

Do incentive trusts work? Maybe. Maybe not. Telling a drug addicted beneficiary, they won't receive their inheritance unless they stop taking drugs will not likely deter such addiction. However, telling a college student she will receive an outright distribution of \$50,000 if she graduates from college may just give her the extra incentive to finish her degree. Obviously, there are outside factors for each situation, but these incentives are meant to be just that...an incentive.

### **The Pitfalls**

If an incentive trust is to work properly, it must be drafted with a certain sense of specificity. The wording must stand up to changes in the law and social environment for decades typically. Therefore, the language must be flexible. So how to you align flexibility with specificity. Very carefully and with much thought.

One example of a pitfall would be the age-old common incentive of mandating a distribution only upon the child graduating from college. This incentive seems reasonable. However, what happens if the child turns out to be learning disabled or wants to join the military. Does the beneficiary now not inherit because she chose a different path or was incapable of attending college?

Another pitfall is trying to force values on a child e.g. can only marry in a certain religion or no same sex marriage. While we all understand a child is not entitled to an inheritance, attempting to force certain values on a child is disheartening. If a child does not align with the parent's values, the parent should simply disinherit. Attempting to change the behavior of a child from the grave, can cause more damage and harm to that child's well-being than a simple disinheritance. I would suggest as estate planners we not participate in such client's wishes if the client forces such unhappiness (e.g. forcing the child to choose between love and money).