



Planning Your Giving

A Guide to Planning Your Will & Trust



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Disclosure on Attorneys and San Diego Foundation

Thank you for completing this guide. It is offered by us to you as an educational service. While we attempt to provide helpful estate and financial background, we are not able to offer specific legal advice on your personal situation. Because you may have special needs, we know that you will want to contact your own attorney. He or she will be your independent advisor and will have an obligation of trust and confidence to you. With the advice of your independent attorney, you may have a customized estate plan that truly fulfills your unique family, healthcare, estate and planning circumstances.

Planning Your Legacy

Congratulations for taking steps to protect those you love and your community through an updated estate plan. A plan is important, but an estimated 70% of Americans don't even have a will. This guide will help you by making the process easy and understandable.

A person may work 40 years to accumulate assets and spend 10 to 20 years conserving that accumulation, but often take two hours or less to plan for distribution of the assets. Through good planning, a wonderful chapter in the book of your life can be completed. However, too many times there has been little planning, or sometimes no planning, and the last chapter of life becomes burdensome for family members.

This guide is designed to help you move forward with a plan that writes a very good chapter in the book of your life, representing values that are important to you, such as philanthropy. Through proper planning, the legacy of love and care that you leave for your family, friends and community can be encouraging and even inspiring. We will show you how to update your estate plan with a will and trust and also make plans for your potential medical decisions.

A Guide to Planning Your Will and Trust is designed to encourage you to think about how you want your assets to be distributed when you are gone, and to assist you in gathering the information your attorney will need. With this guide, the process will be much easier, less expensive, and a comfort to your family while fulfilling your desires for friends, family and community.

Danah Fayman's Legacy



Danah Fayman is long remembered as a champion for arts in the San Diego. She was critical in turning Old Globe into a premier performance destination in the region and spent her life growing numerous other arts institutions. Before she passed away in 2017, Danah set up a legacy fund at San Diego Foundation so that her impact in the community would continue long after she was gone. Today, the Lynn Fayman Fund for Dance, which is managed by her three sons, honors the legacy of Danah and her husband by supporting performing arts in San Diego County. Danah and her family will forever be remembered as someone who enhanced arts and culture in San Diego.

“One of the most important things you can do while you're here is to ensure the world is better when you're not.”

What are the benefits of an estate plan?

Peace

An estate plan should give you peace of mind – knowing that important, and sometimes difficult decisions have been made to care for you and your loved ones, at the right time and at minimal cost.

Provision

An estate plan is designed to help you provide for you, your family and your community. With a good estate plan, you can ensure the people and places you love are able to thrive well after you're gone.

Protection

A good estate plan will protect you in your senior years and help the people you trust make important decisions about your care. An estate plan can increase your lifetime security and also achieve your goals for family and charity.

What if I have questions about some of the information?

When it comes time to decide on the distribution of your property, you may have some questions. There are two resources that will help you. In addition to the explanations within this guide, we have a wealth of online estate planning information on our website. Feel free to visit our website at SDFoundation.org/Legacy.

In addition, we are always available to help. Contact Donor Services at (619) 814-1332 or DonorServices@SDFoundation.org for more information.

What good things happen with an updated trust?

With an updated trust, you can transfer specific property or assets. In addition, you will be able to direct the residue of your estate. For those with larger estates, there could be substantial estate tax savings. In addition, you know that the successor trustee you select (not the one a probate judge chooses) will be managing your property. A good will is able to carry out your plan and save thousands of dollars while transferring property quickly and inexpensively to your loved ones.

What is accidental disinheritance?

Too many times, the “wrong” person or persons end up receiving property. An “accidental disinheritance” occurs if you either have no estate plan or the plan doesn't function properly. Sometimes a will is unclear and the estate goes to distant relatives or is simply paid to CPAs and attorneys who are representing family members fighting over the estate. You can avoid an “accidental disinheritance” by creating a good plan to protect your loved ones.

Can I use my estate plan to create a legacy?

Your life has meaning and purpose. You can create a legacy for family and charity that allows all your values and passions to live on after you're gone.

Estate Planning Documents

There are four basic steps in the estate planning process.

1. Write Down What You Own: It is important to understand what property you own and what property will be transferred through your estate. You can use this Guide to help you with this process.

2. Work With an Attorney: There are many knowledgeable estate planning attorneys. You can bring this completed Guide to them so they can prepare the necessary estate planning documents. Ask the attorney questions and talk about your goals.

3. Know How Property is Transferred: Some property is transferred by will and trust and some is transferred by a beneficiary designation or other form. You need to know how your property will be transferred in order to avoid an accidental disinheritance. With a good plan, your property may be transferred as you desire. Your attorney can help you with this process.

4. Sign Your Estate Plan and Medical Directives: Finally, it is important to sign the documents that correctly express your desires, both for your property and for your potential future personal care.

Basic Planning Documents

There are four basic estate planning documents: a will, a trust, a durable power of attorney for finances; and an advance healthcare directive.

Will

When most people think of estate planning, they immediately think of a will. A will is a legal document you can use to direct how your property will be divided when you pass away. Without a will, your property is divided according to California's rules of interstate succession, which might be different from how you would divide it. A will is referred to as a pour-over will because any assets not in a trust go into a will.

Trust

A trust is a legal entity that can "own" assets. The document looks much like a will. And, like a will, a trust includes instructions for whom you want to handle your final affairs and whom you want to receive your assets after you're gone.

Today, many people use a revocable living trust in their estate plan because it avoids court interference at death (probate) and at incapacity. It is also flexible and creates a strong peace of mind during your lifetime. As long as you are alive and competent, you can change the trust document, add or remove assets and even cancel it.

A living trust holds your property and is managed by you or a trustee you select. You or your selected trustee may own, manage and control your assets during your lifetime. You may add property to or remove property from the trust at any time. Any trust income is taxable to you.

A valid trust is an essential part of transferring your property at the right time to the right people at the lowest cost. Without a valid trust your family may encounter increased costs, delays and unnecessary conflicts. You can provide a wonderful legacy for family and charity with an updated estate plan.

General Durable Power of Attorney

A general power of attorney is a document that grants someone else authority over your property and financial transactions. What makes a durable power of attorney special is that it remains effective (or only becomes effective, depending on how you structure it) if you become incapacitated and unable to make decisions for yourself.

You should have a general durable power of attorney in place so that those kinds of decisions can continue to be made on your behalf if you become incapacitated. However, you should think carefully about who you want to appoint to make those decisions, since you won't be in a condition to oversee their actions and the person will have full decision-making authority over important financial matters.

Advance Health Care Directive

The California Legislature has enacted a statutory advance health care directive form that you can use to appoint someone under a power of attorney for health care and give specific directions about your care.

Part 1 of the statutory form is a power of attorney for health care. This is like the general durable power of attorney, but it grants authority over medical decisions instead of financial decisions. This is another powerful document, and you should read the form's instructions carefully and speak with an attorney about what they mean before choosing someone to exercise that power.

Part 2 allows you to give specific instructions for health care that your doctors—and the person appointed under Part 1—must follow. One of the most important instructions you can give in this part is whether you should be given life-sustaining treatment in the following circumstances:

1. You have an incurable and irreversible condition that will result in your death within a relatively short time;
2. You become unconscious and, to a reasonable degree of medical certainty, you will not regain consciousness; or
3. The likely risks and burdens of treatment would outweigh the expected benefits.

In parts 3 and 4, you can specify whether your organs should be donated when you die and designate a primary physician. If you don't complete these parts, the person you appoint under part 1 will be able to make those decisions for you.

Completing an advance health care directive is important, because it tells your doctors who to look to for your health care decisions when you are unable to make them. In addition, by providing specific instructions about some of the hard questions that person will have to make, you can relieve him or her of some of the burden of having to choose for you.

Other Planned Giving Options

Donor-Advised Funds

A Donor-Advised Fund (DAF) is a simple and efficient way to leave a legacy of generosity by helping charities that you want to support. By establishing such a fund, you can time the gifts you make (for

investment or tax reasons) and you can select the charities you wish to benefit from your gifts. You receive the income or estate tax deduction, and the opportunity is there to make distribution decisions over time. You can also set it up so that your children or friends supervise the charitable gifts from their fund for years to come, which is a great way to encourage children to be involved in philanthropy.

Charitable Gift Annuity

A charity gift annuity involves a contract between you and your favorite charity, whereby you transfer cash or property to the charity in exchange for a partial tax deduction and a lifetime stream of annual income. Many of our donors, especially those age 70 and above, are very interested in fixed payments for life from a charitable gift annuity. For a married couple, the payments will last until both have passed away.

Charitable Remainder Trusts

A Charitable Remainder Trust is a qualified trust that pays income to beneficiaries. After all income payments have been completed, the remainder is distributed to qualified charities. The person who establishes the trust may select the trust percentage or annuity amount, the person to receive the income from the trust, and the charities that will receive the principal of the trust after all income payments are completed. The major benefits of the trust are (i) Bypass of Capital Gains Tax, (ii) Increased Income and (iii) a Charitable Income Tax Deduction.

Charitable Endowments

Another option that you may prefer is to leave property or money in an endowment so that the charity does not spend the principal. Instead, the nonprofit, often a community foundation like The San Diego Foundation, grants the endowment income (as the donors often have done throughout their lives) per your instructions. It is helpful to suggest a general purpose for the endowment fund because it will last perpetually, and the original purpose for the gift may not exist in the future.

Life Insurance

Giftng a life insurance policy allows you to make a significant legacy gift to the nonprofit community with tax benefits that you can enjoy during your lifetime. As is the case with many retirees with grown children, you may not need a life insurance policy as a financial safety net anymore. Through a relatively small annual cost of the premium, you can give a gift to your favorite charity that is larger than otherwise would be possible.

IRA, 401(k) or Other Retirement Plan

A retirement plan can be a tax-efficient and simple way of including your favorite charity in your estate plan. The tax advantage stems from the fact that most retirement plans are subject to income taxes, and possibly estate taxes, if left to an individual beneficiary. However, a charity that is named as the beneficiary does not pay income or estate taxes on the distribution.

Custom Estate Plan for Business, Investments or Special Needs Child

If you own a family business, substantial real estate holdings or a large estate, then a custom plan that considers your special property goals and requirements can be created. A custom plan option is also useful if you have a child with special needs. A child with special needs may be provided for through a "special needs trust," which gives you peace of mind and facilitates care of the child by providing resources and directions.

1. Estate Planning Information

Personal Property Distribution

List to Dispose of Personal Property

Your will or trust is designed to transfer property to the person you select. However, many states permit you to update and maintain a list of personal items that may be changed whenever you desire. The lists must be signed and dated, describe the personal property and name the recipient.

Under the laws of most states, you are permitted to make a list of property that may include jewelry, silver, china, furniture, and collections of stamps, coins, art and other personal items that are movable. The advantage of this list is that you may update it as you buy or sell these items or you may change your mind about who should receive china, silver, rings or other personal items.

By making and updating this list, you can change the recipients as your property changes. It is important to be certain that you have signed and dated each list. Only the last list you have completed before your demise will be valid.

If some items on this list are very valuable (especially art and other collections), then it is important to discuss the transfer of these items with your professional advisor. Your advisor may use language similar to the language below in your will.

Example Language

“Under the laws of the State of California I may leave a written statement or a list, dated and signed by me, disposing of certain items of my tangible personal property. Any such list with date and signature shall be effective to transfer the named personal property. If no signed and dated list is identified by my Personal Representative within 30 days after his or her qualification, it shall be presumed that there is no statement or list and any subsequently discovered statement or list shall be ignored.”

Ways to Give or Transfer Personal Property

- **Give During Life:** Many older adults start the gift process during life. By giving personal items to children, heirs or charity they understand and appreciate the gift.
- **Consider Preferences:** Some children may desire a piano or other instrument. Others may prefer to receive valuable books or china. Discuss the goals of heirs and attempt to make gifts that will be most meaningful to each person.
- **Leave Instructions:** The list is very useful. Other items could be distributed through a “rotating choice” plan. Everyone meets together and each person takes a turn at selecting one item.

2. You and Your Family

Please tell us about you and your family. Save this file, print, fill out and send your completed PDF as an email attachment to DonorServices@sdfoundation.org. Write your answers in ink, not pencil. Spell names exactly as you want them to appear in your estate documents. Use full legal names, not nicknames.

Your Personal Information

Date _____

Full Legal Name _____

Date of Birth _____ Gender: Male Female

Present marital status:

Married Single Divorced Legally Separated Widowed

If you are widowed, what date did this occur? _____

Home Address _____

City _____ State _____ Zip _____

Home Phone _____ Email _____

Employer _____

Job Title _____ Cell Phone _____

Are you a U.S. Citizen or Lawful Permanent Resident?

No Born in the U.S. Naturalized LPR

Check the documents you presently have:

Will Living Will Living Trust
 General Durable Power of Attorney Advance Healthcare Directive

Your Estate Planning Goals

You will have a number of goals that can be carried out through your estate plan. Listed below are several types of goals. Please indicate how important these goals are by checking the box next to a number from one to five by each goal. One is not important and five is very important:

Provide for your spouse or children	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input type="checkbox"/> 5
Provide for guardianship of minors	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input type="checkbox"/> 5
Provide for healthcare if disabled	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input type="checkbox"/> 5
Protect against liability	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input type="checkbox"/> 5
Create a charitable legacy	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input type="checkbox"/> 5
Reduce estate taxes	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input type="checkbox"/> 5
Increase current income	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input type="checkbox"/> 5
Plan for business	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input type="checkbox"/> 5
Other goals	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input type="checkbox"/> 5

Your Estate Planning Family Background

- 1. Lifetime Gifts.** Please list any gifts you have made to children or other heirs.
- 2. Trustee, Guardian or Executor.** Are you currently serving? Yes No
- 3. Inheritance.** Is it likely that you may receive an inheritance? Yes No
- 4. Safe Deposit Box.** List the bank, city, state, and who has the key.

Your Children's Information

Please list all children, whether minors or adults, including deceased children and children of a prior marriage. If you have more than three children, please attach additional pages as needed. If you wish to exclude a child as a beneficiary of your estate, check the "Exclude" box. If you have no children, check the "No Children" box.

No Children

1. Full Legal Name _____

Date of Birth _____ Gender: Male Female

Present marital status:

Married Single Needs Special Care Dependent Exclude

Home Address _____

City _____ State _____ Zip _____

Origin: Child of Present Marriage Child of Prior Marriage or Relationship Deceased

2. Full Legal Name _____

Date of Birth _____ Gender: Male Female

Present marital status:

Married Single Needs Special Care Dependent Exclude

Home Address _____

City _____ State _____ Zip _____

Origin: Child of Present Marriage Child of Prior Marriage or Relationship Deceased

3. Full Legal Name _____

Date of Birth _____ Gender: Male Female

Present marital status:

Married Single Needs Special Care Dependent Exclude

Home Address _____

City _____ State _____ Zip _____

Origin: Child of Present Marriage Child of Prior Marriage or Relationship Deceased

3. You and Your Contacts

Your Executor & Successor Trustee

Your executor is the manager of your will and your successor trustee is the manager of your trust. Because both will make many decisions about the management and distribution of your will and trust, you should select individuals who you trust and who understand your circumstances. Your executor and successor trustee will usually complete the following steps to ensure an orderly transfer of all your property to the right individuals:

1. Submit your will to the probate court
2. Locate your heirs
3. Determine your assets and values
4. Pay bills and the attorney
5. Make debt payments
6. Resolve any estate controversies
7. File your income and estate tax returns
8. Distribute your assets to heirs

Please name your Executor

Executor's Full Name _____

Address _____

City _____ State _____ Zip _____

Home Phone _____ Cell Phone _____ Email _____

Relationship, if not a spouse _____

Please name your Successor Trustee

Full Name _____

Address _____

City _____ State _____ Zip _____

Home Phone _____ Cell Phone _____ Email _____

Relationship _____

Please name your Alternate Trustee

In case the person above is unable to serve, please name an Alternate Trustee.

Full Name _____

Address _____

City _____ State _____ Zip _____

Home Phone _____ Cell Phone _____ Email _____

Relationship _____

Your Guardian for Minor Children

Please name your Guardian

Executor's Full Name _____

Address _____

City _____ State _____ Zip _____

Home Phone _____ Cell Phone _____ Email _____

Relationship, if not a spouse _____

Please name your Alternate Guardian

Full Name _____

Address _____

City _____ State _____ Zip _____

Home Phone _____ Cell Phone _____ Email _____

Relationship _____

Power of Attorney for Finances

Do you want to create a durable power of attorney for finances? Yes No

Please name your Power of Attorney for Finances

Full Name _____

Address _____

City _____ State _____ Zip _____

Home Phone _____ Cell Phone _____ Email _____

Relationship _____

Please name your Alternate Power of Attorney for Finances

Full Name _____

Address _____

City _____ State _____ Zip _____

Home Phone _____ Cell Phone _____ Email _____

Relationship, if not a spouse _____

Your Health Care Representative

Your Advance Health Care Directive enables you to appoint someone under a power of attorney for health care and give specific directions about your care.

Please name your Power of Attorney for Health Care

Healthcare Power of Attorney (Full Name) _____

Address _____

City _____ State _____ Zip _____

Home Phone _____ Cell Phone _____ Email _____

Relationship, if not spouse _____

Please name your Alternate Power of Attorney for Health Care

Full Name _____

Address _____

City _____ State _____ Zip _____

Home Phone _____ Cell Phone _____ Email _____

Relationship _____

4. Estate Finances

Your Advance Health Care Directive enables you to appoint someone under a power of attorney for health care and give specific directions about your care.

Assets

Asset	\$TOTAL VALUE OF ASSET	CHECK IF JOINT PROPERTY	CHECK IF YOUR PROPERTY	CHECK IF YOUR SPOUSE'S PROPERTY
Example Property	\$298,000	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Real Estate				
Main Residence Address _____ _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Second Residence Address _____ _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vacation Home _____ _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____ _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____ _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Checking Accounts				
Bank Account Number _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Savings Accounts/CDs/Money Market Funds/Credit Union Accounts				
Bank Account Number _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tax Sheltered Annuity not in Retirement Plan _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Asset	\$ TOTAL VALUE OF ASSET	CHECK IF JOINT PROPERTY	CHECK IF YOUR PROPERTY	CHECK IF YOUR SPOUSE'S PROPERTY
Investments				
Bonds or Bond Fund Custodian, Account # _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stocks or Stock Fund Custodian, Account # _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Saving Bonds _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Business Interests _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Personal Property				
Furniture/Household Furnishings _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tools & Equipment _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Antiques/Collections _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jewelry _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Automobiles/Vehicles _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Business Interests _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Life Insurance – Face Amount/Death Benefit _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Retirement (IRA/401(k)/403(b)) Custodian, Account Number _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other Retirement Plan _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Miscellaneous _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Total Assets: \$ _____

Liabilities

Liabilities	\$ TOTAL VALUE OF ASSET	CHECK IF JOINT PROPERTY	CHECK IF YOUR PROPERTY	CHECK IF YOUR SPOUSE'S PROPERTY
Mortgage on Personal Residence _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mortgage on Second Residence _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mortgage on Vacation Home _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vehicle Debts _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Charge Accounts _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Installment Contracts _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Loan on Life Insurance _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other Debts _____ _____ _____	_____ _____	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
Total Liabilites/Debts: \$ _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Total Assets: \$ _____ (Assets Less Liabilities)

Sources of Your Property

2508 Historic Decatur Rd., Ste. 200
San Diego, CA 92106

(619) 814-1332
DonorServices@SDFoundation.org
SDFoundation.org

