

# Special Needs Trusts and ABLEnow (VA)

Establishment Considerations	First-Party/Self-Funded Trust 42 USC 1396p (D)(4)(A) (through an attorney)	Self-Funded/First-Party Pooled SNT 42 USC 1396p (D)(4)(C) (offered by The Arc of NOVA)	Achieving a Better Life Experience (ABLE Now)	Third-Party/Family-Funded Pooled SNT (offered by The Arc of NOVA)
<b>Age limit?</b>	Established and funded before the age of 65 in Virginia	Established and funded before the age of 65 in Virginia	Beneficiary must have been diagnosed before the age of 26. *Age will increase to 46 effective 1/1/2026	No age limitation
<b>Annual contribution limit?</b>	No	No	Yes; the aggregate of contributions may not exceed the annual gift tax exclusion (*\$19K in 2025).	No
<b>Limit on total account balance?</b>	No	No	Yes; limit is set by the state. In VA, the maximum is \$500k. However, if funds in the account exceed \$100K, the beneficiary's SSI is suspended though Medicaid is retained.	No
<b>Are investment earnings taxed?</b>	Yes	Yes	No, if the distributions from the account pay for "qualified disability expenses"*** per IRS and SSA POMS	Yes
<b>Who can establish?</b>	The beneficiary (18+), parent, court, grandparent, legal guardian, or POA with the authority to do so.	The beneficiary (18+), parent, court, grandparent, legal guardian, or POA with the authority to do so.	The beneficiary at 18+, or authorized representative (parent, spouse, sibling, grandparent, Guardian, Conservator, Representative Payee, or Power of Attorney)	Anyone but the beneficiary
<b>Can distributions be made after the beneficiary's death to pay for qualified disability expenses (funeral arrangements)?</b>	If there's a Medicaid lien, only when permission is requested and received; if no lien, yes.	If there's a Medicaid lien, only when permission is requested and received; if no lien, yes.	Yes, so long as the distributions are "qualified disability expenses"***	Yes
<b>Can the State seek reimbursement for Medicaid expenditures?</b>	Yes	Yes, but grantor can choose to leave to the pooled trust in lieu of Medicaid	Yes, for Federally funded Medicaid No, for State funded VA-Medicaid	No

\*\$19,000 is the gift tax exclusion in 2025; however, if eligible for ABLE to Work contribution, a higher amount might be possible

\*\*\*Qualified disability expenses are defined as expenses relating to maintaining health, independence, and quality of life

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<b>Are distributions limited?</b>	Yes, as they shall not jeopardize means-tested benefits are for the sole benefit of the beneficiary	Yes, as they shall not jeopardize means-tested benefits are for the sole benefit of the beneficiary	Yes, they must be "qualified disability expenses"*** per IRS and SSA and shall not jeopardize means-tested benefits	Yes, they shall not jeopardize means-tested benefits but otherwise allowed for broader use of trust funds
<b>Are there periodic disability redeterminations?</b>	No	No	Yes	No
<b>What are the investment choices?</b>	Trustee decides	With our program, the grantor decides from an array of options based on personal goals	State ABLE manager decides with the designated beneficiary	With our program, the grantor decides from an array of options based on personal goals
<b>How many accounts may a person with disability have?</b>	Unlimited	Unlimited	One	Unlimited
<b>Is a transfer from the beneficiary's 529 allowed?</b>	The 529 would need to be cashed	The 529 would need to be cashed	Yes, and the ABLE account rolls over from one qualified ABLE Program; to sister, step-sister, brother, step-brother who qualifies (ends 12/31/2025)	The custodian would cash in the account and then deposit it
<b>Who is responsible for managing the account?</b>	Trustee	The non-profit in collaboration with the Trustee (checks and balances)	Designated beneficiary, or whomever assists them	The non-profit in collaboration with the Trustee (checks and balances)
<b>Can the beneficiary's income be saved?</b>	Yes; no maximum	Yes; no maximum	If eligible for ABLE to Work contributions, can contribute additional amount up to the lesser of: 1) the year prior's federal poverty guideline (\$15,060), or 2) the account owner's compensation for the taxable year	No; only third party assets can be deposited into this type of trust
<b>What costs are associated with the account?</b>	Legal fees; the Trustee may collect management/investment fees, or fees for outsourced accounting services	Maintenance fees collected by Trustee and non-profit, minimal establishment fee, and close-out fee	No enrollment fee, \$3.25 service fee/mo., and 0.36%-0.39% asset fees	Maintenance fees collected by Trustee and non-profit, minimal establishment fee, and close-out fee

Note: All information may be subject to change. Every effort is made by The Arc of Northern Virginia to ensure that the provided information is correct.