



Trust Advisory Committees Can Guide Trustee Decisions

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Acting as trustee for a special needs trust (SNT) is a demanding responsibility, and one person or bank trust department may not possess all the knowledge and skills needed for the job. Families sometimes create a *trust advisory committee* to guide professional trustees who don't know the beneficiary well, but even if the trustee is a close relation, they may benefit from specialized help.

Trust advisory committees typically consist of three to five individuals who can contribute a range of perspectives: a friend or relative, attorney, care manager, financial advisor and/ or health care professional. Depending upon the trust's terms and the committee's composition, they may be authorized to:

- share insights concerning the beneficiary's needs;
- assess trust investments;
- offer advice concerning distributions;
- assess suitability of various government benefit programs;
- hire and fire trustees, based on responsiveness and performance;
- amend the trust if laws, regulations or the beneficiary's situation change.

Some advisory committees establish an annual *distribution plan* (or approve a proposed plan), which forecasts disbursements, estimates administrative expenses, guides investment strategy and projects how long funds will last.

Clear Purpose

Too often, though, trust advisory committees flounder. This may result from confusion about the trust's objectives, which should reflect the interests and capabilities of the beneficiary.

Some families will want to ensure that the beneficiary's eligibility for means-tested public programs is preserved at all costs. Others will have specific aspirations for the loved one's future –post-secondary education, a career, residential arrangements—which may take precedence over maintaining government benefits. Or they may specify that funds be

expended to periodically conduct onsite assessment of the beneficiary's living situation in order to prevent neglect or abuse.

To avoid uncertainty, those goals should be documented in the trust agreement itself or [in a companion letter of intent](#). Without written directions, committee members will be left to make assumptions, and the SNT's true purpose may not be realized.

Other advisory committees flounder because members lack information on which to base meaningful recommendations. Without reliable details concerning the health, care and social life of the beneficiary, committee members can't be expected to ensure the individual's wellbeing. To avoid such situations, care managers or other professionals can be paid by the trust to regularly interact with the beneficiary and report back to both the committee and trustee.

Another common problem involves how active a role committee members should play. Absent direction, some may micromanage the trustee, slowing down day-to-day decision-making. At the other extreme, they may view themselves as a sounding board, waiting for the trustee to request input. I personally advise clients to activate advisory committees during their own lifetime and to act as chairperson. That way the group can learn about their expectations firsthand and can benefit from problem-solving alongside them. If the committee includes a care manager, this also gives the beneficiary an opportunity to ease into a relationship with that individual. This approach works well where a trust is funded during the parents' lifetimes and where the parents serve as trustees.

Sometimes committees become paralyzed by disagreements, so it's good to put a check-and-balance system in place. One possibility involves stipulating that decisions don't require unanimity, merely a majority or supermajority vote. Another approach is [naming a trust protector alongside the advisory committee](#). In such cases, the trust protector oversees the trust's financial performance and can replace the trustee, relieving the advisory committee of such decision-making. The advisory committee's crucial role is to provide information on the beneficiary's ongoing needs.

As those needs and other circumstances change, it may be necessary to alter the committee's composition. While certain relatives are likely to play a long-term role, care managers, financial advisors and other professionals might need to be replaced over time. To avoid having to amend the SNT with each change, it's advisable to designate permanent members in the trust document and to provide a means for the advisory committee to nominate and elect members itself.

A well-designed SNT can have profound effect on the beneficiary's quality of life. But a document alone won't ensure the individual's well-being. The trustee's performance will

make or break the trust's effectiveness, and the naming of a trust advisory committee can provide an important safety net.

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