

Model Client Funds & Client Property Policy

During the course of legal representation, a lawyer or legal representative may be required to hold client funds—client money—or client property—all items owned by a client other than money, such as papers and other objects. Proper management of client funds and property is of the utmost importance. Where lawyers hold client funds and property, even for brief periods, they are fiduciaries who must safeguard that property. This means that, in managing client property, a lawyer must act in the best interest of the client and segregate client property from the lawyer’s personal and business assets. Additionally, legal representation is most effective when clients trust their legal representatives, including with respect to the safeguarding of their property. If a lawyer mishandles client funds and property, the client may lose trust in the lawyer, and the public may lose trust in the legal profession more broadly. To assure that client funds and property are managed properly, [ORGANIZATION] requires strict compliance with Oregon Rule of Professional Conduct (ORPC) 1.15-1,¹ which aims to eliminate the risk of loss of client property while it is in the lawyer’s possession.

¹ ORPC 1.15-1(a) A lawyer shall hold property of clients or third persons that is in a lawyer’s possession separate from the lawyer’s own property. Funds, including advances for costs and expenses and escrow and other funds held for another, shall be kept in a separate “Lawyer Trust Account” maintained in the jurisdiction where the lawyer’s office is situated. Each lawyer trust account shall be an interest bearing account in a financial institution selected by the lawyer or law firm in the exercise of reasonable care. Lawyer trust accounts shall conform to the rules in the jurisdictions in which the accounts are maintained. Other property shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of five years after termination of the representation. (b) A lawyer may deposit the lawyer’s own funds in a lawyer trust account for the sole purposes of paying bank service charges or meeting minimum balance requirements on that account, but only in amounts necessary for those purposes. (c) A lawyer shall deposit into a lawyer trust account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred, unless the fee is denominated as “earned on receipt,” “nonrefundable” or similar terms and complies with Rule 1.5(c)(3). (d) Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property. (e) When in the course of representation a lawyer is in possession of property in which two or more persons (one of whom may be the lawyer) claim interests, the property shall be kept separate by the lawyer until the dispute is resolved. The lawyer shall promptly distribute all portions of the property as to which the interests are not in dispute.



[ORGANIZATION] staff shall not hold client property or funds unless necessary for the client's representation, or under other circumstances approved by the Executive Director. Circumstances necessary for representation could include the receipt of filing fees, in the form of a money order or check, to be submitted with an application.

Because [ORGANIZATION] staff shall only hold client property where necessary for the client's representation or under certain other approved circumstances, staff generally shall not hold original copies of client documents. Where [ORGANIZATION] agrees to hold client property, staff must take reasonable steps to ensure that these items are properly inventoried and safeguarded from theft, loss, and destruction. Upon receipt of client property, staff shall prepare a receipt detailing the type of property entrusted to [ORGANIZATION], the purpose for which [ORGANIZATION] is holding the property, the date of receipt, and the anticipated date of property return. The client shall be provided with a copy of this document, and [ORGANIZATION] shall retain a copy. As soon as practical after receipt, client property shall be placed in a safe location that minimizes, to the extent reasonable, the likelihood of theft, loss, or destruction, including if necessary, in a safe deposit box. Once the purpose for which [ORGANIZATION] was holding the client property has been achieved, [ORGANIZATION] shall promptly return the property to the client.

Where [ORGANIZATION] staff produce client property, for instance, by producing documents on behalf of a client, such property shall be safeguarded and maintained separate and apart from the property of other clients, for instance, through storage in a client file. [ORGANIZATION] staff shall take reasonable steps to protect such property from theft, loss, and destruction.

Where [ORGANIZATION] staff receive client funds, such funds shall be carefully safeguarded. Upon receipt of client funds, staff shall prepare a receipt detailing the amount received, the purpose of the funds, and the date of receipt. The client shall be provided a copy of this document, and [ORGANIZATION] shall retain a copy. Funds shall be promptly deposited into [ORGANIZATION's] Lawyer Trust Account, which is maintained in the jurisdiction where [ORGANIZATION's] office is located.



Client funds shall never be commingled with [ORGANIZATION's] business assets or a staff member's personal funds. [ORGANIZATION] shall order trust account checks in a separate color than general office account checks. [ORGANIZATION] staff shall never deposit [ORGANIZATION's] own funds into [ORGANIZATION's] Lawyer Trust Account unless it is for the purpose of paying bank service charges or meeting minimum balance requirements on the account, and then, the deposit may only be in the amount necessary to achieve these purposes

Lawyer Trust Account checks should be written only to the client or for the benefit of the client. [ORGANIZATION] staff shall never write a check from the trust account on behalf of a client unless the client funds have cleared the bank. [ORGANIZATION] staff shall never write a trust check for "cash" or to pay personal or business expenses. If, for example, the client owes \$200 for fees, [ORGANIZATION] staff should write a check from the trust account directly for the payment of the fee. This is acceptable because the check is written for the benefit of the client. If the client funds have not yet cleared the bank and [ORGANIZATION] must advance the fee, once the client funds have cleared, [ORGANIZATION] staff shall write a \$200 check from that client's trust money to [ORGANIZATION] for reimbursement. [ORGANIZATION] staff should then deposit the check into [ORGANIZATION's] office account.

Where a client requests return of property or funds in [ORGANIZATION's] possession and the client is entitled to return of that property or those funds, [ORGANIZATION] staff shall promptly pay or deliver the requested property or funds to the client and document that payment or delivery.

[ORGANIZATION] shall retain a record of all client funds received and expended. [ORGANIZATION] shall reconcile its Lawyer Trust Account each month and shall provide clients with proper, monthly accounting of their funds and property.

Any doubts about the management of client funds or property shall be resolved in accordance with ORPC 1.15-1.