

Trust

Resources:

- Rule 3-407(3) describe fiduciary responsibility
- ([UCA 51-7-4](#)).
- [UCA 77-38a-404](#), "Restitution payments made pursuant to a court order shall be disbursed to victims within 60 days of receipt from the defendant by the court.."
- [UCA 78B-5-804\(3\)\(a\)](#): "Any interest earned on trust funds in the courts of record that is not required to accrue to the litigants by Judicial Council Rule or court order shall be deposited in a restricted account."
- [UCA 78B-5-804](#): "The Legislature shall appropriate funds from the restricted account of the courts of record to the Judicial Council to:
 - a. offset costs to the courts for collection and maintenance of court trust funds; and
 - b. provide accounting and auditing of all court revenue and trust accounts.
- [Legal Opinions](#) – Subsection: Trust, Misc.
- Corpus Juris Secundum (CJS) Under the section "Deposits in Court" Section 1 states: "a deposit of a payment into the court must be with leave of the court and the money ordered deposited must be subject to the exclusive control of the court, and thus, a party making a deposit must surrender all control over the money to the court...the payment of money into court is not a matter of right, but rather, is either based on a privilege given by statute or, when the facts set forth in the petition to deposit are such as would warrant it, on the equitable discretion of the court."
- Based on statutory provisions in UCA 78B-5-804, Judicial Council Rules of Administration [Rules 3-407](#) and [4-301](#), interest income from funds held in trust by the Utah State Courts is used for paying the following expenses: finance personnel costs, bank card charges, armored car services, bank supplies, and any other charge related to the maintenance of Court trust funds. All funds held in trust by the Utah State Courts are managed in accordance with the State Money Management Act and the Rules of the State Money Management Council.
- Zions bank utilizes Treasury Gateway for online services. Access to the online portal is obtained through the AOC Finance Department. Banking history is maintained for 180 days online. The bank maintains images and bank statements for seven years.
- [Section 01-01.00 Record Retention](#).
- [EFT Submission Form](#)

Purpose:

The purpose of this section is to document the policies and procedures as defined by the AOC with regard to trust funds. Trust funds are monies held "in trust" by the court for a third party. Examples of trust funds are posted bail, restitution payments, garnishments, attorney fees, "FINDERS/Tax Intercept" checks, child support payments, and payments on civil judgments. A restricted account has been established with the State Treasurer and State Finance in accordance with statute. The 1990 Legislature passed legislation which provides that trust funds deposited with the Judicial Branch are to be invested in accordance with the Money Management Act.

Policy:

1. Monies are only to be deposited into the trust account per statute, rule or by order of the court.
2. All Juvenile and District courts deposit into local trust accounts established by the AOC, unless otherwise authorized by the AOC Finance Department.
3. Electronic Fund Transfers (EFT) often refers to ACH and Wire Transfer services. **Wire transfers** are electronic interbank payments used to transfer funds directly from one entity's bank account to another's when necessary banking information is supplied. An **ACH transfer (a.k.a. direct deposit)** is another method of sending funds. At this time, ACH transfers are only possible from other State Agencies.
4. When needing to process either type of transfer, preapproval can be obtained through AOC Finance by completing the Electronic Funds Transfer (EFT) Form and submitting to AOC Finance.
5. Checks are issued from the trust account for payments of returned, refunded and reinstated bail, payments to garnishee and restitution payments, and payments to other legal recipients of trust monies as determined by the court.
6. Monies due the Utah State treasurer (bail forfeited to fine) are written out of the trust account and included in the revenue deposit.
7. Record keeping procedures will be maintained in accordance with standard policies promulgated by the AOC.
8. The court shall maintain a register of deposits, checks, transfers, etc. occurring within the month. The definition of "register" consists of either a manual hard bound ledger or data entered into Quicken or an Excel file. Court sites utilizing the CORIS reconciliation feature, do not maintain a separate 'register'.
9. As required by State Division of Finance FIACCT Section 19-02.01 Trust Bank Account Reconciliation, AOC Finance will submit trust reconciliation to the state quarterly.
10. The Clerk of Court has oversight of this account. Transactions in the trust account are the responsibility of the court and should be reconciled monthly.

11. Separation of duties shall be adhered to as it relates to the issuing of checks and reconciling of the trust account.
12. The trust fund must not be used for non-trust purposes, such as payment of non-trust items or deposit of non-trust money.
13. Cash transactions over \$10,000 (or in aggregate over a 12 month period) require a "Large Currency Transaction" form 8300. (See Section 02 Receipting, [02-17 Cash Bail over \\$10k.](#))
14. A W-9 form is required whenever a form 1099 is completed for payments made to a person. A 1099 form is required whenever "income" of \$600 or more is paid to an individual. Restitution is generally not considered to be income. Income does not include recovery for property damage or personal injuries.