

4 Things You Should Know about Special Needs Trusts

1. **Proper Statement of Intent**: Special needs trusts are to **SUPPLEMENT** not **SUPPLANT** any benefits or assistance of any federal, state, county, city, or other governmental entity the beneficiary is legally entitled to receive. That language is crucial in making certain that any funds placed in the trust are not considered countable assets of the disabled person and are in fact assets of the trust.
2. **Proper Succession of Trustee**: The special needs trust must allow for the known and the unknown. Since your child may outlive you, you want to make certain that there is a viable candidate to become trustee when you pass away. But what if that person you choose predeceases the child after appointment? Who takes over next? How is that next trustee decided? A court would appoint the successor trustee, but that doesn't have to be the case if your document is properly written. ***And siblings should never, ever be the sole trustee for a disabled person.***
3. **Proper Creation of a Trust Advisory Committee**: A trustee must provide for the many needs of a disabled person including: the accounting of the trust, advocate for the medical, religious, social and financial needs of the beneficiary, and invest and pay taxes on the trust assets. As a parent you are already doing all those jobs, but who handles this after you are gone? A trust advisory committee consisting of a family member, care manager, financial planner, trust protector and other specialists provides that the trustee will not have to do it alone. ***And siblings should never, ever be the sole trustee for a disabled person.***
4. **Proper Use of a Trust Protector**: No one knows what the future will hold. Laws change, circumstances change, finances change, and relationships change. When the trust becomes irrevocable after you pass, the inclusion of a Trust Protector allows **flexibility to manage change**. What happens if the laws change and the trust is no longer compliant with the new regulations, will the disabled person now lose their government benefits? **A trust protector can amend the trust after irrevocability to keep it compliant with the new changes.**

