

# Why Fairness Trumps Equality In Sharing The Family Wealth

By Charles Lowenhaupt

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Question: When should wealth owners plan to leave unequal portions to their children?

Answer: Strange as it might seem, “almost always.”

Before dividing an estate, wealth owners need to get past the definitional ambiguity of “equal” and “unequal.” Most wealth holders define “equal” as a dollar-for-dollar split where each child gets the same amount. Yet another perspective might consider meeting needs equally, regardless of amounts. Research shows that about two-thirds of people choose dollar-for-dollar equality at death – but in our experience, most opt for equally meeting needs while they are alive.

### Fairness Rules

Suppose a father with two children owns a business and an investment portfolio. Only one child is active in the business. The father may well decide that equality means leaving the business to that child and giving stocks and bonds of “equal” value to the other. But that is not an equal division of risk or engagement at all.

The goal should be fairness, not equality. The latter may sound more precise than the former, but that doesn’t make it a more valid principle. For example, think about the payments your clients make for the sake of their children’s well-being. If one child wants to go to medical school and the other doesn’t, would the client normally pay the second the equivalent of med school tuition in cash? Later, when the doctor has grown rich while her sibling makes less money as a teacher, would a client who helps the teacher pay his mortgage give the doctor an equal amount?

Here’s another scenario. Suppose a wealth holder has three children. One has three kids, another has one, and the third has none. Would the wealth holder divide a gift to the four grandchildren by three, giving one third to the childless child, one third to the only grandchild, and one ninth to each of the three siblings? Would that be fair to the grandchildren’s parents, who get no gift? Would it be fair to the grandchild with siblings, who gets one third of what the only grandchild gets? As wealth holders think through what is fair, they must accept that fairness is indeed subjective.

And when wealth holders consider what is fair with respect to a legacy, should they discuss the will with their children? The answer should be no. A will or revocable trust can be changed many times before death, and if the wealth holder’s explain today’s decisions, they will have to explain any changes they make in the future. Such explanations can lead to family arguments, and the “unfairness” one child feels in 2008 may turn into unfairness for a sibling in 2012.

## A Deliberate Approach

The entire process should be quiet, deliberate and susceptible to changed conditions and changed minds. It may include instructions for how a wealth holder's decisions should be communicated to children after death. However, our advisors have found that letters explaining the decisions (read posthumously) can cause pain and unhappiness for heirs. So, start the discussion by recognizing that for most people "equal" is the untutored definition of "fair." Once that perspective is on the table, the hard work begins.

Probing questions should include "what ifs." What if one child turns into a billionaire and one is unemployable? What if one grandchild is handicapped and others are fully functional? What if one child sends her kids to private school while another uses public education?

Ultimately, moving the topic from equality to fairness often shifts sensibilities and generates wisdom.

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