

## Understanding the Difference Between ABLÉ Accounts and 1st & 3rd Party Trusts

Who – When – What	ABLE ACCOUNT Savings/Investment Account	3 <sup>rd</sup> Party Special Needs Trust Legal Document	1 <sup>st</sup> Party Special Needs Trust (payback trust) Legal Document
Who can open or create?	Anyone, including the person with the disability	Anyone, except the person with the disability	Parent, Grandparent, Guardian or person with the disability. Court approval may be needed to transfer assets to the trust
Who owns the funds?	The person with the disability	The trust owns the funds	The trust owns the funds
Who can contribute?	Anyone, including the person with the disability	Anyone except the person with the disability	Only the person with the disability can contribute
Who has access?	The guardian, representative payee or the person with the disability	The trustee	The trustee
When can funds be added?	Anytime within the \$15,000*/year cumulative limitation and within the \$100,000 limit for SSI  *annual gift tax exclusion amount	Any time after the trust is set up. In most cases the trust is funded with estate assets or life insurance (as inheritance directed to the trust).	The person with the disability can contribute anytime
What can it be spent on?	On qualified disability expenditures, <b>including</b> housing	Anything for the enjoyment and best interest of the person with the disability, <b>excluding</b> basic support <i>ie: food and housing</i>	Anything for the sole enjoyment and best interest of the person with the disability, <b>excluding</b> food and housing
What happens at death of the beneficiary?	Remaining funds will be directed back to the state for reimbursement of Medicaid payments from the date the ABLE account was opened	Remaining funds are distributed to the trusts named beneficiaries	Remaining funds will be directed back to the state for reimbursement of Medicaid payments made throughout the person's lifetime