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Weatherby & Associates, PC
Counselors at Law

Helping Families Preserve and Protect Assets and Values



The Wealth Counselor

A monthly newsletter for wealth planning professionals

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Our firm focuses our practice on Estate Planning, Business Planning, Trust Administration, Probate, Elder Law and Life Care Planning. We help families preserve and protect assets and values; we help business owners maximize their businesses' value.

► **Planning for Blended Families: Part I -
Intake Process**

The "blended family" comprises a fast-growing segment of US households. Whether an attorney or investment advisor, fine-tune your intake or initial interview process to determine the desirability of representing a blended-family client, assess the accepted client to determine your counseling strategy, and hit the ground running with the information you need to begin strategy planning.

As noted, attorneys face different client engagement issues than advisors and CPAs. This content seeks to illuminate the client-discussion topics but not to precisely define the boundaries between the planning perspectives.

Takeaways:

* **Blended families have unique and complex planning needs**
* **Planning for blended families may be an important growth area for your business**

- **Blended families continue to grow in number**
- **Blended families often require advanced planning strategies**

strategies

* **Extending an engagement letter to a blended-family couple warrants careful consideration**

* **Your intake interview is an important professional relationship tool**

How a "Blended Family" Is Different from a "Traditional Family"

A "traditional" family is one in which any child is a child of both spouses. A "blended family" includes at least one child for whom only one of the spouses is the parent. Money-related discussions for any family can be challenging. But the dynamics of a blended family can make these discussions more difficult and more critical.

Disparity in Age

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Age differences between spouses may be more significant in a remarriage.

Age differences between children in a blended family also may be more significant. These wider age differences mean guardianship issues and planning issues will be unique to each child. In some family situations, older stepsiblings may be willing to be named as guardian for their younger stepsiblings.

In addition to contributing to the potential for conflict, age similarity between the spouse and a stepchild must be considered in a planning strategy.

Disparity in Wealth

Any significant disparity in net worth between the spouses can make estate planning more critical early in the remarriage.

Conflict and Animosity

Bringing two families together can lead to animosity between spouse and stepchildren, between stepchildren, and between parent and children—this animosity can damage or destroy the relationship between the spouses. Aside from contributing to unpleasant living situations or family gatherings, the conflict and animosity that can exist in a blended family can prevent communication. And yet, effective communication is key to identifying potential issues and creating a sound financial and estate plan for the unique needs of a blended family.

Because of the increased potential volatility and the different legal status afforded blended families, advanced planning strategies may be important tools to implement.

What you need to know

Review your intake interview to ensure it's designed to fully explore these unique aspects of a blended family so you've got an excellent starting point to begin strategizing with your client.

Important Information You Need but Don't Ask Outright.

The intake process will provide you with a lot of information you'll need to determine:

- * if you want to represent a client;
- * if you *can* represent both spouses;
- * your counseling strategy; and
- * planning strategy.

Your powers of observation are critical both to deciding whether to offer an engagement letter to a blended-family prospect and to planning your counseling strategy for them.

Power Imbalance

Especially if your intake questionnaire indicates a large disparity in

content valuable, and I hope that it will help you to provide better service to your clients. Please feel free to [contact me](#) if you have any questions about this or any matters relating to estate or wealth planning.

age, net worth, education, or health, carefully observe how a couple—and the whole blended family if children are present—interacts during the interview to identify and explore potential power imbalances.

- * Is one spouse doing all the talking?
- * What does their body language tell you?
- * Does one spouse look to the other for consensus?

Denial

“They’re all *our* children.” Estate planning attorney and WealthCounsel Member Jeff Sydney identifies this statement as a bright red flag. In his experience, couples in denial about the important and unique needs of a blended family are extremely hard to counsel. A blended-family couple must be willing to acknowledge that their situation is a breeding ground for conflict. The more access you have to the family’s dynamics, the better strategy you can create for its specific needs. Without that access, you can at least plan for the “worst case scenario,” but even that kind of planning requires the couple to acknowledge that effective planning must contemplate conflict. The more complex a family’s situation, the more specific and detailed the planning strategy must be.

Confidential Information

Requested private conversations—one spouse requests a conversation with you without the other spouse present—are another flaming red flag. Sydney indicates that the request typically starts like this: “I didn’t want to say this in front of my [spouse], but . . .” and, if you don’t stop it, sometimes concludes with disclosure of a secret child or hidden asset. For an attorney, this attempted or achieved disclosure of non-shared information raises critical and perhaps insurmountable issues concerning representing the couple as joint clients. For that reason, attorneys must have the “no secrets among us” conversation at the very earliest opportunity and refuse any proffer of secret information from one spouse.

What you need to know

If your intake interview is designed for blended families, the answers it prompts will be a strong indicator of whether you want to or can engage a client. But make sure to read between the lines of how a blended-family couple interacts so that you have the whole picture. Make sure your intake process includes counseling strategy assessments so that you can effectively facilitate open, honest communication essential to effective client meetings.

Your Ethical Obligations as They Relate to Blended Families

Turning away a client may seem counterintuitive to your business plan, but carefully screening potential clients keeps you in the driver’s seat. For an attorney, declining a potential client at the outset is easier than resigning from an existing relationship. After a

thorough intake interview, you will be able to determine if you are qualified to handle the client's needs, if any conflicts exist, and if you want to proceed to the next step. Carefully assess the prospective clients' direct responses to the interview questions and their observed behaviors. Be sure that the clients are forthright with each other and with you about the information needed to provide an effective and realistic financial plan for their family situation. A professional relationship founded on incomplete information and poor communication will keep you up at night and may lead to ethics issues. A positive professional relationship will be a more positive experience for you and will generate new leads for your business.

For the attorney or advisor:

- Should you represent both spouses?
- Should you represent parents or children of existing clients?

Ethics questions for the attorney:

- Will you represent both of the spouses as a couple, or will you represent only one of the spouses?
- If you represent the couple, does your engagement agreement contain necessary conflict-of-interest disclosures and waivers of attorney-client privilege as to each spouse?
- If you represent only one of the spouses and have met with both of them, have you informed the other spouse in writing of his or her need to retain independent counsel?
- If the other spouse has retained separate counsel, have you informed your client and your staff and instructed them in writing to deal only with the spouse's counsel in matters related to the planning engagement?
- If the other spouse has waived the right to independent counsel, did you get that waiver in writing?
- When should you resign from an existing engagement?
- When *must* you resign from an existing engagement?

Attorneys must know state requirements specific to representing blended families. Some state statutes address:

- Duty to enter into written contract
- Duty to avoid actual conflict of interest
- Duty to avoid potential conflict of interest
- Duty to maintain client's confidence

What you need to know

Your observations during the intake interview may raise some ethics questions in your mind about representation. Know your state's laws and ethics rules.

Actions to Consider:

- **Market your professional services to blended families.** Blended families represent a growing share of the market, and they often afford the opportunity to implement advanced planning

strategies. They can represent an excellent client base for your planning practice.

- **Make an informed decision to represent a blended family.**

Recalibrate your intake process to screen potential blended-family clients for some of the known landmines.

- **Maximize your time together, fostering a productive and efficient professional relationship.**

Collect the information you need to formulate your counseling strategy.

Our thanks and acknowledgement to WealthCounsel Member Jeff Sydney for his contributions to this article.

Next in the Blended Family series: Part II – Counseling Strategy

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