

10 tips for choosing a guardian

If you have minor children, choosing a guardian to care for them should you and your spouse die unexpectedly is one of the most important estate planning decisions you must make. It's also one of the most difficult. So difficult, in fact, that avoiding it is one of the most common reasons people put off estate planning. If you're hesitant to name a guardian for your children, consider the alternative: A court will name one, without any input from you. So it's important to choose a guardian now, while you still have a say in the matter. Here are 10 tips to guide you in making your selection:

1. Take inventory. Make a list of potential guardians — people you trust to love and care for your children. Don't limit yourself to immediate family members. Extended family members, friends, teachers and child care providers may also be good choices if they have a close relationship with your children and share your values.

2. Make value judgments. Consider the values that are important to you, such as religious and moral beliefs, parenting philosophy, educational values, and social values. Determine which people on your list share these values most closely. You're not likely to find a perfect match, so you'll need to prioritize your values. For example, is it more important to you that your guardian share your religious beliefs or that he or she share your parenting philosophy? Can educational values take a back seat to social values?

3. Consider the intangibles. It's also important to consider potential guardians' intangible qualities such as their personalities and whether they'd be a good "fit" for your children. Are they affectionate? Do they have a good sense of humor? Do they have the maturity and patience necessary for parenting?

4. Consider age. The age of the guardian as well as the ages of your children are factors to consider. If your children are very young, a grandparent or other older person may not have the energy to keep up with them. And remember, if a guardian becomes necessary it means that something has happened to you. Choosing a younger guardian reduces the risk that your kids will go through the trauma of losing another loved one.

5. Be practical. Consider factors such as where potential guardians live, whether they have other children and whether their homes are large enough to accommodate your kids. Will your children have to change schools? Will they get along with the guardian's kids? Ideally, your estate will include sufficient assets to provide your children with everything they need. But if it doesn't, will the guardian have the resources to support them properly?

6. Don't dismiss the possibility of separate guardians. If you have more than one child, it's generally best for all concerned to keep them together. But sometimes it's preferable to split them up. This may be the case if you have

children from different marriages, if your children are far apart in age or if they have special needs that are better served by separate guardians.

7. Talk it over. Narrow your list of potential guardians to a primary choice and one or two alternates, and discuss your plans with them. You can't force someone to act as your children's guardian, so it's critical to talk with all candidates to make sure they understand what's expected of them and are willing to take on the responsibility. If your children are mature enough, get their input as well.

8. Put it in writing. Nominate a guardian in your will and include at least one alternate in the event your primary choice is unavailable or changes his or her mind. To avoid uncertainty and disputes, be sure that you and your spouse nominate the same guardians. Also, if a married couple will care for your children, consider naming them as co-guardians so they each have the authority to act on your children's behalf. Note that naming co-guardians can cause complications if the couple later divorces, so you might want to specify what happens in that case. Keep in mind that your choice of guardian isn't binding. In appointing a guardian, a court's sole concern is the child's best interest. But it will defer to your wishes unless it deems the person you choose to be unfit. To help ensure that your nominee is accepted, write a letter explaining the reasons for your choice. And if there is anyone you wish to *exclude* as a potential guardian, spell that out in your letter as well.

9. Choose a temporary guardian. In addition to nominating a permanent guardian, it's a good idea to name a temporary guardian to care for your children in the event you're unable to do so (for health reasons, for example). Although your temporary and permanent guardians can be the same person, practical considerations may be more relevant when choosing a temporary guardian. The ideal permanent guardian may live across the country, for example, but it's best to choose a temporary guardian who lives nearby to avoid disrupting your children's lives more than necessary.

10. Be flexible. As your children grow older, their personalities, interests and needs change. The best guardian today may not be a good fit 10 years from now, so it's important to review your guardian designation periodically. Another option is to appoint a "guardianship panel" of trusted relatives, friends and advisors who are empowered to select an appropriate guardian based on the circumstances at the time the need arises.

Review your plan

Your selection of a guardian can have a profound impact on your children, so it's important to choose carefully. Whether you name a guardian now or appoint a guardianship panel to decide later, review your estate plan frequently to ensure that it continues to accomplish your objectives and serve your children's best interests.

A guardian may *not* make the ideal trustee

The person best suited to raise your children isn't necessarily qualified to manage their assets, so consider appointing someone else as a trustee. Not only will this help ensure that your children receive competent financial advice, but it also can avoid real or perceived conflicts of interest between your children and their guardian.

It's not unusual for trust distributions to benefit the guardian as well as the child. Suppose, for example, that a guardian uses trust funds to help pay for family vacations or to build an addition to his or her house to better accommodate your children. Appointing a separate trustee gives some assurance to other family members that trust assets are being used in your children's best interests.