

# Special Needs Trust Foundation

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**The Special Needs Trust Foundation is a cooperative project of:**

- ♦ Access to Independence
- ♦ The Arc of San Diego
- ♦ Community Catalysts of California
- ♦ Developmental Services Continuum
- ♦ Home of Guiding Hands
- ♦ NAMI San Diego
- ♦ Partnerships With Industry
- ♦ Sharp Healthcare Foundation
- ♦ St. Madeleine Sophie's Center
- ♦ United Cerebral Palsy, San Diego
- ♦ Unyeway, Inc.
- ♦ Vista Hill

## **3<sup>rd</sup> PARTY SPECIAL NEEDS TRUST**

To financially assist a person with a disability is a challenging task. To balance the private resources of a family or individual with public support is a delicate task. Too much on either side tip the scales and the person with a disability may suffer.

To that end, the Special Needs Trust Foundation (SNTF) created a Third Party Special Needs Master Trust to provide private support to persons with disabilities without jeopardizing their public support. Through this trust, families may contribute assets to benefit their loved ones **in a manner that is compatible with the continuation of public assistance.**

The Trust allows contributions of many families to be pooled for increased investment leverage, but each individual has a separate trust account. Disbursements are made from individual accounts through a carefully monitored partnership between the Trustee and the person's primary service provider.

# **QUESTIONS FREQUENTLY ASKED ABOUT THE THIRD PARTY SPECIAL NEEDS TRUST**

## *What is a third party special needs trust?*

A third party special needs trust (SNT) is an accepted legal approach to some of the difficult problems that families face in planning for the future of a loved one with a disability. A third party special needs trust allows families to place funds aside to pay for special expenses.

For some time, it has been possible for families to set up an individual special needs trust for a child, and you may know some parents who have done this. It is, however, generally not feasible to establish an individual private trust unless you have a substantial sum of money to fund it and you have located a compassionate and reliable trustee.

The third party SNT, created by the SNTF in San Diego, offers an opportunity which families might choose over an individual trust for two main reasons. First, because the third party SNT is a pooled trust, families with smaller amounts of money have access to the special needs trust solution that they would not have had otherwise.

Also, the third party SNT offers services that promote continuity of fiscal management through a well-known and respected local San Diego non-profit corporation providing broad access to professional expertise through the participating members of the SNTF.

The SNTF in San Diego was created in 1989 at the request of families in this community to assist their loved ones with special needs living in San Diego County establish a SNT. An established SNT allows Beneficiary's to supplement their monthly income from SSI through distributions for goods and services from their SNT, but with no adverse effects to their SSI, Medi-Cal, or other "needs based" public benefits. Pooled special needs trusts similar to this one have been established in a number of states.

## ***Can this trust be set up to be the principal means of support for our loved one?***

No. The third party SNT is set up to pay for “extras,” not core support for your family members.

## ***What is meant by “extras”?***

Funds in a third party SNT can be used to purchase those “extras” for individuals with disabilities, which they may not be able to receive from Government assistance. These “extras” may well be expenses that are very important to a Beneficiary’s happiness and welfare that you would routinely provide for them as long as you are alive. For example, special dental treatment, travel, purchase of personal goods or services, and recreational activities.

## ***Will our loved ones lose their government benefits?***

No. The third party SNT has been carefully researched and drafted to prevent a negative effect upon the flow of government benefits or the attachment of trust assets by any outside entity.

There is no guarantee, however, that these types of trusts will never be challenged or that the law will not change. You can be assured that the situation will be continuously monitored by the Trustee.

## ***Who is the trustee of the third party SNT?***

The SNTF, a 501 (c) 3 California non-profit corporation is the Trustee.

## ***Who will make decisions about disbursements?***

The SNTF Board of Directors serve as Trustee. They employ a licensed professional fiduciary to review disbursement requests to obtain needed goods and services for each Beneficiary.

### ***Can family members participate in the review of disbursement requests?***

Yes. Family participation is welcome at any time.

### ***How secure is the Special Needs Trust Foundation?***

If any of the SNTF members should end their involvement with the Foundation, successor directors would be elected from other service providers. The Foundation is a California 501 (C) 3 corporation, and as such is self-perpetuating and should always be available even if one or more members of the SNTF cease to be a member.

### ***Is there a minimum amount that must be placed into the third party SNT in order for our family member to be a beneficiary?***

Yes. \$5,000 is needed to establish 3<sup>rd</sup> Party special needs trust with the SNTF. This amount can be increased or replenished at any time in any amount. Other family members or friends may contribute as well.

### ***Should we fund the trust before our deaths?***

It is up to you to decide when and how to fund it. Your family will not receive the third party SNT services until there is a minimum of \$5,000 held in the trust. If you choose to fund the trust at your death through your estate plan, you would be wise to prepare and sign the Joinder Agreement now to ensure a smooth transition. Your attorney can advise you on the options for funding your loved one's special needs account.

### ***Are separate accounts kept for each beneficiary?***

Yes. The funds are pooled to increase investment leverage but each individual has a separate trust account.

### ***What assets will the trust accept?***

Only contributions in the form of cash or checks will be accepted. Real property or stocks are not accepted.

### ***Can we change our minds about being a part of the third party SNT?***

Yes. Until you have actually funded your loved one's trust account, you may terminate or modify the Joinder Agreement. **When funds are placed into the third party SNT, they are irrevocable and will only be distributed according to the Joinder Agreement which you established.**

### ***How will trust funds be invested?***

Trust assets will be invested according to the Investment Policy Statement developed between the SNTF and the investment advisor at the financial institution where the funds are held. In general, the Trustee invests for long-term preservation of principal, reasonable current income and in accord with the "prudent investor" philosophy.

### ***Are there fees charged to the account?***

Yes. The fees are outlined in the SNTF 3<sup>rd</sup> Party Master Trust Joinder Agreement. Annual tax returns, if required, will be prepared by a certified public accountant. Preparation fee and related tax liability will be billed to the individual Trust.

### ***Will disbursements be made from interest only or from principal and interest?***

This is your decision and you may specify your preference in the Joinder Agreement. At the time the trust is established the family will be asked to outline what the long-term goal is for the trust and how they feel the money might be used to best serve the Beneficiary. If you authorize disbursements from principal, you should make arrangements to replenish the account as needed.

***What happens to the money of our family member's account if he/she dies before it is all spent?***

The remaining balance of the account at the time of your loved one's death will be distributed as per your instructions in the Joinder Agreement. Your designations must include a minimum of 25% to the SNTF and 25% to one of the member agencies.

***Is there a tax deduction for any of the amount placed into the trust?***

No. Amounts placed into the third party SNT are **NOT** tax deductible because they go to benefit an individual rather than a charitable organization. There are other ways that you may make a tax-deductible gift, and we will be happy to explore those with you.

***How do we know if our family member is eligible to participate in the Special Needs Trust?***

If your family member has special needs and could benefit from these services, apply to the SNTF. Decisions are made on a case-by-case basis.

***How do I get more information about the Special Needs Trust?***

Contact the SNTF at (619) 201-2672, P. O. Box 1890, Lakeside, CA 92040. Also, visit our web site [www.sntf-sd.org](http://www.sntf-sd.org).