

UTILIZING LETTERS OF INTENT IN YOUR ESTATE PLANNING

Many people prepare legal documents (such as a Will or Trust) outlining certain rules related to the disposition of their property after they are gone. For individuals with minor children, their property is often placed in a trust with certain rules and provisions regarding the distribution of monetary assets. Typically, a trust will allow a Trustee to distribute assets for the health, education and maintenance of a beneficiary. Although individuals may include very specific details in their documents regarding the distribution of assets (and many do), it is not always efficient nor economical to include extremely detailed provisions. Furthermore, a beneficiary's future is uncertain and a well drafted document will contain enough flexibility to address many changes of circumstance.

An alternative approach to detailed drafting is to utilize a document called a Letter of Intent. A Letter of Intent can be described as a document written in the words of an individual providing his or her Trustee or Guardian with additional information and instructions regarding their duties. These Letters would be slightly different for a Trustee as opposed to a Guardian, so each will be discussed separately below.

1. **Letters for Trustees** The duties of a Trustee under a trust instrument are to basically manage and invest the assets under their control and control the distribution of income and principal to a trust beneficiary. As mentioned above, the distribution standards are typically broad and allow for a Trustee to enjoy a certain amount of flexibility in the administration and distribution of the assets. Many individuals may like to leave a separate letter for the Trustee with more detailed instructions regarding their wishes. For example, a Trustee can generally provide for educational expenses for a child. However, it may be the parent's wish that their child does not have all of the tuition and expenses paid during college. The parent may like for the child to bear a small portion of his or her own expenses, so as to develop a work ethic of their own. Many parents may like to direct the Trustee to limit educational expenses to four or five years of undergraduate education, so as to avoid having a "professional student."

There are many examples where a parent or an individual may wish to provide further instruction and guidance to a Trustee regarding the distribution of assets. If the Trustee has an understanding of a Grantor's values, then that Trustee will have a theme under which to work in the trust agreement.

2. **Guardian** Parents of a minor or incapacitated child have an opportunity to appoint a legal Guardian in their Last Will and Testament. However, a Will does not address how a Guardian should raise a child. Parents will presumably select a Guardian that shares their own values. However, even with a Guardian that you trust to administer or to raise your children as you would yourself, a writing containing some additional guidance is quite useful.

Some of the things a letter to a Guardian may address include:

- Your religious beliefs
- Your thoughts about discipline
- Your opinion on a child having a part-time job
- Public versus private school
- Some of the favorite things your child likes to do
- Your opinions on visitation with other family members

These Letters can be a tremendous supplement to anyone's estate plan. Even though these Letters do not create any legal obligations, they do create moral obligations. Many people are probably more apt to follow these moral obligations than they are the legal obligations contained in a Will or Trust. Another advantage of the Letter of Intent is that it is a document that can be created without the assistance of an attorney. Further, the document will have more power if it is written in an individual's own words.

You will find two Appendices that will assist you in preparing Letters for your Trustee and/or Guardian. In fact, you may wish to use the questions and answers as your "Letter." The topics addressed in both of these documents are not all inclusive and it is expected that each individual will have their own additional concerns that they would like to address. You may want to update these letters every few years, as circumstances and people will change.

You may also find creating this Letter is a useful exercise, as it will allow you to think about upcoming life events that you as a parent (as opposed to your Guardian) will likely be addressing.

APPENDIX A

LETTER OF INTENT – GUARDIAN

1. Would you like your child raised in any particular religious faith or tradition?

2. How do you approach disciplining your child?

3. Do you have any thoughts on when your child should receive a cell phone? A car? Thoughts on tattoos?

4. Outside of your first Guardian, are there any particular family members you want to make sure your child sees on a regular basis? And if so, how often?

5. Are there any particular family members or friends that you do not want your child to see or visit?

6. In regard to any daughters, do you have any beliefs on the following: earrings, makeup, dating, etc.?

7. What are your thoughts on schooling and length of schooling? i.e., supporting your child for four years of college versus six years of college.

8. What are your thoughts on how much should be spent on a wedding?

9. Are there any specific cultural or family traditions you want your child to experience or know about?

10. Are there any specific non-family members you want your child to have regular contact with?

11. What values are most important to you and that you want your child to grow up with?

For parents of young children:

12. What are your thoughts on vaccinations for your child?

13. What activities does your child enjoy or find most comforting? Are there any toys your child is attached to?

14. What are your child's favorite hobbies?

15. What is your child's bedtime routine?

16. How does your child learn best in school?

17. Does your child have any specific personality traits that would be important to know about?

APPENDIX B

LETTER OF INTENT – TRUSTEE

1. How do you plan to support the education expenses of your child?

2. Do you want your child to attend public or private school?

3. Are you planning on buying a car for your child when he or she is 16?

4. Do you have any thoughts or preferences regarding your child's relationship with money?
