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Choosing an Attorney to Help With Special Needs Planning



Families with special needs have plenty of difficult decisions to make. Among these is choosing an attorney to represent them with their special needs planning.

Selecting an attorney for any purpose can be a challenge. Selecting an attorney in a field as specialized as this can be overwhelming. This attorney may impact not only your legal affairs, but also those of generations to come, some of whom may not be able to advocate for themselves. There is no shortage of attorneys, but attorneys who can meet your particular needs may be in short supply.

The first place to look for a qualified special needs attorney is among friends, colleagues and other professionals. Word of mouth and positive referrals are usually among the best resources for locating an attorney, and especially one who must have particular skills. While there are several other ways to search for a special needs attorney, three stand out: general public references, attorney rating systems and professional association memberships.

Many people begin their quest for an attorney by looking in general reference resources such as the phone directory or the internet. Anyone who has ever opened the local Yellow Pages or searched for the term “lawyer” knows how difficult it can be to select among the thousands of entries returned from such broad searches. The primary reason for this is that these general reference resources provide a potential client with little more than the attorney's business address and stated area of practice (sometimes erroneously referred to as “expertise”). Research regarding the attorney's qualifications and experience may be needed. Lawyer rating services may be helpful.

Over the past several decades, a number of lawyer rating systems have emerged to help guide potential clients in their quest for the “best” attorney. A few of the most popular rating systems include Martindale-Hubbell, Best Lawyers, SuperLawyers, Who’s Who Legal, and Chambers & Partners. A major benefit of these rating services is that they each, to at least some extent, provide the public with information about an attorney’s practice and reputation. Certain of these services provide peer reviews and client

comments – both of which can be useful in narrowing down a list of qualified attorneys.

These rating systems are not, however, entirely objective or flawless. They are not like on-line dating services—designed (however imperfectly) to match you with your harmonious attorney counter-part. Rating systems that may be helpful for consumer products but may not be as useful in selecting an attorney. One should carefully consider whether such systems can truly evaluate an attorney’s “legal ability” or professionalism.

The usefulness of rating systems may also be limited because they usually apply only to general areas of practice. For example, an attorney might receive a strong rating for the attorney’s practice in Estate Planning. While this rating is a positive indicator that the attorney could assist with the preparation of a “special needs trust,” it is also possible that the attorney has never created such a trust and has focused his or her practice entirely on a different aspect of estate planning. When choosing a special needs planning attorney, it may be very important to find an attorney who dedicates a large percentage of his or her practice to this specialized area. One means of determining this is to look at professional organizations dedicated to special needs planning.

Professional organizations can be a good source to research local attorneys that have a considerable practice in the area of special needs planning. Professional organizations provide educational and networking opportunities for members who have similar interests and practices. Some industry-specific professional organizations even offer pooled resources to their members. To a consumer, this generally translates into a higher quality of service. Not only does a client get the personalized attention from the attorney he or she retains, but also the benefit of the experience and knowledge of the entire network. That being said, not all professional organizations operate at the same level.

Membership in a professional organization does not necessarily mean that the member takes advantage of all of the potential benefits. Some attorneys will join organizations simply to enjoy the perceived credibility they receive by being a member. This practice may be good business sense, but it does complicate the efforts of a client in search of a qualified attorney.

Before selecting an attorney on the basis of his or her membership in a professional organization, it is usually a good idea to understand the principles of the organization. For example, is membership open to everyone or do members need to meet certain criteria? Is the organization for profit, or are the goals of the organization intended to promote the practice more than the pocketbook?

Someone searching for a lawyer to help plan for a loved one with special needs should be familiar with the primary choices for professional memberships. In brief:

The American Bar Association – many, but not all, lawyers belong to this largest of national bar groups. The ABA provides separate divisions (or “Sections”) for focused practitioners. Perhaps the most relevant to special needs planning is the RPTE (the Real Property, Trust & Estate) Section. Membership in the ABA and/or the RPTE Section is

not by itself evidence of special needs skills, but such membership may reassure the client that the chosen lawyer is involved in his or her professional community.

The National Academy of Elder Law Attorneys (NAELA) – although the name of this group emphasizes “elder law” rather than special needs, it is still the largest national organization with special focus on special needs planning issues. Membership is voluntary and open to all interested attorneys. The group holds several annual training and education programs on the national level, and state Chapters may hold local seminars as well. The Special Needs Alliance includes several current, past and future leaders of NAELA, counting at least six Presidents of that organization among its members. NAELA membership by itself may not establish special needs expertise, but most special needs planners do belong to NAELA.

The National Organization of Social Security Claimants’ Representatives (NOSSCR) – this group consists of advocates who represent those with disabilities seeking Social Security coverage. Its members may not focus on special needs planning, but instead on advocacy before the Social Security Administration. Members may be familiar with their local special needs counterparts in the planning community, however.

The Academy of Special Needs Planners – any lawyer who seeks additional resources or training can join this national organization, which focuses on practice development and specialized programs. Membership indicates at least a strong interest in the field.

The Special Needs Alliance – the only national invitation-only membership organization for special needs planners. Before being invited to join, members have already gained a reputation for being among the best-qualified special needs planning lawyers in their communities. The Alliance focuses on cooperative training, problem-solving, and professional development for its members. Contact information for a member in your state may be obtained by calling toll-free (877) 572-8472, or by visiting [The Special Needs Alliance](#) website.

Richard A. Courtney has for many years had Martindale-Hubbell’s “A-V” rating, the highest ethical and legal abilities rating given by that service. Also, he has been designated a “Mid-South SuperLawyer” in the field of elder law for 2006, 2007 and 2008 by the Law & Politics rating service, based on experience review, peer recommendations and professional service. Rick is on the Board of Directors for the National Academy of Elder Law Attorneys where he also serves on the Steering Committees for the Special Needs Law and Trusts/Special Needs Trusts Sections. He is a charter member of the Special Needs Alliance, an invitation-only nationwide non-profit association of attorneys who do special needs planning. Possibly of greater importance is that Richard Courtney is the father of an adult daughter with disabilities and understands the personal challenges faced by family members of persons with disabilities.

For help with planning for your child or spouse with disabilities, call Richard A. Courtney at 866-ELDERLAW (353-3752).