Passing the Baton: Trustee Resignation, Release, and Transition Challenges in Supplemental Needs Trusts

A Practical Guide for First- and Third-Party SNT Transitions

1

Overview

- Supplemental Needs Trusts (SNTs) preserve public benefit eligibility.
- Trustee transitions are inevitable and must be planned for.
- Different rules apply for first-party and third-party SNTs.
- Proper drafting and documentation are essential to avoid disruption.

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First-Party vs. Third-Party SNTs

- First-Party: Funded with beneficiary's own assets.
- Requires Medicaid payback; often court-supervised.
- Third-Party: Funded by others; no Medicaid payback.
- Typically, more flexible and less court-involved.

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Drafting for Transitions

- Name successor trustees and backup mechanisms.
- Include authority to approve accountings and releases.
- Allow non-judicial transition where permitted.
- Incorporate provisions for Medicaid payback in first-party SNTs.

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Challenges in Successor Appointments

- Successors may decline due to lack of funds or complexity.
- Include flexible provisions to remove/replace unwilling successors.
- Use roles like Trustee Monitor to avoid court involvement.
- Maintain administrative continuity during transitions.

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Resignation Provisions Sample

- 30 days written notice to key parties.
- Successor appointment authority if designated party unavailable.
- Final report of trust activity and asset transfer required.
- Full release only upon court settlement or party agreement.
- Permit transfer to Pooled Trusts?

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Pre-Resignation Checklist

- Update and organize trust records.
- Prepare informal accounting.
- Identify pending disbursements.
- Coordinate asset and knowledge transfer to successor.

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Transition Risks

- Missing records delay handoff.
- Successor delays disrupt benefits.
- Court re-entry may be required.
- Family conflict complicates releases.
- Benefits interruption from poor timing.

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Accounting & Release Considerations

- Informal accountings promote transparency.
- Regular judicial settlement reduces long-term risk.
- Format informal reports to mirror formal court accountings.
- No full release until court approval or written agreement.

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Best Practices for Trustees

- Provide annual informal accountings to beneficiaries and agencies.
- Petition for judicial settlement periodically.
- Seek court approval for significant or third-party benefit transactions.
- Balance efficiency with legal protection.

10

Conclusion

- Trustee transitions are high-stakes moments in trust administration.
- Proactive drafting and regular disclosures protect all parties.
- Plan to avoid disruption and preserve public benefits.
- With a proactive process and good planning when available, the baton can be passed smoothly.

11

Thank you

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12