

Special Needs Team: Who's On Your Team?

Special Needs planning can be an intense process that requires the coordination of multiple individuals to work together. In many cases the 'Special Needs Team' is considered to be family, friends, the special needs counselor, and maybe one, or two, specialists. As the needs for those with special needs become more complex their external demands will increase creating the need for the team to expand. For this reason, families who support someone with special needs should include a professional associated with each of the following areas: legal counsel, financial guidance, and advocacy. In order to understand why these professionals are important you need to understand their place in Special Needs Planning. Before we dive in, it is important to note, I am not an attorney and my perspective has been formed over years of self-education and collaboration with many attorneys, some dedicated to general estate planning and a few who specialize in Special Needs Planning.

General Estate Planning Attorney vs Special Needs Planning Attorney

Estate planning is morbid. There is no way around it. You are literally asked what do you want to happen to your affects, affairs, and life if you become incapacitated or die. It is due to the morbid nature of the conversation that many people have a problem taking action to plan for a catastrophe. In fact, many couples push off their estate planning until they absolutely have to, or until an event happens that forces them to address it immediately (i.e. the birth of a child, a medical condition, or a death in their

immediate family).

When prompted to plan for their future we tend to turn to our friends, neighbors, or the internet to find an attorney that can assist us with our immediate needs. Unfortunately without a complete understanding of our needs, fears, or goals we may end up talking to the wrong person.

Now consider how this affects special needs individuals. In many cases, special needs individuals may not be able to articulate themselves as well as those around them. This can create issues when trying to explain their interests to others. This means those supporting special needs individuals should encourage the caregivers to work with an attorney who focuses in Special Needs Planning, not someone who does estate planning in general. An analogy for this might be, you visit your primary care physician and tell them that you have sharp pains in your chest. Instead of sending you to the appropriate specialist (i.e. cardiologist, pulmonologist, or an electrophysiologist) they try to solve the problem on their own. As qualified as the primary care physician might be in their general field, the specialist is going to have more direct experience working with clients who experience chest pains much more often.

As noted earlier, Special Needs planning is a specialized focus of estate planning which works with individuals who have insufficient assets to self-insure against large future, or high ongoing, expenses and may need government support through programs like Social Security, Social Security Disability Insurance, and/or Medicaid. Additionally, these attorneys also assist individuals, and families, who might have significant assets, or could inherit significant assets, and need to understand how to protect those assets. In order for the special needs individual to benefit from the assets without jeopardizing the eligibility of government assistance.

For the aforementioned reasons, I encourage anyone seeking

legal guidance for Special Needs planning to interview a couple of attorneys and inquire about their legal practice breakdown, their background, and how involved they are in their special needs clients lives.

Special Needs Financial Advisor

A qualified **special needs financial advisor** can help you plan for the financial future of you, your spouse or partner, and your special needs child. They can help you project financial requirements, and create a plan to get where you need to be based on where you're starting. The earlier you obtain financial help from a specialist, such as a Chartered Special Needs Consultant (ChSNC), the higher your probability of overcoming obstacles in the future.

Created by The American College, "the [ChSNC®](#) is the only credential on the market designed to provide special needs families with an advisor competent to address their unique concerns." To understand why this designation was created you need to understand the level of complexities associated with special needs planning. For example, not all advisors, brokers, or financial planners are well versed in how Supplemental Needs Trusts should be established, or funded, to prevent government benefits from being terminated. Furthermore, tax brackets for irrevocable trusts (like Supplemental, Pooled Income, and others) are taxed at the highest rate unless income is passed on to the beneficiary, which if passed to the special needs individual could disqualify them from government benefits. It is for these, and many others, reasons that creating a tax-sensitive asset management strategy for the investments within the trust portfolio can be critical.

Fortunately, adding a Chartered Special Needs Consultant to your Special Needs Team can help you navigate the difficult

financial decisions that lay ahead of you, and the special needs individual. Furthermore, this person can be a valuable resource if they work closely with your attorney to make sure documents are drafted with the right investment strategy in mind.

Advocacy Groups

Located across the country, and typically found locally, advocacy groups offer a plethora of knowledge, resources, and support for special needs individuals and their families. Each advocacy group focuses on generating awareness for the cause they support. This awareness can be observed through activities like public fundraising events, grassroots outreach, and ongoing lobbying efforts for the rights of individuals with special needs.

One of the more widely referenced groups, for individuals with intellectual and developmental disabilities, is [The Arc](#). This group provides tools, training, and education on how to navigate the available resources for those interested in person-centered planning, housing options, grant programs, self-advocacy, and much more.

While The Arc provides many benefits, a particular one of note is their Pooled Income Trust. Created for families with limited estates, or for those not interested in the complexities of creating or managing a Supplemental Needs Trust, this tool allows The Arc to manage a families' wealth after the primary caregivers are gone and provide ongoing financial support to the individual with disabilities. While it sounds convenient, we encourage all clients to explore all options available to them before committing to any institutional program. Why? Intentions, objectives, and values of an organization can change over time. While The Arc is a nonprofit organization with a central focus towards

helping those with intellectual disabilities, what is good for the organization today can change with the direction of the organization, and may not always be great for the individual. It is for this reason we encourage all of our clients to review, discuss, and prepare different options that can provide financial support services to special needs families. Alternative ideas can include, but not limited to, appointing your Special Needs attorney as the guardian, trust protector, and/or advocate. Additionally, you could appoint your attorney as a trust protector, your Special Needs advisor as your child's advocate, and a bank as the trustee over the respective Special Needs Trust.

Conclusion

Depending on the needs of the special needs individual in your life we strongly encourage you to build a Special Needs Team of family and trusted professionals who will put the interests of others above their own. You may even want to consider asking every member of the team to acknowledge themselves as a fiduciary and outline their responsibilities along with how they intend to contribute to the 'Special Needs Team'.

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