



Naming a trustee for your loved one

This post was authored by attorney Jefferey Yussman, Esq. of [Yussman Special Needs Law & Wyatt Estate Planning](#), Louisville, KY. Jeff focuses his practice on estate planning, special needs trust planning and administration, Medicaid planning, and qualified settlement funds.

In the event that a family needs to appoint a trustee for a loved one's finances, it's important that the situation be handled carefully, with the beneficiary as the priority.

There is a process that should be followed, to ensure that the health and well-being of the special needs individual is the focus. This can include a combination of a special needs trust, and an advisor who understands the rules and regulations of what to do, in addition to a family member or friend who knows the person with disabilities well but might not have direct responsibilities. The trustee can decide what power to assign to the advisor, perhaps regarding financial investments or distributions, or the ability to make changes to the oversight of the trust.

"If there's not an ideal candidate to serve as the advisor, then the best option is to give discretion to the personal trustee to use their expertise in making decisions on behalf of the beneficiary. The advisor serves in a role similar to a board of directors, and the trustee acts as the CEO of the trust, which helps establish a checks and balances system."

Focusing on the individual with special needs

The most important task is to make certain the advisor knows the individual with special needs well. While circumstances vary depending on the situation, the personal input from an advisor who understands the beneficiary and their needs is critical in knowing what might be needed. It can help to have an odd number of advisors, either one or three, to avoid having an impasse in times of conflict. If a conflict arises the advisors must reach a compromise, and if that can't happen the court can make a decision.

Once the advisor committee accepts their role it's the obligation of the trustee to communicate on a regular basis (quarterly or semi-annually) with the advisor(s) and let them know what they can expect. Expectations should be managed about decisions regarding finances and investments, and required input from the advisory committee, etc. to ensure an open and collaborative process.

When decisions need to be made outside of the established timeframe, the trustee needs to alert the advisory committee and make a plan that accommodates the special circumstances. If there's a guardian, they might need to be consulted as well.

Working together

A certified professional trustee, or a specialized trust company that has been carefully vetted might be needed, depending on the situation. Because of the technicalities of a special needs trust, making certain a trustee or company is qualified and has experience managing similar cases is important.

“While these situations are not uncommon, it’s critical to ensure due diligence and thoughtful deliberations about the roles and responsibilities the trustee and advisory committee will have in managing the affairs of the loved one with special needs. An ideal situation will differ depending on the circumstances, but ensuring the right people are in the right positions will contribute to a meaningful solution.”

About this Article: *We hope you find this article informative, but it is not legal advice. You should consult your own attorney, who can review your specific situation and account for variations in state law and local practices. Laws and regulations are constantly changing, so the longer it has been since an article was written, the greater the likelihood that the article might be out of date. SNA members focus on this complex, evolving area of law. To locate a member in your state, visit [Find an Attorney](#).*

Requirements for Reproducing this Article: *The above article may be reprinted only if it appears unmodified, including both the author description above the title and the “About this Article” paragraph immediately following the article, accompanied by the following statement: “Reprinted with permission of the Special Needs Alliance – www.specialneedsalliance.org.” The article may not be reproduced online. Instead, references to it should link to it on the SNA website.*