

# Foundational Plan Comparison Tom & Cindy Client

Important provisions included in various estate plans	Davis Schilken Plan	Typical [Forms] Plan	Commonly Used State Forms
1. Power to revoke or amend	√	√	•
2. Trustmaker act alone	√	√	
3. Names children for identification purposes	√	√	•
4. Avoids pretermitted heirs	√	√	•
5. Defines disability without court proceedings	√	NO	•
6. Uses Disability Panel to determine Incapacity	√	NO, uses doctors only	
7. Instructions on disability	√	basic	
1.1 order of payments	√	NO	
1.2 personalized care guidelines	√	NO	
1.3 Funds available for dependents	√	NO	
1.4 Disability Guardianship Provisions for minor children	√	N/A	
8. Provisions for insurance policies & retirement plans	√	NO	
9. Trustees' power to make tax elections	√	√	•
10. Trustees' power to collect various proceeds	√	√	•
11. Cutoff claims in lieu of probate	√	NO	•
12. Purchase probate assets	√	NO	•
13. Transfer assets to probate estate	√	NO	•
14. Prevent losing tax exemption due to choice of funds to pay taxes	√	√	
15. Allow for memoranda to transfer personal assets	√	NO	
16. Provisions for community property	√	NO	
17. Choose method of tax payment	√	√	•
18. Provisions & protections for IRA distributions	√	NO	
19. IRA/Retirement Planning	√	NO	
20. Spouse compel conversion of non-productive assets	√	NO	•
21. Ability to disclaim property	√	√	

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22. Protections against spousal "claims against the will"	√	NO	•
23. A hybrid General/Limited Power of Appointment with flexible permissible appointees	√	NO	•
24. Payment of spouse's final expenses	√	√	•
25. Family trust to provide protection of tax exemption	√	√	•
a. standards for distribution	√	Basic	•
b. spousal access	√	√	•
c. priority to spouse needs	√	√	•
d. remarriage protection/prenuptial agreement	√	NO	
e. keep assets out of spouse's taxable estate	√	√	•
f. guidelines for distributions	√	Basic	
g. take other resources into account	√	√	
26. Common trust	√	Basic	
a. treat children according to need, not balance sheet	√	-	
b. take other resources into account	√	-	•
c. Distributions for Advanced Needs	√	-	
d. Assistance for guardians	√	N/A	
e. Take into account special needs of children	√	N/A	
27. Springing Supplemental Needs Trust	√	N/A	
28. Separate children's shares after majority	√	NO	
29. Comprehensive Lifetime Trust Planning – protects children's inheritance from <ul style="list-style-type: none"> <li>- Bankruptcy</li> <li>- Divorce</li> <li>- Lawsuit</li> <li>- Creditors</li> </ul>	√	NO	

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30. Describe distribution to children's heirs if no other estate planning	√	Trust for descendants under 21 only	<sup>1</sup>
31. Comprehensive Guidelines for distribution of principal and income	√	NO	
32. Trustee succession defined	√	Basic	•
- provisions on size of corporate fiduciary	√	NO	
33. Estate Recovery Protections	√	NO	
34. Automatic adjustments for inflation	√	NO	
35. Family philosophy, memorial instructions	√	NO	
36. Accountings Required upon beneficiaries request.	√	NO, but Trustee keeps records	
37. Delegation/Substitution of Trustee	√	√	
38. Comprehensive Definitions	√	NO	
39. Personal supplement to Advance Directive	√	NO	
40. Avoid heirs/beneficiaries/others from contesting Trust	√	NO	•
41. Customized Charitable Bequests	√	NO	
- Charitable Lead Trusts to zero-out estate tax by formula	√	NO	
- Private Foundations	√	NO	
- Charitable Remainder Trusts for retirement plan assets	√	NO	
42. Gifting provisions	√	Basic	
43. Provisions for state estate tax	√	No	
44. Provisions for federal estate tax uncertainty	√	No	

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<sup>1</sup> Little customization; it tends to be uniform for all children regardless of their different needs.