



CHAPTER 36D

N.C.G.S. § 36D-4.

Administration of Community Third Party and Pooled Trusts; powers and duties.

SOURCE	LAST AMENDMENT IN THIS TEXT	RETRIEVED	SOURCE FINGERPRINT
General Statutes of North Carolina, as published by the General Assembly	No amendment history on record	21 September 2026, 03:30 UTC	4105c5783ab6f09b64af76d7 - 8c49cccf10dc375747a8633 - e3accf131a2d53e2

§ 36D-4(a) Every Community Third Party or Pooled Trust shall be administered by a board. The board shall be comprised of no less than nine and no more than 21 members, at least one-third of whom are parents or relatives of persons with severe chronic disabilities. No board member shall be a provider of habilitative, health, social, or educational services to persons with severe chronic disabilities or an employee of such a service provider. The board may, however, allow service providers to serve on the board in an advisory capacity. Board members shall be selected, to the maximum extent possible, from geographic areas throughout the area served by the trust.

The certificate of incorporation filed with the Secretary of State under Chapter 55A of the General Statutes shall, in addition to the requirements set forth in that Chapter, demonstrate that the requirements of this section have been met.

§ 36D-4(b) Notwithstanding any other law, no trustee may be compensated for services provided as a member of the board of a Community Third Party or Pooled Trust. No fees or commissions shall be paid to these trustees; however, a trustee may be paid for necessary expenses incurred by the trustee and may receive indemnification as permitted under Chapter 55A of the General Statutes as it applies to nonprofit organizations.

§ 36D-4(c) For every Community Third Party or Pooled Trust incorporated under this Chapter, the corporation itself is considered the trustee of any funds administered by it. No individual board member is considered to be trustee of any fund deposited on behalf of any individual beneficiary with severe chronic disabilities.

- § 36D-4(d)** The board shall adopt bylaws that include a declaration delineating the primary geographic area serviced by the trust and the principal services to be provided. The board shall file the bylaws with the Secretary of State.
- § 36D-4(e)** The board may retain paid staff as it considers necessary to provide follow along services to the extent required by each beneficiary.
- § 36D-4(e1)** The Community Third Party or Pooled Trust may authorize the expenditure of funds for any goods or services, including recreational services, which will promote the well-being and is for the sole benefit of the beneficiary. The Community Third Party or Pooled Trust may pay for the reasonable burial expenses of any beneficiary; however, if the beneficiary receives SSI benefits, burial expenses may be paid for only as allowed by Social Security Administration regulations. The Community Third Party or Pooled Trust however, may not expend funds for any goods or services of comparable quality to those available to any particular beneficiary through any governmental or charitable program, insurance, or other sources. The Community Third Party or Pooled Trust may expend funds to meet the reasonable costs of administering the Community Third Party or Pooled Trust.
- § 36D-4(f)** The Community Third Party or Pooled Trust is not required to provide services to a beneficiary who is a competent adult and who has refused to accept the services. Further, the Community Third Party or Pooled Trust shall not provide services of a nature or in a manner that would be contrary to the public policy of this State at the time the services are to be provided. In either case, the Community Third Party or Pooled Trust may offer alternate services that are consistent with the purposes of this Chapter and in keeping with the best interests of the beneficiary.
- § 36D-4(g)** The Community Third Party or Pooled Trust may accept appointment as guardian of the person, guardian of the estate, or guardian of both on behalf of any beneficiary. If the Community Third Party or Pooled Trust accepts appointment as guardian of the person of an individual, it shall assign a staff member to carry out its responsibilities as the guardian. The Community Third Party or Pooled Trust may, upon request, offer consultative and professional assistance to an individual, private or public guardian of any of its beneficiaries.
- § 36D-4(h)** The Community Third Party or Pooled Trust may accept contributions, devises, and designations under life insurance policies to the Community Third Party or Pooled

Trust on behalf of individuals with severe chronic disabilities for the purpose of qualifying them as beneficiaries.

§ 36D-4(i)

At the time a contribution, devise, or assignment of insurance proceeds is made to a Community Third Party Trust, or to a beneficiary of a Pooled Trust, the trustor shall receive a written statement of the services to be provided to the beneficiary. The statement shall include a starting date for the delivery of services or the condition precedent, such as the death of the trustor, which shall determine the starting date. The statement shall describe the frequency with which services shall be provided and their duration, and the criteria or procedures for modifying the program of services from time to time in the best interests of the beneficiary. In addition, there shall be a properly executed trust agreement between the Community Third Party or Pooled Trust and the trustor.

§ 36D-4(j)

No trustee, board member, or paid staff member of a Community Third Party or Pooled Trust shall undertake legal representation or other professional services on behalf of the trust or its beneficiaries.

§ 36D-4(k)

The Department shall be given a minimum of 30 days notice if there is to be a change in trustee. (1991 (Reg. Sess., 1992), c. 768, s. 1; 2005-192, s. 3; 2010-118, s. 1; 2011-284, s. 46(a), (b).)

END OF SECTION TEXT

APPARATUS FOLLOWS — DERIVED, NOT ENACTED

APPARATUS III

Citation

FULL SECTION

N.C. Gen. Stat. § 36D-4 (2026).

PINPOINT

N.C. Gen. Stat. § 36D-4(a) (2026).

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