

ABLE Accounts vs Special Needs Trusts

An In-Depth Discussion



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A Little About Me



Mikayla is 17 years old & Avry is 12

Spontaneous mutation at conception led to Lissencephaly (smooth brain), Lennox Gestaut Syndrome, G-tube, non-verbal, non-ambulatory, ketogenic diet

Loves being social with friends, doing cross country, her service dog, Mickey Mouse, cuddles, toys that light up and blink.

20 years in financial services; 12 years specializing in special needs planning & being a mom

National practice with regular speaking engagements and training other advisors.

MISSION

- Educate Strategic Partners
- Guide Caregivers
- Facilitate emotional conversations with key family members...

...thus, we navigate the complexity of life planning for children/adults with special needs, and create a sustainable, high quality of life for everyone in the family.

CAUTION! The Real Issue Is...

Protection Benefits:

- Individuals with disabilities can only have \$2,000 in assets at any given time in order to remain eligible for many federal means-tested benefits programs such as Medicaid, SSI and others
- This is especially important when they turn 18 and are recognized as a legal adult

Guardianship & Estate Planning

- If you don't have your estate plan in place, what happens to your children if you pass away prematurely?

Why We're Different: Building Your Team

Identifying & Aligning Your Team



**Financial
Professional**

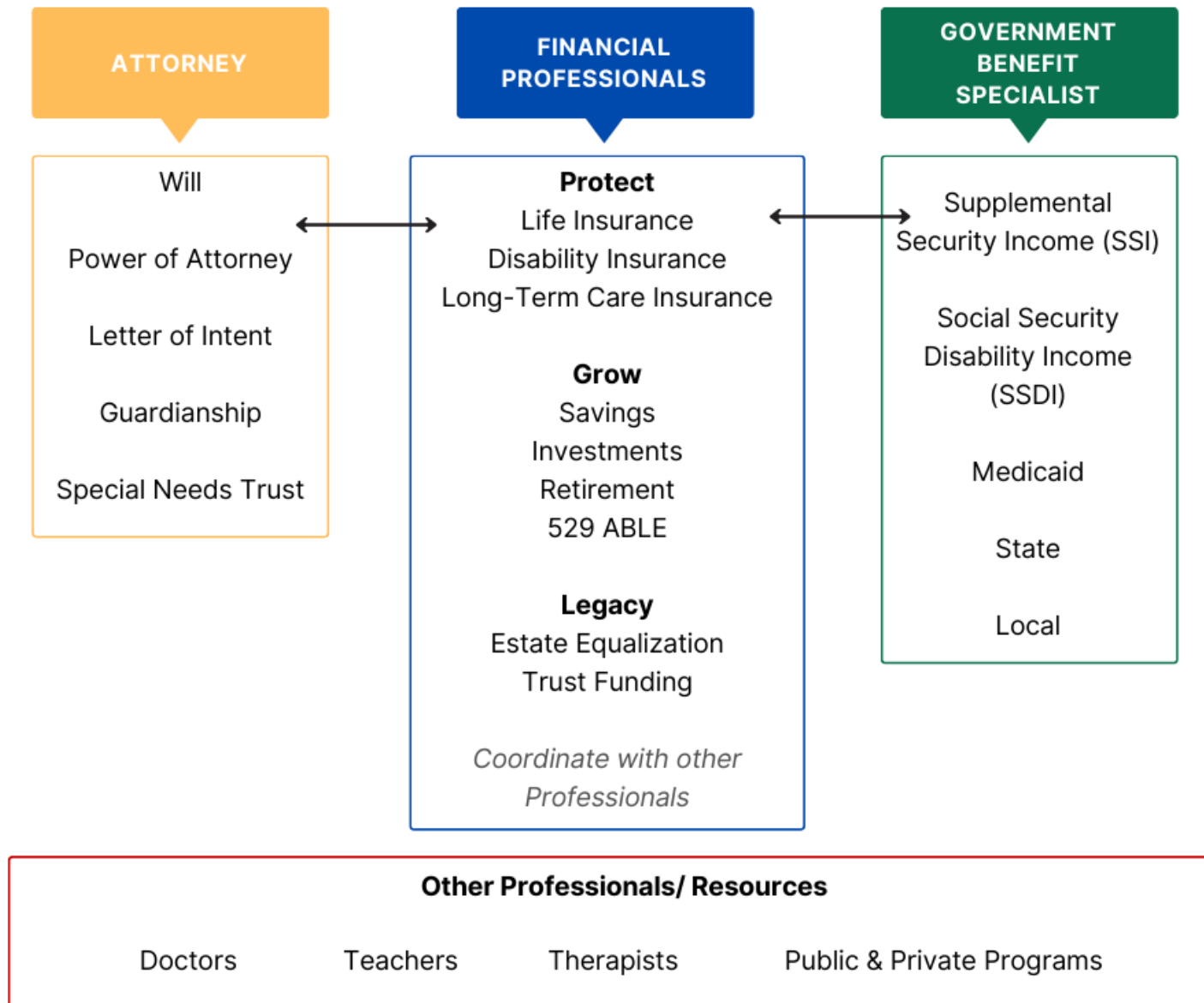


**Government
Benefits Specialist**



Attorney
(experienced in
special needs)

Special Planning for Special Families



Developing Your Special Needs Plan

A Government Benefits Specialist can Help Estimate Future Costs

Where You Live



**The Care You Provide
Now**



**Potential Annual
Future Costs**

Government Benefits Specialist can help quantify costs and look for gaps



REMEMBER: If your child outlives you, the care you provide now probably won't be a free service anymore.

Special Needs Trusts

THIRD PARTY FUNDED SPECIAL NEEDS TRUSTS

- Greatest flexibility for distributions
- Funded through inheritance
- Have contingent beneficiaries and multiple beneficiaries

SELF FUNDED SPECIAL NEEDS TRUST

- Benefits only one disabled person
- Established by parent, grandparent, or guardian of disabled individual
- Irrevocable
- Payback to State Medicaid

POOLED TRUSTS

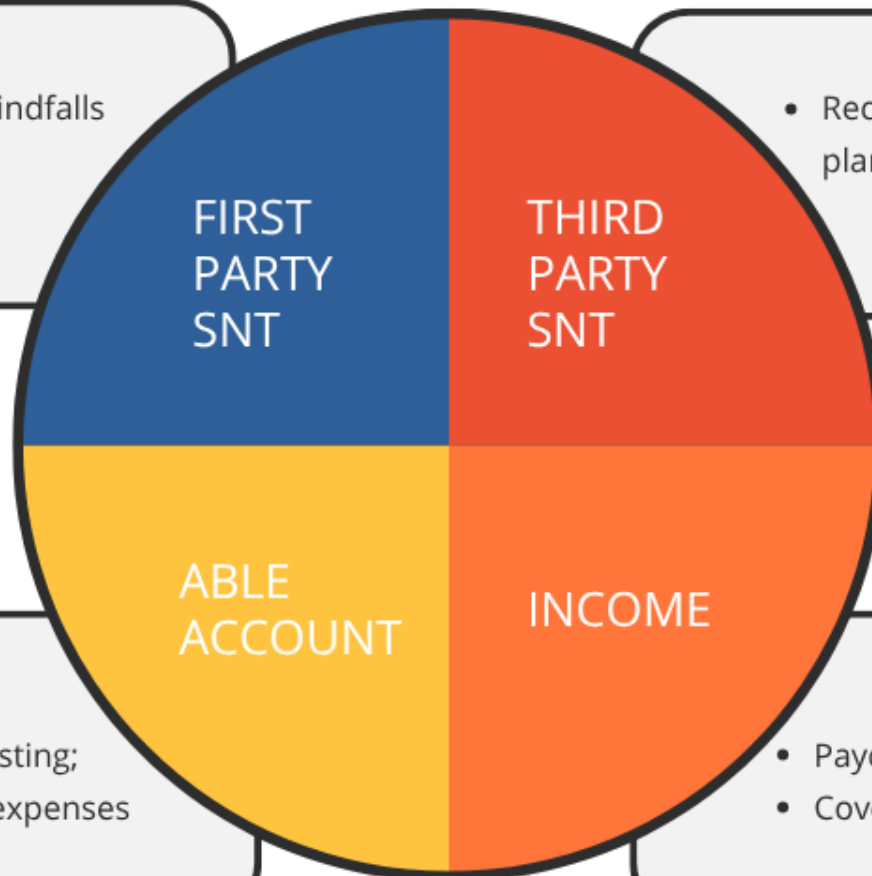
- Anyone (including disabled individual) can create
- Non-profit fiduciary must be the trustee
- Residue remains in trust for other disabled persons upon the death of beneficiary
- Low maintenance and cost effective

Third-Party Special Needs Trusts



- Hire an estate planning or elder law attorney to draft your trust
- Consider having a bank serve as trustee
- Life insurance can fund a special needs trust
- A trust can be set up, so the remaining assets pass to family members if the primary beneficiary passes away

Working Together



- Holds unexpected windfalls
- Expediting Medicaid

- Receives Planned Inheritances/
planned gifts

- Exempt savings/investing;
Qualifying disability expenses

- Paycheck and/or Social Security
- Covers monthly expenses

ABLE or 529A Plans

Public benefits often have asset limits of \$2,000.

ABLE (ACHIEVING A BETTER LIFE EXPERIENCE) PLANS:

- May be created any time if disability onset prior to age 46
- Will not affect Medicaid eligibility no matter how large the account grows
- If account balance is \$100,000 or more, it will affect Supplemental Security Income eligibility
- Contributions are post-tax and are not tax deductible at the federal level (some states allow deductions)
- Contributions of \$20,000/yr allowed + \$15,650 from earnings
- Can roll 529C accounts into 529A plans
- Assets grow tax free and qualified distributions are tax free

ABLE or 529A Plans

Used For:



- Education
 - Housing
 - Transportation
 - Employment training
 - Assistive technology
 - Personal support
 - Health care expenses
 - Expenses that improve health, independence or quality of life
-



Any Money left in the plan at death must be used to reimburse the state for Medicaid Support.

Determining if an ABLÉ Plan is Right for You

1. Talk to your financial professional
2. Visit [ablenrc.org](https://www.ablenrc.org) to learn more about your state's ABLÉ Plans.



ABLE NATIONAL RESOURCE CENTER
ACHIEVING A BETTER LIFE EXPERIENCE ACT

Which state has the best program for you?

No matter which state you call home, you can open your ABLÉ account in any state with an active ABLÉ program.

SELECT A STATE TO BEGIN →

(Blue indicates active programs.)

You can also use our **TOOL THAT COMPARES STATE PROGRAMS.**

The image shows a map of the United States with state abbreviations. States with active ABLÉ programs are highlighted in blue: VT, NH, ME, MA, RI, CT, NJ, DE, MD, DC. All other states are highlighted in green.

Let's Consider the Benefits and Challenges of ABLE



PROS

- A person with disabilities can setup his/her own account with his/her own money instead of relying on a parent/guardian to establish a first-party Special Needs Trust
- A person can manage their own funds in an ABLE, making them less reliant on others for assistance and easier access to funds.
- Funds grow tax-free and are not subject to gift-tax restrictions; some states allow state-tax deductions for contributing.
- Easy to set up and manage
- You can open any state's ABLE plan (*with the exception of a few that do not allow out of state residents*)

CONS

- ABLE accounts can only be established for the benefit of those diagnosed with a disability prior to age 46
- Some people with disabilities can be taken advantage of if they have control of their own money. A SNT has a trustee which prevents this.
- Contributions are limited to \$20,000/yr and can only hold \$100,000 before becoming a countable asset
- If there are funds remaining in an ABLE account at the time of the individual's death, the remaining are first used to pay back Medicaid benefits received by the beneficiary (state dependent). Remaining funds must pass through probate in order to be transferred to the beneficiary's heirs

Let's Consider the Benefits and Challenges of Special Needs Trusts



PROS

- Special Needs Trusts can be used by any person diagnosed with a disability, usually regardless of age or circumstance. Several different types depending on your needs
(Exception: First-party must be under age 65).
- An individual can have an unlimited amount of Special Needs Trusts
- No limits on how much you can contribute to a Special Needs Trust – life insurance is the most popular way to fund and manage taxes in a Special Needs Trust besides a personal injury settlement (also income tax-free)
- No Medicaid payback if a Third-Party Trust. Any remaining assets can go to heirs without going through probate.

CONS

- Special Needs Trusts require a designated Trustee to manage ongoing approval of funds. The Trustee must also be a fiduciary legally and are required to file taxes on the trust each year (familiar with 1041s). Trustees are liable for any misappropriations of funds according to the trust document.
- TAXES: Special Needs Trusts are subject to gift tax (if funded during lifetime).
- Earnings are taxed at trust income tax rates.
- If leaving retirement assets (including Roth IRAs) to a SNT, taxes and RMD's need to be considered
- to avoid unnecessary taxation and/or disqualifying the individual with special needs.
- Must work with a qualified attorney who is fluent in special needs estate planning to setup, costs a flat fee of \$2,000-\$5,000 per estate plan depending on who you work with and what your family's needs are.

ABLE Plans vs. Special Needs Trust

	ABLE or 529A Plan	Third-Party Special Needs Trust
Eligibility	Available only to people whose disability happened before age 46	No age limits
Setup	<ul style="list-style-type: none"> • Easy to set up • No attorney fees 	Need an attorney specializing in estate planning or elder law to draft
Contribution limits	\$20,000 each year, indexed for inflation	No contribution limits
Account balance limits	Maximum of \$100,000 for anyone receiving Social Security Income	No maximum
Uses	Wide range of uses, including housing and food	Wide range of uses, but cannot be used for necessities like housing and food
Taxability	Tax-free distributions	May be taxable
Remaining assets	May go back to Medicaid	Passes to family members
Ease of access	Some state programs provide checking accounts or debit cards for easy access to funds	Must request funds from trustee - no checking accounts or credit cards

ABOUT OUR FAMILY

Who we are

The family identifies as this race/ethnicity _____
The family belongs to this religion/belief _____
Here are our important traditions/holidays/past _____

Where the loved one with special needs lives

The child lives (check box) in some
 with family members in house
 in a home he or she owns some
 in a home he or she rents some

Complete below only if the individual re

Landlord or rental company name _____
On-site property manager _____
Who should be contacted for spare keys _____
Rental agreement. How long is the rent _____

Complete below only if the individua

Agency/contact name _____
Who should be contacted for need s

Complete only if they live with fa

Family contact _____
Who to contact for spare keys _____

MY CHILD'S FAMILY MEMBERS

List two (or three) people who play primary support roles: aunts/uncles, cousins, or other family members.

Name _____
Email address _____
Citizenship status _____
Name _____
Email address _____
Citizenship status _____
Name _____
Email address _____
Citizenship status _____

WHERE MY CHILD HAS L

In the space provided, list previous places y
type of home it was (e.g., family home, app

Past address _____
Type of home and length of time there _____
Additional past address _____
Type of home and length of time there _____

Letter of intent

For _____

The letter of intent is a personal road map that enables you to gather relevant information in one place and make clear your wishes and expectations to family members and others who will assume responsibility for your loved one's care when you no longer are able to do so. It is not a legal document, but it is an important one for letting your intentions and desires be known. This is a living document that should be reviewed and updated annually.

This outline is intended to serve as a general guide; customize this based on the needs of your loved one and your family. As well, consider supplementing this with a video, copies of individualized education plans (IEPs), a Medicaid waiver application, or other documents that would help someone who will be caring for your dependent.

Section 1
My child's family life and medical information

Section 2
Where my child lives

Section 3
My child's daily life and activities

Section 4
My child's values and goals

Section 5
Important names and contact information

Date completed _____ Last update _____
Name of dependent _____ Nickname _____ Social Security # _____
Date and place of birth _____
Mother's name _____ Father's name _____
Emergency contact _____
NAME ADDRESS CITY/STATE/ZIP PHONE NUMBER

29-4937-01

(REV 0823)

A Few Final Considerations

IT'S CRITICAL FOR YOU TO PLAN FOR YOUR LOVED ONE WITH SPECIAL NEEDS

- Include your entire family
- Your special needs plan needs to be a part of your overall financial plan, including retirement.

ASSEMBLE YOUR TEAM

- Financial Professional
- Government Benefit Specialist
- Attorney

Choosing a Financial Professional

- Work with someone you trust
- Choose someone who is experienced in planning for special needs
- Make sure your financial professional will work with you over time as your needs change
- Select a company that has strong history and maintains the highest financial strength rating in the industry



our dream team



Defining Dreams, Structuring Your Plan, Building Financial Security

Schedule Your Free Consultation Today 414-839-5905



Missy Burback
Melissa.Burback@nm.com

Scan to save contact info



Schedule Today



A HUGE THANK YOU

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