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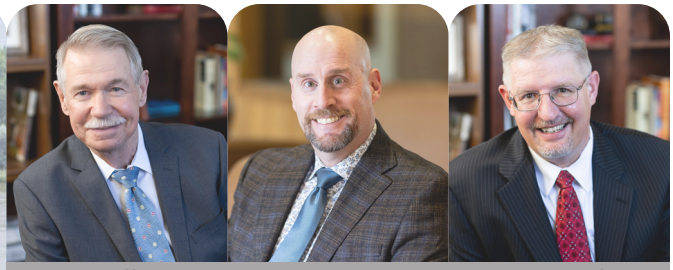

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March 2025

When You Should Hire an Estate Planning Attorney

Common Mistakes in Estate Planning — and How to Avoid Them

Estate planning kits are meant for simple and generic situations. But these kits fail to account for uncommon and complex situations, such as:

- You have a disabled child.
- You have a minor child and don't want the other parent to be their guardian.
- You want a minor to inherit property.
- You want a particular person to manage your minor or disabled child's property.
- You want a disabled relative to receive an inheritance without jeopardizing their public benefits.
- You have a family business.
- You want a trust to provide ongoing financial support to a beneficiary.
- You want an ex-spouse to inherit property.

These and other circumstances can affect your estate plan and the language and arrangements you need to include.

If You Don't Plan for Your Disability

Many people think only of a Will or Trust when considering estate planning, but a good estate planning lawyer knows there is much more to a good plan than a Will. Unexpected medical expenses can quickly wipe out an estate. Not having a plan in case you cannot manage your money can also leave you vulnerable.

An estate planning attorney can draft documents that create a written plan in case you become disabled or incapacitated, such as:

- ***A Revocable Living Trust*** — A Trust is a legal document explaining in detail how your property should be managed. You can be the original trustee who manages the property and then appoint a successor trustee who takes over if you become incapacitated. Your lawyer can include specific language about when the successor should assume this role.
- ***Durable Power of Attorney*** — The agent named in a Durable Power of Attorney handles your financial affairs and retains this role even if you become incapacitated. You can give this person as many or as few powers as you want.
- ***Health Care Power of Attorney*** — A Health Care Power of Attorney, proxy, or surrogate is someone who can make health care decisions on your behalf if you are unable to do so for yourself.
- ***Advance Directive*** — An Advance Directive or Living Will states your preferences for end-of-life care and life-sustaining efforts.

If you become incapacitated and do not have a clear written plan, your family may have to pursue expensive and complex guardianship or conservatorship legal proceedings so someone can be appointed to look after you and your property.

If You Fail to Fund Your Trust

A common mistake many people make when investing in a Revocable Living Trust is failing to fund it. Simply stating that property is part of your Trust is not enough, especially for real estate and other property with title documents. For real estate, you must execute a deed that transfers property to the trustee or Trust. Other properties with title documents must be re-titled in the trustee's name or Trust.

Failing to fund your Trust means your property never becomes part of it, and the trustee won't have any authority over it. Property left out of a Revocable Living Trust cannot pass to the beneficiaries named in the Trust and Will likely have to be probated when you pass.

If You Fail to Name Alternate Fiduciaries

In your estate planning documents, you will name several fiduciaries: an executor for your Will, a guardian for your minor children, a trustee for any Trust you create, an agent under a Durable Power of Attorney, and a health care surrogate. A fiduciary you name could be unable or unwilling to serve or could die before completing the work.

If, after your death, the person you've named as executor, guardian, or trustee is unable to serve and you did not name an alternate, your family members and beneficiaries will have to ask a court to appoint a replacement. They could argue over who should be chosen, and the court may choose someone you would disapprove of.

If your agent under a Durable Power of Attorney or health care surrogate is unable to serve and you have not named a successor, the documents are void. You will need to execute new documents. If you are already incapacitated, your loved ones will probably need to petition the court for

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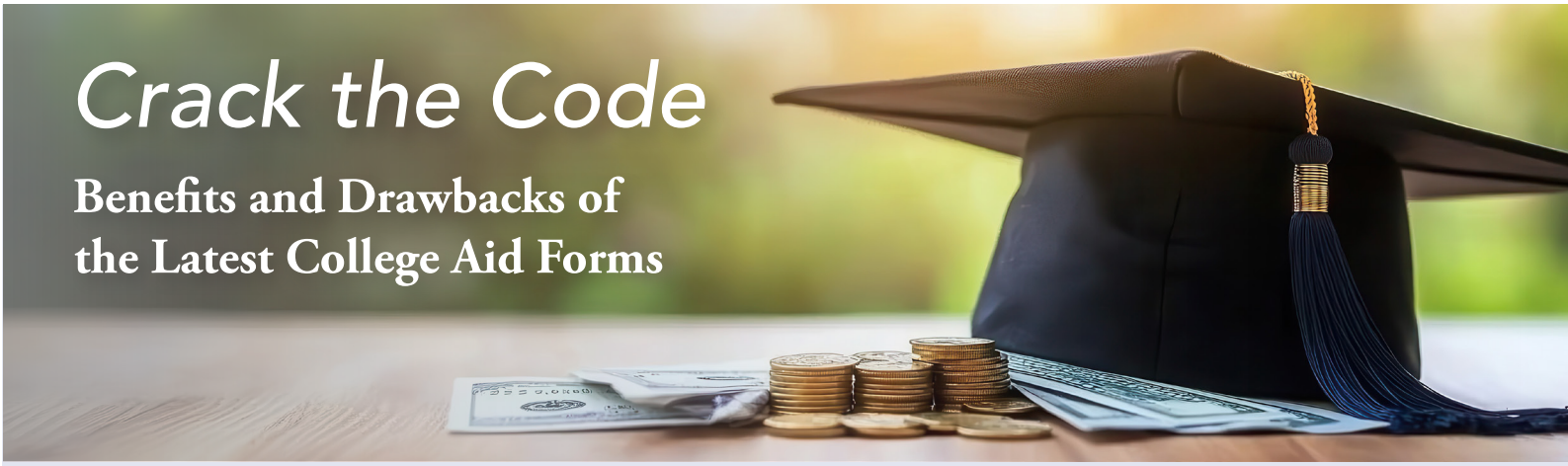
Crack the Code

Benefits and Drawbacks of the Latest College Aid Forms



Applying for college financial aid has been a moving target recently amid changes in federal rules. One new loophole is good news for families, however. For the first time, grandparents can set aside money in tax-sheltered accounts to help pay a grandchild's college expenses without jeopardizing the student's eligibility for other financial aid.

The benefits could be significant for families planning, saving, and working together toward college-funding goals.

The primary tool to qualify for federal aid and other sources of help is the Free Application for Federal Student Aid (FAFSA). The latest version of FAFSA does not require students to report distributions from grandparent-owned 529 college savings plans. In the past, those distributions could reduce a student's financial aid by half of a grandparent's contribution.

Family members, including grandparents, are playing a growing role in covering soaring college costs. Undergraduate students cannot borrow more than $5,500–$12,500 a year in federal subsidized and unsubsidized loans, depending on their school year and whether they rely on their families. This nearly always falls short of the average annual public university tuition of $11,000 for in-state students, $24,500 for out-of-state students, and $43,500 for private college students. Parents are shouldering an increasing share; 11% take out federal parent PLUS education loans, borrowing an average of $40,000 per parent as of 2020.

Other changes in the FAFSA form have subtler implications for families. The government no longer considers the number of students one family has in college simultaneously to determine eligibility. This is bad news for families with multiple children who want to attend college at the same time.

> *"The latest version of FAFSA does not require students to report distributions from grandparent-owned 529 college savings plans."*

In another change, the latest FAFSA substitutes a new measure, the Student Aid Index (SAI), for the Expected Family Contribution measure used in the past. The SAI ranges from -1500 to 999999, and the lower it is, the greater the likelihood a student will get need-based financial aid.

States' 529 plans, named for Section 529 of the Internal Revenue Code, function like a kind of 401(k) account for education by deferring taxes on investment gains on savings for designated educational purposes. States began to develop these plans in the 1980s to encourage families to save for college, and all states now sponsor some version of a 529 plan.

Other changes include expanding the number and potential size of Pell Grants. The maximum Pell Grant will rise to $8,145 in the 2025–2026 academic year from $7,395 in 2024–2025. While the SAI is calculated based on a student's family size, income, and assets, eligibility for Pell Grants also considers a family's financial standing according to federal poverty guidelines.

In other changes, the revised FAFSA relies on federal tax information provided by the IRS rather than answers provided by applicants. It also asks fewer than 50 questions, compared with 108 in the previous form.

While many people labor over the form's detailed questions, the most common mistake is not filling out the FAFSA at all. This omission excludes students from eligibility for numerous subsidized loans and grants, scholarships, and other aid from the college or university they attend.

Many students wrongly assume they won't be eligible for aid because they or their parents make too much money or their grades aren't high enough. Plenty of circumstances can qualify applicants for grants and awards, from being the first in their family to attend college to being in the military, being unemployed, or planning to major in a specific in-demand subject.

With numerous sources of financial aid in play, the potential rewards of completing the FAFSA are well worth the time invested!

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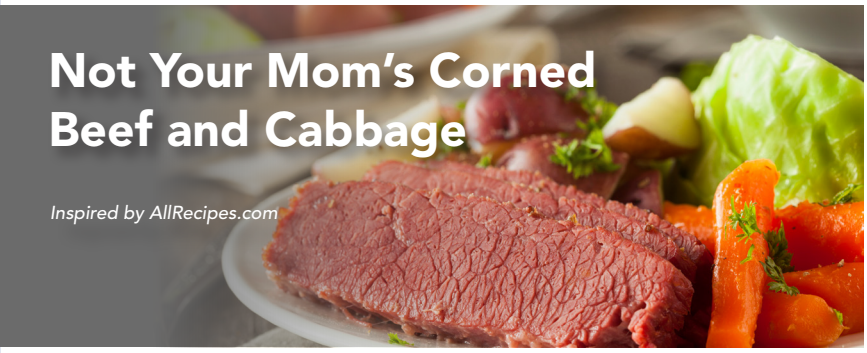
guardianship or conservatorship. You won't have any say over who is appointed to look after you and your finances.

Lack of Clarity in Your Do-It-Yourself Documents
Do-it-yourself documents are more susceptible to challenge, especially if your language is ambiguous. This can invite speculation over your intent, resulting in conflict among your family and beneficiaries. Your family may become embroiled in a court battle in which they try to determine what you meant in your documents.

Will and Trust contests are expensive and time-consuming. Attorney fees and other legal costs can deplete your estate, thwarting your intent to leave as much of your property as possible to your loved ones. Additionally, family relationships will likely suffer if people are dragged into court.

If you need help planning your estate, call our office today at 308-336-6044 to speak with one of our lawyers.

- Bill Steffens



Not Your Mom's Corned Beef and Cabbage

Inspired by AllRecipes.com

Ingredients

- 1 (4 lb) corned beef brisket with spice packet
- 3 qts water
- 1 onion, quartered
- 3 carrots, cut into large chunks
- 3 celery stalks, cut into 2-inch pieces
- 1 tsp salt
- 2 lbs red potatoes, halved
- 1 small head of cabbage, cut into eighths

Directions

1. In a large pot or Dutch oven over medium-high heat, combine corned beef, spice packet contents, water, onions, carrots, celery, and salt. Bring to a simmer (skimming off any foam on top).
2. Cover pot, reduce to low heat, and let simmer for 3 hours until meat is fork tender.
3. Add potatoes to the pot and let simmer uncovered for 30 minutes or until potatoes are al dente.
4. Add cabbage along the edges of the meat and on top. Cover and let simmer until cabbage is tender, 20–30 minutes.
5. Place meat on a cutting board and let rest for 10–15 minutes. After meat has cooled, slice against the grain.
6. Add to a large serving bowl, ladle vegetables and broth over top, and serve.

All Paws on Deck

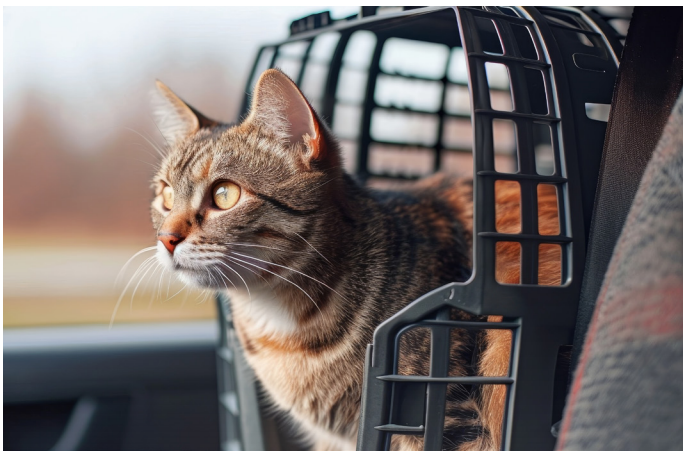
Keeping Pets Safe in Emergencies

When a disaster strikes, it's not just your home and immediate family you need to protect; your furry family members also need you to keep them safe. By preparing for the unexpected and ensuring you have the right supplies, lines of communication, and arrangements, you can help reduce the stress and uncertainty for you and your furry companions. Get ready to be all paws on deck with these tips to keep your pets safe during emergencies.

Be Purr-pared With a Plan
Make sure you include your pet in your household's overall emergency plan. You will avoid stressful scrambling at the last minute when a disaster occurs. If you need to evacuate, account for all pets so they don't get hurt or lost in the chaos. Not all public shelters and hotels allow animals to stay, so determine a safe place to take them. It's also important to assign a friend, neighbor, or family member to care for your pets if you cannot. If you have not microchipped your pet, now is a great time. Shelters can scan microchips to determine a lost animal's home and owner's contact information.

Pack for Your Pets
Create an emergency kit for your pets that includes supplies they need to survive a disaster. You should have a few days' supply of food, water, and any medications your pet needs. Ensure you have a backup leash and collar and copies of your pet's registration. Include grooming items and sanitation tools like pet litter and paper towels. Items like favorite toys or your pet's blanket can comfort them in stressful situations like an evacuation.

Travel-Ready Tails
Make sure you are ready to transport your pet in a travel carrier quickly. Place their carrier open in an area your pet is comfortable with, like a favorite napping spot. You can add a familiar blanket and toy inside to reduce their stress and use treats to encourage them to go inside. Make a mental note of your pet's behavior during stressful times so you know where their go-to hiding spots are.



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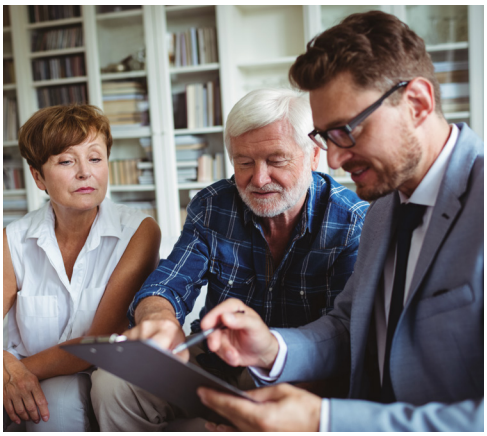
INSIDE THIS ISSUE

A NEW ERA FOR ERISA

The Final Rule Transforms What It Means to Be a Fiduciary

For more than 14 years, the U.S. Department of Labor has been trying to determine a new definition of a "fiduciary" under the Employee Retirement Income Security Act (ERISA). A fiduciary provides investment advice for a fee to employee benefit plans. Under ERISA, someone is a fiduciary if they have control over managing or using a plan's assets, provide investment advice for a fee, and have responsibility for managing the plan.



Since 1975, these discussions were only considered "investment advice" if they adhered to a five-part test. However, this past September, the Department of Labor released new regulations called the Final Rule that redefines what it means to be an investment advice fiduciary.

With this recent change, the five-part test goes out the window. The Final Rule expands the definition of who can be considered a fiduciary. Someone is a fiduciary if they regularly provide investment recommendations and advice to retirement investors for a fee. That advice must be based on the investor's needs and reflect expert judgment that serves the investor's best interests. They must also state that they are acting as a fiduciary when giving advice; however, if you've previously received one-time advice, that could now be considered fiduciary advice.

That's a lot of information to swallow, and by now, you're probably wondering how this will affect the average person. In most cases, these changes will only affect those acting as fiduciary advisors and retirement investors, including participants, beneficiaries, IR owners (Ingersoll Rand Inc.), and anyone else involved with an ERISA plan. Through the Final Rule, you should receive better advice that puts your interests first, providing more transparency about recommendations and any fees involved. It should also create greater accountability for advisers, brokers, insurance agents, and anyone else acting as a fiduciary.

All in all, this is a great change for those who interact with fiduciaries. You can rest assured knowing the advice you receive will benefit you and your investments.