTFOLIO
PRINCIPAL	BALANCE BEGINNING YEAR
	NEW FUNDS CREATED
	WITHDRAWALS
	CASH GAINS OR (LOSSES)
	BALANCE END YEAR
INCOME	BALANCE BEGINNING YEAR
	INCOME PERCENT
	DURING YEAR AMOUNT
	EXPENDED DURING YEAR
	FEES
	BALANCE END YEAR
GRAND TOTALS	GRAND TOTAL OF PRINCIPAL & INCOME
	BEG OF YEAR FAIR VALUE
	UNREALIZED GAIN/LOSS
	END OF YEAR FAIR VALUE

The reported fields in the Principal section include:

- **Balance Beginning Year.** The carryover prior year ending Principal balance. New funds are defined with a \$0.00 balance.
- **New Funds Created.** Additions to principal during the year. Examples include bequests accepted during the year for trusts. Or, taxpayer appropriations approved by voters for capital reserve funding.
- **Withdrawals.** Fund withdrawals during the year; rarely applies to trust funds.
- **Cash Gains/(Losses).** Recognized gains/losses with the sale (close) of a security. Unrecognized gains/losses before the sale of a security are not shown in this field.
- **Balance End Year.** The end of year balance for Principal, i.e., Balance Beginning Year plus Gains/(Losses) less Withdrawals.

The reported fields in the Income section include:

- **Balance Beginning Year.** The carryover prior year ending Income balance. New funds are defined with a \$0.00 balance.
- **Income Percent.** Percentage of the portfolio income received by this subaccount.

- **During Year Amount.** The income earned for the subaccount; i.e., earned interest plus dividends.
- **Expended During Year.** The total withdrawals from income during the year. Typically, these are formally requested of the Trustees by the Town, SAU, cemetery trustees, and scholarship committees.
- **Fees.** Total fees charged during the reporting year by the investment advisor.
- **Balance End Year.** The end of year balance for Income, i.e., the Balance Beginning Year plus During Year Amount less Expended During Year.

The reported fields in the Grand Totals section include:

- **Grand Total of Principal & Income.** The sum of the end of year balance for Principal plus the end of year balance for Income.
- **Beg of Year Fair Value.** The fair value of investments at the start of the reporting year.
- **Unrealized Gain/Loss.** The unrealized gains/(losses) for investments since inception. This amount equals the End of Year Fair Value less the Beg of Year Fair Value.
- **End of Year Fair Value.** The fair value of investments at the end of the reporting year.

MS-10 Reports

MS-10 reports display the invested securities and cash balances for the reporting period. The investment advisor prepares both a June 30th and December 31st year-to-date report. Details for each security follow the definitions for the MS-9 report fields, as shown below.

	NUMBER OF SHARES
	NAME OF BANKS, STOCKS, BONDS
PRINCIPAL ADDITIONS	BALANCE BEGINNING YEAR
	PURCHASES
	CASH CAPITAL GAINS
	PROCEEDS FROM SALES
	GAINS/LOSSES FROM SALES
	YEAR END BALANCE
INCOME	BALANCE BEGINNING YEAR
	INCOME DURING YEAR
	EXPENDED DURING YEAR
	YEAR END BALANCE
GRAND TOTAL	YEAR END PRINCIPAL & INCOME
	BEGINNING OF YEAR FAIR MARKET VALUE
	UNREALIZED GAIN/LOSS
	END OF YEAR FAIR MARKET VALUE

The report carries a footnote (per *RSA 31:38-a, IV*) to disclose investment advisor fees paid by the Town of Bedford and SAU. The following is the December 31, 2015 footnote to the MS-10 report.

Fees and Expenses, if any, paid to Bank Trust Department (RSA 31:38-a, IV)

1. Bank Name: Citizens Bank, N.A.
2. Fees Paid: \$93.76
3. Expenses Paid:
4. Were these fees & expenses paid for totally from Income? Yes