



FAQs ABOUT THE “STATEMENT OF WISHES”

Who needs one?

Anyone who has a *Will*, a *Durable General Power of Attorney* and/or created a trust. It only works when it is read with another document, it is useless all by itself.

What does it do?

It serves as a guide for trustees, personal representatives, agents, conservators and/or guardians. They read the *Statement of Wishes* to give them direction in carrying out your wishes. It allows your feelings to influence your beneficiaries lives when you are unable to express them yourself.

When is it used?

The trustees of the trusts you create will use it in deciding what distributions to make. Your personal representative will use it when you die. Your agent will use it when you are incapacitated or missing. You and/or your children's guardians and conservators will use it when you are incapacitated or die young, if their appointment is necessary.

Where do I keep it?

It should be kept with your other legal documents in you attorney's fireproof safe. You give copies to the trustees of your trusts.

How do I choose tasks for them to do?

We have given you a host of ideas to choose from, which tasks you choose is up to your personal preferences. But you need not think small, if the beneficiary fails to achieve the lofty goal you set, they will be rewarded based on the effort expended and the results achieved.

How do you revoke it?

By giving your trustees written notification of this. If you fail to revoke or change the document it will be used in its original form if you die or are incapacitated. You may in your *Statement of Wishes* authorize a person you trust to add to your instructions. For instance, when a grandparent dies they authorize the parents of their grandchildren to add to the *Statement of Wishes*.

When must it be renewed?

It does not need to be renewed. We recommend you update it when you do your annual review. This way you can keep the document consistent with your current feelings.

What good is it if it isn't legally binding?

The people who will be using it as a guide are the people you selected. The property being distributed came from you. These hand selected people will feel a moral obligation to honor your requests. In fact, they will appreciate the assistance in making these decisions.

Is it easy to update?

Like all your legal documents, we recommend that all changes be written by you with copies sent your attorney who has custody of your will, trusts or general power of attorney. This ensures that if you make a mistake your attorney will be able to advise of the error and inform you how to do it correctly.

Is it good to make your loved ones work for the money?

Of course. Not much good has come out of throwing large sums of money at people. By setting goals and achieving them, people learn much more than how to waste money. Recent studies conducted on lottery winners confirm this theory.

What if the beneficiary fails to complete the goal set?

If the effort was deserving, as where the goal was to win a competition and the beneficiary finished third or fourth, the trustee may take into account the attitude and documentation of the beneficiary. The trustee has the discretion to distribute any or all of the reward in this situation.

How does it work with a General Power Of Attorney?

If you become incapacitated, your agent will control your assets. The agent will need guidance in distributing assets if that is necessary. It is not binding on the agent, so the agent will not give away your assets unless the situation warrants it. It also provides evidence of your intent to gift, which may be necessary to maximize tax avoidance.

How does the beneficiary prove that the goal was attempted and/or completed?

It depends on the task, mostly it is common sense. If a beneficiary ran a marathon, a certificate of completion, pictures or a videotape will suffice. The better the documentation, the better the chance the beneficiary will receive something for a honest effort that falls short of the goal set.

What if trustee and beneficiary do not know how to prepare for or accomplish the goal selected?

The trustee may bring an advisor to assist. For example, if climbing a tall mountain is a goal, the trustee may consult a climbing expert or arrange for climbing lessons for the beneficiary. The funds in the trust will pay for this and will not reduce the reward if the goal is successfully completed. If the task is not successfully completed, the amount spent in preparation may be used in determining the distribution, if any, to the beneficiary.

For more information call: (602) 252-5110

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