The Hard Parts of Choosing a Guardian

Five tradeoffs parents often weigh, and how they practically work through them

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Choosing a guardian for your children is one of the hardest decisions parents face, and it's understandable to want to put it off. While every family is different, many parents struggle with the same tradeoffs. Fortunately, there are practical ways to work through each one.

Travis Neal, a California estate planning attorney at Jay Law, has helped hundreds of couples choose a guardian over the past 20 years. In this guide, he shares the five tradeoffs parents most often weigh and how the right estate plan can reflect what's best for your family.

1 Location

> *"My brother adores our kids, but he lives across the country. What happens if he's our children's guardian?"*

An out-of-state guardian can mean your children leave their home, school, and friends soon after a loss, adding upheaval during an already painful time. The court proceedings to appoint a guardian may also take longer if the proposed guardian will take the children out-of-state.

Many parents in this situation name a local friend or relative as a temporary guardian, so their children can stay put while the longer-term move is sorted out. Others make the out-of-state guardian's appointment contingent on that person moving to where the children live.

2 Age

> *"Grandma would drop everything for my kids. My best friend has kids the same age. Who makes the better guardian?"*

A grandparent may have more time and patience to give your children but may not have the energy or longevity to raise them. A younger guardian may have the energy but may already be busy raising a family of their own.

Many parents weigh who could realistically care for their children until the youngest turns 18, then name a first choice and at least one backup. If you only nominate one person and they can't serve, the judge starts from scratch.

3 Parenting Style

> *"Our best friend would be a loving guardian, but her house runs very differently from ours. Does that matter?"*

Bedtimes, screens, discipline, faith: the people you trust most may parent very differently from you. A judge looks at your children's best interests, not house rules, so how much difference you're comfortable with is your call.

Many parents choose someone whose core values they trust, then write a letter to their guardian about what matters most to them. The letter isn't legally binding, but a trusted guardian will likely honor it. Others reinforce their priorities in their trust by setting aside funds for education or activities they value.

4 Money

> *"My brother would be a great guardian to our kids, but he's not great with money. Does he have to manage their inheritance too?"*

The person best suited to raise your children isn't always the best person to manage their inheritance.

Many parents split the two roles: one person raises the children while a sibling, a friend, or a professional trustee manages the money. Parents who want the guardian's household to have support can direct their trust to cover the real costs of raising their children, from a bigger car to an added bedroom.

5 Couples

> *"Do we name my sister, or my sister and her husband?"*

Naming one person and not their partner can feel awkward. The problem with naming a couple is that if they later divorce, a court decides the legal custodianship arrangement, without your input.

Some parents name only the person they trust most, so their child will most likely stay with that person no matter what happens to their marriage. Parents for whom the couple being together matters most make their nomination contingent on the two still being married and living together.

Does this resonate with you?

Book a free call | **Email info@jaylaw.co**

Travis is happy to be a resource as you weigh these tradeoffs.

None of these tradeoffs has to stall your plan. With the right guidance and documents, the decision stays yours, not a judge's. Book a call to discuss your questions and gain practical advice for navigating family discussions and ensuring your wishes are reflected.



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