

PROXY PARENT FOUNDATION

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First Party and Pooled Special Needs Trusts

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A special needs trust protects a disabled person's means tested benefits such as SSI or Medi-Cal by providing a "safe harbor" for income and assets over the strict \$2,000 limit, an excess of which will cause a loss of eligibility for benefits. There are basically two types of special needs trusts. The first is the Third Party Special Needs Trust. This is the more common one as they are traditionally created by families to leave an inheritance to a disabled child, grandchild or relative.

The other special needs trust is a **First Party Special Needs Trust**, so called because the trust is *funded by the assets of the beneficiary of the trust*. For example, let's suppose that you are a disabled person and you find you are about to receive a gift, inheritance, or a litigation or insurance award and settlement. That "windfall" will likely put you over the \$2,000 asset and income limit and cause you to lose your benefits. However, if that money is put into a First Party Special Needs Trust, it will not be counted as assets or income and you can maintain your benefits.

There are two types of First Party Special Needs Trusts. The first is an individual stand-alone trust that can be set up by a parent, grandparent, guardian or court. A stand-alone trust must be drafted by an attorney and often then needs to be approved by a court. This can be a costly process. The individual First Party Special Needs Trust will also need a willing and qualified Trustee to manage the trust, and generally, a financial institution to do the money, investment, and accounting management. And, if there is not an individual trustee willing to act, most institutional trustees will not accept trusts of less than several hundred thousand dollars in assets. Another thing to note is that individual stand-alone First Party Special Needs Trusts will not protect the benefits of a beneficiary over the age of 65.

The other type of First Party Trust is a **Pooled Special Needs Trust** that can be joined by parent, grandparent, guardian, or court, but also by the disabled person him or herself as long as he or she is competent to do so. It is also open to all ages, so there is no age limitation. A Pooled Special Needs Trust, must be created and maintained by a nonprofit organization such as Proxy Parent Foundation and is governed by a Master Special Needs Trust. This Master Trust serves as the governing trust document, and the disabled person's assets "join" it as a sub-trust, thus the drafting of an individual special needs trust is not required. The sub-trust assets receive all the protections of a special needs trust, so benefits are protected, but although your trust funds are never commingled with funds of the other sub-trusts, they are "pooled" for investment purposes to achieve lower management fees from the financial institution administering the trust.

Proxy Parent Foundation's PLAN of California Master Pooled Trust, accepts both Third Party and First Party Pooled Trusts. There is no minimum asset limit to fund the trust. Please contact us if you are interested in learning more.

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For more information, please visit our website at www.proxyparentfoundation.org.

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