

HOW CAN BASE LEGAL ASSIST MY FAMILY?

Attorneys can help
families navigate

SPECIAL EDUCATION

legal issues for students
whose educational
performance is adversely
impacted by their disabilities

Examples:

- 👉 Individualized Education Program (IEP) Disputes
- 👉 Transfers of IEPs and accommodation
- 👉 Education disputes and remedies
- 👉 Understanding parental rights



For more information about the below referenced services or contact information for representatives in your local area, please scan these codes:

EFMP Family Support Coordinator



Oversee identification, enrollment & resources for military families with special needs to help them understand and navigate systems of care



School Liaison Office

They provide education services for PreK-12 Students, Families and Educators serving military connected students



Legal Assistance Office

Available to provide legal advice and counseling to Airmen and Guardians of students whose educational performance is impacted by their disabilities



DAF Family Vector Video Library

Contains a series of short videos explaining terms and topics of interest for EFMP military families related to special education law, and other areas

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SPECIAL EDUCATION

Legal Assistance

on

Special Needs Trusts

Special Needs Trust

A special (or supplemental) needs trust (SNT) can be a valuable tool for families with special needs children. Trusts are legal vehicles created to ensure assets go to a beneficiary but they are held or managed by another. SNTs are different than other trusts in that they are utilized to benefit a person who qualifies for government benefits due to financial need and a disability or other limiting condition. Examples of such benefits are Medicaid, Medicare, and Supplemental Security Income.

What are the benefits of a SNT?

SNTs can enhance the quality of life for beneficiaries and provide parents with the peace of mind that their children will not lose their current benefits or services. Essentially, a SNT allows the trustee to hold money or other assets for the benefit of the SNT beneficiary without disqualifying that individual from benefits. SNTs are generally said to supplement not supplant benefits that a disabled individual receives from the federal, state, and/or local government. It is a tool that allows parents to give money to benefit a disabled child without endangering the child's valuable government benefits. Trustees usually are granted the authority to invest or diversify the assets thus enabling potential growth of the funding available to the beneficiary.

What can the beneficiary receive?

These trusts are set up with language stating the assets will supplement the government benefits provided but not replace them. These can include medical expenses not covered by those programs, physical therapy, education, companions or sitters, and dental or related expenses. Generally, SNT may not directly provide for cash, food, shelter or primary utilities (electricity, gas or water). However, it may provide for clothing, furniture, travel, furnishings (TV or computer) and other expenses. Allowable expenditures depend on what government benefits the person is receiving and State rules may vary.

When is a SNT recommended?

Basically, if a disabled person receives or is likely to receive government benefits that have asset or income limits on the recipient, then the individual or family members of that individual should explore SNT options. If a child or a person with special needs may become the beneficiary of life insurance, an inheritance, or be provided money by a parent or family member upon their death, the assets could be counted against their eligibility for government benefits. Parents or family members can create what is known as a third-party SNT in a testamentary instrument or will. SNTs can also be funded and created in a formal legal document without it being tied to an inheritance.

Individuals under the age of 65 may self-fund what is known as a first-party or self-settled SNT for their own benefit in situations when they are about to or recently acquired assets and receive these types of government benefits, or may become eligible for them. In those situations, the trusts created must be solely for the benefit of the person, irrevocable, and expressly state the government will be reimbursed at the person's death or when it terminates.

When could a trust not be required?

Minor children with special needs, not currently receiving government benefits, may not immediately require a trust to be set up since typically their parents or guardians are authorized by law to manage their assets. The same would be for adults who have been granted guardianship over special needs individuals who are not eligible for financial need-based benefits.

How can attorneys help?

For SNTs, and in all legal assistance cases, parents considering this type of document should consult with an attorney. Military attorneys may be able to discuss options available and the potential implications of not having them on a particular case. Although valuable, these trusts can be complex, and specialized legal support is usually required given the complex state and federal rules in creating and administering them. A referral to outside attorneys specializing in this area of law may be required in many cases.