

Watch Your Step:

Special Needs Trust Drafting and
Administration,
Errors and Omissions

Joy Eckelkamp



1

Special needs trusts are the
Unicorn of the trust world

Enhance Quality of Life of
Trust Beneficiary while
preserving eligibility for
public benefits



2

TYPES OF SPECIAL NEEDS TRUSTS

- Self-Settled Special needs trusts (First Party Funded Trust)
- Third-Party Settled Special Needs Trusts



3

Self-Settled Special Needs Trust (First Party Trust)

Self-Settled Special Needs Trust (First Party Trust)

Funded with the assets of the trust beneficiary

- self-settled special needs trust
- Medicaid payback trust
- OBRA '93 trust
- d4A or d4C trust



4

Self-Settled Special Needs Trust (First Party Trust)



- Beneficiary's Money
- Sole Benefit
- Irrevocable
- Under Age 65
- Payback to State

Self-Settled Special Needs Trust (First Party Trust)

Established by:

- Individual (Special Needs Trust Fairness Act of 2015)
- Parent
- Grandparent
- Legal guardian of the beneficiary
- Court



Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Watch Your Step: Special Needs Trust Drafting and Administration Errors and Omissions

Also available as part of the eCourse

[2022 Estate Planning, Guardianship and Elder Law eConference](#)

First appeared as part of the conference materials for the

24th Annual Estate Planning, Guardianship and Elder Law Conference session

"Watch Your Step: Special Needs Trust Drafting and Administration Errors and Omissions"