

Alabama Family Trust Board

Functional Analysis & Records Disposition Authority

**Presented to the
State Records Commission
July 27, 2011**

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Functional and Organizational Analysis of the Alabama Family Trust Board

Sources of Information

Representative of the Alabama Family Trust Board
Code of Alabama 1975, Section 38-9B-1 to 38-9B-7
Alabama Government Manual (2006), page 340
Alabama Family Trust Board Audit Reports
Alabama Family Trust Board publications
Alabama Family Trust Board website

Historical Context

In response to the Omnibus Budget Reconciliation Act (OBRA), the State Legislature created the Alabama Family Trust Board (AFT Board) in 1994. After two years of planning its implementation, the very first trust was established in 1996. The law was amended by the State Legislature most recently in 2006 (Act 2006-604).

Agency Organization

Code of Alabama 1975, Sections 38-9B-1 through 38-9B-7, provides for the establishment of the Alabama Family Trust Board (hereafter referred to as AFT Board or the Board), the Alabama Family Trust Corporation (AFT Corporation), the Alabama Family Trust (AFT Trust), and the Alabama Family Trust Charitable Trust (AFT Charitable Trust). The AFT Board, an instrumentality of the State of Alabama, administers the AFT Corporation, which is classified as a not-for-profit corporation pursuant to Section 501 (c)(3) of the United States Internal Revenue Code. The AFT Board also administers the AFT Trust and the AFT Charitable Trust through the AFT Corporation.

The AFT Board is composed of eleven members with two members representing the interests of persons with mental illness, two members representing the interests of persons with intellectual or developmental disabilities, two members representing the interests of persons with physical impairments, and five members with expertise in general business matters and procedures. The Governor appoints nine board members, and the Presiding Officer of the Senate and the Speaker of the House of Representatives appoint one member each. Members of the AFT Board also serve as Board of Directors of the AFT Corporation. Board members serve three-year staggered terms until their successors are appointed and confirmed by the Senate.

The Board of Trustees has the authority to establish standing committees within the board to carry out specific duties. Members of standing committees are selected among members of the Board of Trustees. Article IV, No. 8 of the bylaws of the Alabama Family Trust Corporation specifies that the Board of Directors may appoint to an Advisory Board for an indefinite period of time any person

whom the board believes to have a special interest or contribution to make to the work of the corporation. Such persons may attend the board meetings as ex-officio, without privilege of voting.

Board members meet regularly in January, April, July, and October. The October meeting is also considered the annual meeting. Special meetings may be called by the president of the board, the board's executive committee, or any five (5) board trustees. A president, a vice-president, a secretary, and a treasurer are elected from members of the Board of Trustees at the annual meeting. Each officer serves for one year.

The Board of Trustees employs an executive director to carry out the day-to-day operations of the board. Additional staff members may be hired to assist the executive director. Currently, there are two (2) part-time staff members.

Under an enabling legislation, the Alabama Department of Mental Health (ADMH) provided office space, equipment, and personnel expenses to the AFT Board from 1994 to 2008. According to an agreement between the AFT Board and the United Cerebral Palsy of Greater Birmingham, INC. (UCP), which became effective in April 2008, UCP is to provide the necessary office space, free of charge, to house the AFT Board until such time as the AFT Board can relocate to its own facility. In addition, the agreement specifies that all budgeted expenses related to the administration of the AFT Board (staff salary and benefits, travel, and supplies) would be reimbursed to UCP by the board.

Agency Function and Subfunctions

The purpose of the program is to supplement the care, support, rehabilitation, and treatment of persons who have a mental or physical impairment. In simplest terms, the program allows those who are disabled to maintain their governmental entitlements such as Medicaid and/or Social Supplemental Income while at the same time have an account that may surpass the federal \$2,000.00 maximum eligibility amount in their name. It is one of the agencies responsible for performing the Client Services function of Alabama government. In performance of their duties, the staff of the board may engage in the following subfunctions.

- **Administering the Alabama Family Trust Program.** The Alabama Family Trust Board administers two trust programs which allow families and friends of persons with a mental or physical impairment to supplement, but not replace, the basic support provided by state and/or federal government programs.

The Alabama Family Trust (AFT Trust) consists of individual trusts established by family members or friends for the benefit of a designated life beneficiary. Each individual trust is established through a signed trust agreement that specifies the donor (any person who contributes assets to the AFT to establish an account for a life beneficiary), the life beneficiary (person who receives the benefits), and the co-trustee (s) of the trust (person [s] named by the donor to work with the board in providing benefits to a life beneficiary).

The trust may be established with a minimum of funds. The current minimum for trust establishment is \$100.00 accompanied with a one-time application/administrative fee of \$400.00. The donor of a trust account chooses investment strategies on their own. Accounts are held in the name of the AFT Board for the benefit of the life beneficiaries.

The Alabama Family Trust Charitable Trust (AFT Charitable Trust) was established to provide benefits for individuals who have an impairment for whom no contribution to the trust has been made. The AFT Board is allowed to accept contributions to the AFT Charitable Trust from any source and must adhere to all rules and regulations under the U.S. Internal Revenue Code that govern the acceptance of charitable contributions.

This subfunction encompasses the efforts of the AFT Board and its staff in the development of rules and regulations; promotion of the program; acceptance of contributions; establishment and maintenance of trust accounts for life beneficiaries; investment and management of funds; disbursement of funds for eligible expenses; termination of trust agreements, and the operation of other associated activities.

- **Administering Internal Operations.** Part of the agency's work includes general administrative, financial, and personnel activities performed to support its programmatic areas.

Managing the Agency: Activities include internal office management work common to most government agencies such as corresponding and communicating; scheduling; meeting; documenting policy and procedures; reporting; litigating; drafting, promoting, or tracking legislation; publicizing and providing information; managing records; and managing information systems and technology.

Managing Finances: Activities involved in managing finances may include the following: budgeting (preparing the budget package by the AFT Board Executive Director, and submitting the proposed budget to the Finance Committee and Executive Committee of the AFT Board of Trustees for consideration and approval); purchasing (requisitioning and purchasing supplies and equipment, receipting and invoicing for goods, and authorizing payment for products received); accountings for the expenditure, encumbrance, disbursement, and reconciliation of funds within the agency's budget through a uniform system of accounting and reporting; contracting with companies or individuals; bidding for products and services; and assisting in the audit process.

Analysis of Record Keeping System and Records Appraisal of the Alabama Family Trust Board

Agency Record Keeping System

The Alabama Family Trust Board currently operates a hybrid record keeping system composed of paper and electronic records. The board utilizes a Dell PowerEdge T410 running Window Server 2008. A backup runs nightly and is stored offsite.

Records Appraisal

The following is a discussion of the three major categories of records created and/or maintained by the Alabama Family Trust Board: Temporary Records, Permanent Records, and Records No Longer Created.

I. Temporary Records. Temporary Records should be held for what is considered to be their active life and disposed of once all their fiscal, legal, and administrative requirements have been met. All of the temporary records created by the Alabama Family Trust Board are general and routine operational records with a short-term retention. They are covered under the subfunction of the Administering Internal Operations.

- **Files of the Board's Standing Committees.** In accordance with Article VI of the bylaws of the Alabama Family Trust Corporation, the board of directors has the authority and power to designate its own members to serve as members of various standing committees within the agency. Examples of committees may include Executive Committee, Finance Committee, Personnel Committee, Nominating and Constitution Committee, Fund Raising Committee, and Planning Committee. Committees may meet and discuss various issues. All decisions/recommendations made by committees must be reported to the board at its regular meetings for formal action. No meeting minutes or notes are taken by committees. This series consists of information on committee members (names, committee appointments, and contact data). Since all committee members are appointed annually by the board, this series needs to be maintained for reference for two (2) years.
- **Alabama Family Trust Beneficiary Files.** The Alabama Family Trust provides for the establishment of a trust from which funds may be spent for the care and treatment of a person with a disability, regardless of age. This series contains all documents completed for the establishment and disbursement of trusts. Included are trust agreements/addendums, investment options agreements, copies of ID, verification of impairment by medical professional, check lists, requests for disbursement, closing documents, financial reports, correspondence, memorandum, and other related materials. Since all trusts are irrevocable, this series must be kept at least until the death of life beneficiaries. At that point, the board maintains closed/inactive files for five (5) years to meet the audit requirements and fulfill

other settlement requirements.

II. Permanent Records. The Government Records Division recommends the following records as permanent.

- **Bylaws, Policies / Procedures, and Publications.** As an instrumentality of the State of Alabama, the Alabama Family Trust Board is obligated to establish policies, procedures, and other rules and regulations necessary to implement the program as mandated in the Code of Alabama 1975, Section 38-9B-1 through 38-9B-7. This series is composed of By-Laws for the Alabama Family Trust Corporation, the Policy and Procedure Manual, and various promotional publications (such as brochures, service promotional DVD, and other related materials).
- **Meeting Agendas, Minutes, and Packets of the Alabama Family Trust Board of Trustees.** Code of Alabama 1975, Section 36-25A-4 requires a governmental body to create and maintain accurate records of its meetings. This series consists of meeting agendas, minutes, and packets of the board of trustees that reflect the official actions of the AFT Board and needs to be maintained permanently as a core documentation of the board. (RDA pg. 3-2) **(Bibliographic Title: Meeting Agendas, Minutes, and Packets)**
- **Administrative Files of the Alabama Family Trust Advisory Board (Retain in Office).** Article IV, No. 8 of the bylaws of the Alabama Family Trust Corporation specifies that the Board of Directors may appoint to an Advisory Board for an indefinite period of time any person whom the board believes to have a special interest or contribution to make to the work of the corporation. Such persons may attend the board meetings as ex-officio, without privilege of voting. This series consists mainly information on the advisory board members and the board maintains it in its office for reference.
- **Administrative Files of Alabama Family Trust Corporation Board of Directors / Alabama Family Trust Board of Trustees (Retain in Office).** This series contains mainly appointment letters and biographies of members of the board of trustees. The board maintains this series in its office for reference.
- **Annual Accounting of Funds (Retain in Office).** As mandated by the Code of Alabama, Section 38-9B-4 (C), the AFT Board is obligated to prepare and submit an annual accounting of funds in the AFT Trust and the AFT Charitable Trust to the governor, the presiding officer of the Senate, and the Speaker of the House of Representatives. Information may include a detailed breakdown of operating funds, assets held in trust, and percentage of changes.
- **Website.** The agency maintains a website at: www.alabamafamilytrust.com. Information may include agency background information, services provided by the agency, various blank documents for download, and contact data. Since web sites are widely used by state government entities as a medium of communication with the public and as a tool in the operation of the agency, the State Records Commission has decided that all agency web sites

and important documentation of website changes are permanent records. Currently, the Alabama Department of Archives and History uses Archive-It (a subscription service from the Internet Archive) to preserve and make accessible the web sites of all state agencies. (RDA pg. 3-2)

III. Records No Longer Created. The following records were created by the board over time, but are no longer created in this same format. In most cases these records were created for a purpose that no longer exists:

- **Agency Audit Reports by Outside Independent Auditors (ca. 1994 to 2005).** This series is no longer created because the board obtained a ruling from the State of Alabama that the audit conducted by the Examiners of Public Account is sufficient according to Alabama Law. The board maintains this series in its office permanently as a paper trail.

Permanent Records List Alabama Family Trust Board

Administering the Alabama Family Trust Program

1. Bylaws, Policies / Procedures, and Publications
2. Meeting Agendas, Minutes, and Packets of the Alabama Family Trust Board
3. Administrative Files of the Alabama Family Trust Advisory Board*
4. Administrative Files of Alabama Family Trust Corporation Board of Directors /
5. Alabama Family Trust Board of Trustees (Appointments, Biographies, and Other Related Information)*
6. Annual Accounting of Funds*

Administering Internal Operations

1. Website

*indicates records that ADAH anticipates will remain in the care and custody of the creating agency. ADAH staff members are available to work with agency staff in determining the best location and storage conditions for the long-term care and maintenance of permanent records.

Alabama Family Trust Board Records Disposition Authority

This Records Disposition Authority (RDA) is issued by the State Records Commission under the authority granted by the Code of Alabama 1975, Sections 41-13-5 and 41-13-20 through 21. It was compiled by the Government Records Division, Alabama Department of Archives and History (ADAH), which serves as the commission's staff, in cooperation with representatives of the Alabama Family Trust Board. The RDA lists records created and maintained by the Alabama Family Trust Board in carrying out its mandated functions and activities. It establishes retention periods and disposition instructions for those records and provides the legal authority for the agency to implement records destruction.

Alabama law requires public officials to create and maintain records that document the business of their offices. These records must be protected from "mutilation, loss, or destruction," so that they may be transferred to an official's successor in office and made available to members of the public. Records must also be kept in accordance with auditing standards approved by the Examiners of Public Accounts (Code of Alabama 1975, Sections 36-12-2, 36-12-4, and 41-5-23). For assistance in implementing this RDA or for advice on records disposition or other records management concerns, contact the ADAH Government Records Division at (334) 242-4452.

Explanation of Records Requirements

- This RDA supersedes any previous records disposition schedules governing the retention of the Alabama Family Trust Board. Copies of superseded schedules, if any, are no longer valid and may not be used for records disposition.
- This RDA establishes retention and disposition instructions for records listed below, regardless of the medium on which those records may be kept. Electronic mail, for example, is a communications tool that may record permanent or temporary information. As for records in any other format, the retention periods for e-mail records are governed by the requirements of the subfunctions to which the records belong.
- Certain other record-like materials are not actually regarded as official records and may be disposed of under this RDA. Such materials include: (1) duplicate record copies that do not require official action, so long as the creating office maintains the original record for the period required; (2) catalogs, trade journals, and other publications received that require no action and do not document government activities; (3) stocks of blank stationery, blank forms, or other surplus materials that are not subject to audit and have become obsolete; (4) transitory records, which are temporary records created for short-term internal purposes that may include, but are not limited to, telephone call-back messages; drafts of ordinary documents not needed for their evidential value; copies of material sent for information

purposes but not needed by the receiving office for future business; and internal communications about social activities; (5) honorary materials, plaques, awards, presentations, certificates, and gifts received or maintained by the agency staff. They may be disposed of without documentation of destruction.

Records Disposition Requirements

This section of the RDA is arranged by subfunctions of the Alabama Family Trust Board and lists the groups of records created and/or maintained by the agency as a result of activities and transactions performed in carrying out these subfunctions. The agency may submit requests to revise specific records disposition requirements to the State Records Commission for consideration at its regular quarterly meetings.

■ Administering Program

BYLAWS, POLICIES / PROCEDURES, AND PUBLICATIONS

Disposition: PERMANENT RECORD.

MEETING AGENDAS, MINUTES, AND PACKETS OF THE ALABAMA FAMILY TRUST BOARD

Disposition: PERMANENT RECORD.

ADMINISTRATIVE FILES OF THE ALABAMA FAMILY TRUST ADVISORY BOARD

Disposition: PERMANENT RECORD. Retain in Office.

ADMINISTRATIVE FILES OF ALABAMA FAMILY TRUST CORPORATION BOARD OF DIRECTORS / ALABAMA FAMILY TRUST BOARD OF TRUSTEES (APPOINTMENTS, BIOGRAPHIES, AND OTHER RELATED INFORMATION)

Disposition: PERMANENT RECORD. Retain in Office.

ANNUAL ACCOUNTING OF FUNDS

Disposition: PERMANENT RECORD. Retain in Office.

Printouts of Acknowledgment from the Secretary of State Relating to Notices of Meetings Posted by the Agency

Disposition: Temporary Record. Retain 3 years.

Files of the Board's Standing Committees

Disposition: Temporary Record. Retain 2 years.

Alabama Family Trust Beneficiary Files

Disposition: Temporary Record. Retain 5 years after the death of a life beneficiary or until the final settlement of the life beneficiary's account, whichever is longer.

Records document the requests for disbursement by co-trustees, review and approval by AFT Board's Disbursement Committee on requests, processing of paperwork by AFT Board staff, disbursement of funds to life beneficiaries, and other related activities

Disposition: Temporary Record. Retain 3 years after the end of the fiscal year in which the records were created.

Alabama Family Trust Corporation Tax Files (tax-exempt entity documents/forms, tax returns,

Disposition: Temporary Record. Retain 7 years.

Administrative Reference Files (materials not created by the agency, collected and used only as reference sources of information)

Disposition: Temporary Record. Retain for useful life.

■ **Administering Internal Operations**

Managing the Agency:

WEBSITE

Disposition: PERMANENT RECORD.

Routine Correspondence

Disposition: Temporary Record. Retain 3 years after the end of the fiscal year in which the records were created.

Administrative Reference Files (materials not created by the agency, collected and used only as reference sources of information)

Disposition: Temporary Record. Retain for useful life.

Records documenting the implementation of the agency's RDA (copies of transmittal forms to Archives or State Records Center, destruction notices or other evidence of obsolete records destroyed, annual reports to State Records Commission)

Disposition: Temporary Record. Retain 3 years after the end of the fiscal year in which the records were created.

Copy of RDA

Disposition: Temporary Record. Retain 3 years after the end of the fiscal year in which the RDA was superseded.

System Documentation (hardware/software manuals and diskettes, warranties)

Disposition: Temporary Record. Retain documentation of former system 3 years after the end of the fiscal year in which the former hardware and software no longer exist in the agency and all permanent records have been migrated to a new system.

Managing Finances:

Records documenting the preparation of a budget request and the adoption of the budget

Disposition: Temporary Record. Retain 5 years after the end of the fiscal year in which the records were created.

Records documenting the requisitioning and purchasing of supplies and equipment, receipting and invoicing for goods, and authorizing payment for products

Disposition: Temporary Record. Retain 3 years after the end of the fiscal year in which the records were created.

Records of original entry such as journals, registers, and ledgers; and records of funds deposited outside the state treasury, including bank statements, deposit slips, and canceled checks

Disposition: Temporary Record. Retain 3 years after the end of the fiscal year in which the records were created.

Records documenting contracts for services or personal property

Disposition: Temporary Record. Retain 6 years after expiration of the contract. (Code of Alabama, Section 6-2-34).

Agency Audit Reports (by Examiners of Public Accounts)

Disposition: Temporary Record. Retain 6 years after the end of the fiscal year in which the records were created.

Records No Longer Created:

AGENCY AUDIT REPORTS (BY OUTSIDE INDEPENDENT AUDITORS (ca. 1994 to 2005)

Disposition: PERMANENT RECORD. Retain in Office.

Requirement and Recommendations for Implementing the Records Disposition Authority

Under the Code of Alabama 1975, Section 41-13-21, “no state officer or agency head shall cause any state record to be destroyed or otherwise disposed of without first obtaining approval of the State Records Commission.” This Records Disposition Authority constitutes authorization by the State Records Commission for the disposition of the records of the Alabama Family Trust Board (hereafter referred to as the agency) as stipulated in this document.

One condition of this authorization is that the agency submit an annual Records Disposition Authority (RDA) Implementation Report on agency records management activities, including documentation of records destruction, to the State Records Commission in July of each year. In addition, the agency should make every effort to establish and maintain a quality record-keeping program through the following activities:

- The agency should designate a records liaison, who is responsible for: ensuring the development of quality record keeping systems that meet the business and legal needs of the agency, coordinating the transfer and destruction of records, ensuring that permanent records held on alternative storage media (such as microforms and digital imaging systems) are maintained in compliance with national and state standards, and ensuring the regular implementation of the agency's approved RDA.
- Permanent records in the agency's custody should be maintained under proper intellectual control and in an environment that will ensure their physical order and preservation.
- Destruction of temporary records, as authorized in this RDA, should occur agency-wide on a regular basis—for example, after the successful completion of an audit, at the end of an administration, or at the end of a fiscal year. Despite the RDA's provisions, no record should be destroyed that is necessary to comply with requirements of the state Sunset Act, audit requirements, or any legal notice or subpoena.
- The agency should maintain full documentation of any computerized record-keeping system it employs. It should develop procedures for: (1) backing up all permanent records held in electronic format; (2) storing a back-up copy off-site; and (3) migrating all permanent records when the system is upgraded or replaced. If the agency chooses to maintain permanent records solely in electronic format, it is committed to funding any system upgrades and migration strategies necessary to ensure the records' permanent preservation and accessibility.
- Electronic mail contain permanent, temporary, or transitory record information. Although e-mail records can be printed out, filed, and retained according to the RDA's requirements, the agency should preferably employ an electronic records management system capable of sorting e-mail into folders and archiving messages having long-term value

The staff of the State Records Commission or the Examiners of Public Accounts may examine the condition of the permanent records maintained in the custody of the agency and inspect records destruction documentation. Government Records Division archivists are available to instruct the agency staff in RDA implementation and otherwise assist the agency in implementing its records management program.

The State Records Commission adopted this records disposition authority on July 27, 2011.

Edwin C. Bridges, Chairman, by Tracey Berezansky
State Records Commission

Date

Receipt acknowledged:

Bill Fuller, Executive Director
Alabama Family Trust

Date