

In preparation for our meeting you should consider the following issues. For each issue, you are free to do as you please. The purpose of this letter is to highlight some issues and identify some common approaches to those issues. This is by no means exhaustive, but is merely intended to give you some background.

1. **Guardian.** This is the person or persons who would be responsible for the physical well-being of your children if you and your spouse were to die while your children were minors. You should name a first choice and a back up. Because the guardian is really a surrogate parent, you should consider the person's parenting skills.
2. **Conservator.** This is the person who is responsible for taking care of your children's assets. This person is not responsible for your assets because your assets would be held in trust for your children. However, it is possible that your children will have assets of their own, for example, wrongful death settlement proceeds. Clients generally use one of two patterns here: (A) whoever is serving as the guardian (replacement parent) serves as the conservator or (B) whoever serves as trustee serves as conservator.
3. **Personal Representative.** This is the person in charge of handling your affairs after you die. The personal representative's primary jobs are to collect your assets, pay your creditors, and transfer your property to whomever you indicate in your will (typically the trustee of your trust). It should be a person capable of keeping accurate records and who has a basic level of financial knowledge (e.g., knows what mutual funds and life insurance are). This is primarily a short term job (a few months to a couple of years depending in large part on whether an estate tax return is necessary). You should select a personal representative and a back up. A typical first choice is your spouse.
4. **Trustee.** The requirements for trustee are similar to a personal representative, but it is a longer term job. The trustee's job will be to hold the assets for your spouse and children, use them for their benefit as you direct, and ultimately transfer them to your children at the ages you select. You need to name a trustee and a back up. A typical first choice is your spouse.
5. **Trusts for Children.** You need to decide how the assets will be held for your children. There are two typical models for doing this: (A) separate trusts or (B) a single trust (also known as a pot trust).

Under the separate trusts model, after you and your spouse have died, the assets are divided into separate trusts of equal value one for each of your children. The assets are held in trust for each child. You can specify essentially any rules you want about your child's rights in his or her trust. But it is fairly common to provide that the trust funds are available for the child's health, education, maintenance, and support. In addition, you can give the trustee the ability to distribute funds to the child to purchase a home or start a business. When a child turns 21 (you can change the age if you prefer), the child will start receiving all of the income (dividends and interest but not capital gains) from his or her trust. When a child reaches a predetermined age (or ages), the child may withdraw funds from his or her trust. A typical model is to stagger the withdrawal so the child can withdraw one-third at 25, one-third at 30, and the balance at 35 (or a similar pattern). However, you can use any method you like here (e.g. withdraw the entire amount at [age] or half at [age] and the balance at [age]). When the funds in a child's trust are gone, that child does not have rights to any other child's trust.

Under the single trust model, after you and your spouse have died, the assets are held in a single trust for your children and used for all of their benefit. When the youngest child reaches a predetermined age (typically 22 to 25, but there are no restrictions here) the assets remaining in the trust are then divided into separate trusts of equal value, one for each of your children (see above). Again, you can specify essentially any rules you want, but it is common to provide that a child's separate trust is not reduced for distributions from the single trust made for ordinary health, maintenance, and education expenses. However, if you

like, you can permit the trustee to make distributions to a child to purchase a home or start a business but require the trustee to count those distributions against the child's share when the single trust is ultimately divided. The perceived advantage of this model is that it aggregates the assets into a single fund so that if one child goes to Harvard and the other child goes to an in-state public university, sufficient assets are available to cover the Harvard education. Also, under this model additional funds are available if one child suffers from a disability.

There is no right or wrong answer here. It is purely a matter of personal preference.

If you choose the separate trust model, you need to let me know at what age (or ages) you want a child to be able to withdraw his or her trust. If you choose the single trust model, you need to let me know at what age you want to divide the single trust and after the trust divides what age (or ages) do you want the children to be able to withdraw assets from their separate trusts.

6. **Financial Power of Attorney.** You need to name a person and a back up to handle your financial affairs. You need to decide whether the power is immediately effective or a springing power that only takes effect on your disability. A typical model is to name your spouse as your agent and provide that your spouse may act immediately and that your alternate can only act if you are disabled.
7. **Medical Power of Attorney.** You need to name a person and a back up to make medical decisions in the event you are unable to.
8. **HIPAA Authorization.** You need to decide who is authorized to receive medical information about you. Typically these are the persons you name as trustee and the agents under your financial and medical powers of attorney. You may also want to name other close family members who are not necessarily your agents.