

MISTAKES TO AVOID WHEN ESTABLISHING A TRUST FOR YOUR CHILDREN

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Parents often create a trust to protect the inheritance they intend to leave their children. Not only can a trust protect assets earmarked for minor children who cannot yet inherit those assets, but a trust can also stagger distributions when the children reach the age at which they *can* legally inherit. If you are a parent who plans to create a trust, many estate planning attorneys can state the common mistakes people make and can avoid.

1. **Appointing the wrong Trustee.** The Trustee of a trust is responsible for protecting and growing the trust assets as well as administering the trust using the terms in the trust agreement. The right Trustee adds to the success of a trust while the wrong Trustee can cause a trust to fail. Parents often appoint a family member or close friend to be the Trustee despite the individual's lack of experience in financial and legal matters. To ensure that your trust operates as intended, consider appointing a professional Trustee.
2. **Not allowing enough discretion.** It can be difficult to anticipate all the reasons your children might need access to trust funds, especially if they are very young when you establish the trust. Failing to give your Trustee enough discretion to approve disbursements for unanticipated needs may leave your children without access to funds when they truly need them. If

you appoint a professional Trustee, it should be safe to give the Trustee the discretion to use his/her best judgment when unanticipated requests come up.

3. **Allowing too much discretion.** Conversely, you also want to avoid giving the Trustee too much discretion, especially if you did not appoint a professional Trustee. This can put the Trustee in a difficult position if a beneficiary is asking for a disbursement, but the Trustee questions the need for the funds. You also risk creating conflict between a beneficiary and the Trustee if the Trustee is a family member or family friend. To avoid this problem, be sure to give the Trustee the ability to deny a questionable disbursement by tightening the Trustee's discretion within the trust terms.
4. **Failing to stagger distributions.** A trust can be extremely beneficial when your children are minors because they cannot yet inherit directly from your estate. That same trust can still be useful when they are young adults if you include trust terms that stagger the [inheritance](#) you leave them instead of handing a young adult a large lump sum inheritance. Give your kids time to learn how to manage money before distributing a large sum of money. Instead, stagger the distributions over several years.
5. **Forgetting to update the trust.** Parents often make the mistake of creating a trust agreement when they first become parents – and then forgetting about the trust. While the trust you establish when your children are very young can still be beneficial when they become young adults, you will undoubtedly need to update the trust to reflect the fact that they can now inherit directly. As your children get older, and the value of the trust assets increases, you should revisit the trust agreement every few years to make any necessary revisions. This ensures that the trust terms reflect your current wishes and that it will continue to accomplish your objectives.