

Why Should you Create a Memorandum of Intent for your Child with Special Needs?

By Jennifer Rose, CELA
April 2015

You have tried to take all of the necessary steps to ensure the wellbeing of your child with special needs. You have advocated for your child throughout his lifetime, become his legal guardian or power of attorney and provided for successors, provided him with all available services and support, put in place necessary legal documents and created your own estate plan and a Special Needs Trust for your child's future benefit. You have interviewed and familiarized yourself with the future Trustee, have a plan in place for housing options and created a solid financial life care plan to assure that your child has adequate funds in Trust to supplement the public benefits you worked so hard to obtain. Despite your efforts, you still feel like something is missing. You've spent a lifetime with this special person and know your child like no one else can. How do you communicate a lifetime of knowledge about your child if something should happen to you? How would your child cope with the transition of life without you?

While there is no substitute for your love, support and insight into your child's likes, wants and needs, a Memorandum of Intent is a resource that can help guide future caregivers in providing support to your child. Though it is not a legally binding document, a Memorandum of Intent is a guide to your child and can be used by future fiduciaries and caregivers to avoid the guessing game that often occurs during transition periods. A Memorandum of Intent is a living and breathing document that should be updated annually, if not more often. It can include anything from your wishes and desires for your child, his likes and dislikes and practical information that would be difficult to gather quickly upon your death or incapacity. This document should be readily available to your child's future care team with its whereabouts communicated on a regular basis.

Some information commonly found in a Memorandum of Intent includes:

A Summary of Your Child's History: This can include anything from special memories to your child's life story including his important milestones and accomplishments, your feelings about your child and encouragement and stories you would like the caregiver to reinforce and share.

Family History: Tell future caregivers about your family, where you have lived, where current family members reside and special family stories that future caregivers can use to reminisce with and understand your child.

Medical History: Describe your child's medical history, share the names and contact information for healthcare providers, hospitals and therapists. Also include your child's medications, known allergies and environmental triggers or things to avoid ensuring they stay in the best health possible.

Education/Work History: Describe your child's education level and any special training they have received along with your hopes for his future education. Describe your child's work history and list any special programs you would like him to attend, teachers you prefer and employment that your child might enjoy or have enjoyed or excelled at in the past.

Daily Schedule: Every person has different functionality levels. Future caregivers may not realize this, so you should describe your child's favorite activities, daily routine and tasks and events he loves or hates. Knowing a daily schedule can greatly reduce strife during transition, especially for lower functioning children and children with communication difficulties.

Public Benefits Received: List the types of governmental benefits your child receives, including Medicaid, Medicare, SSI/SSDI, Supplemental Nutrition Assistance Program (food stamps), and housing assistance. Provide contact information for caseworkers, case numbers and important deadlines or renewal periods. Keep this paperwork in a safe place and communicate this location to the future caregiver so your child does not lose any important benefits.

Food: Describe your child's diet and also note if any special considerations must be taken in preparing food. Tell future caregivers about food allergies or foods that do not sit well with your child. Also describe your child's favorite foods and consider leaving recipes.

Residential Preference: Describe your child's abilities to manage his own affairs and living environment and what living setting you would prefer for your child.

Social Environment: Describe the social activities that your child enjoys and make suggestions for activities. Set forth your child's favorite friends and include their contact information.

Religious Affiliation: Indicate your child's religion and any local place of worship your family attends and include the contact information.

Behavior Management: Discuss behavior management programs that have been successful or unsuccessful for your child.

Funeral Arrangements: List your preference for your child's funeral arrangements, including whether you have planned or prepaid for these services along with contact information for cemeteries or funeral homes.

Additional Information: Include any additional information that might be helpful to a future caregiver in advocating and caring for your child.

While a Memorandum of Intent is often overlooked when planning for a minor child or adult child with special needs, it is a highly useful tool in easing the transition for your loved one should something happen to you. Often Special Needs Planning Attorneys have documents they can share to get you started on preparing this guide to your child. While nobody will ever know your child like you do, you can certainly help a new caregiver along with this very important document.