




BERNSTEIN

Families in Flux

How Governance Helps Preserve
Relationships and Wealth Amid
Shifting Family Structures



Families undergo meaningful and sometimes challenging changes over the years as leaders pass on, new members join, and others grow into key roles. Shifts in family structure often disrupt relationships and tend to be complicated by significant wealth. Yet strong family governance can help safeguard unity, wealth, and legacy as a family's makeup evolves.

The definition of family has changed dramatically in recent years. Age, lifespan, cross-cultural diversity, location, and differing family models all play a role. Cohabitation (for both heterosexual and same-sex couples) is on the rise—and while most couples still marry before having children—the likelihood of diverging from the traditional path has risen substantially.¹ As same-sex unions become more prevalent,² a new generation now considers them part of the norm. Divorce rates have evened out over the last decade yet blended and stepfamilies remain a permanent fixture.³

These shifts create new paradigms for families wishing to achieve continuity in both relationships and wealth. According to a 20-year study conducted by Roy Williams and Vic Preisser, 70% of families failed to sustain wealth across generations. Yet errors in estate planning or tax payments represented less than 3% of the breakdowns. Instead, 60% of the failures stemmed from lack of communication and trust.⁴ While some have criticized the study for its lack of transparency, others have noted similar findings at the intersection of intergenerational wealth transfer, communication, and trust.⁵

How family is defined, who gets a voice, and how decisions are made often becomes convoluted in the absence of structure. Well-crafted governance can create a decision-making framework, bolstering families against weaknesses that emerge when families are in flux. It can also preempt problems when legal solutions fail to keep up with the changing times. And while every family can benefit, those with complexities arising from unmarried partners, stepchildren, second and third marriages, and other non traditional relationships gain even more from well-established governance structures.

In this paper we will discuss potential evolutions—both positive and negative—that can affect families over time. We will also demonstrate how different governance structures help prepare a family in transition and provide solutions for managing the impact on relationships and wealth.

The first paper in our governance series, [Ties That Bind: How Sound Governance Supports Family Success](#), explores family governance as a framework for communication and decision-making. It provides a road map to organize families and guide their wealth transitions, along with transmitting knowledge and values. Many of the components of strong family governance referenced herein are discussed more thoroughly in *Ties That Bind*. But that's merely a starting point. To ensure effective governance, each family must establish its own policies and procedures, and base its structure on shared family values.

¹ Livingston, Gretchen. 2018. "Family life is changing in different ways across urban, suburban and rural communities in the U.S.," (June 19). <https://www.pewresearch.org/fact-tank/2018/06/19/family-life-is-changing-in-different-ways-across-urban-suburban-and-rural-communities-in-the-u-s/>

² Masci, David, Brown, Anna, and Kiley, Jocelyn. 2019. "5 facts about same-sex marriage," (June 24). <https://www.pewresearch.org/fact-tank/2019/06/24/same-sex-marriage/>

³ Wood, Johnny. 2018. "The United States divorce rate is dropping, thanks to millennials," (October 5). <https://www.weforum.org/agenda/2018/10/divorce-united-states-dropping-because-millennials/>

⁴ Williams, R.O., and Preisser, V. 2003. *Preparing Heirs: Five Steps to a Successful Transition of Family Wealth and Values*, Robert Reed Publishers, (January).

⁵ "Second Look: Why Transitions Fail," <https://business.oregonstate.edu/faculty-and-research/centers-strategic-initiatives/center-family-enterprise/resources/family-business-connections/second-look-why-transitions-fail> accessed 4/27/2022.

What events can impact a family?

Though generally rewarding, family life often includes stress and conflict. And while disagreements and shifts in family composition may be common, having a process to manage them is less so. Setting up a well-defined governance plan can help manage relationships and disputes by establishing predefined rules and clear communication channels. As families grow and evolve, changes to family structure can often include:

Marriage—Many families do not anticipate challenges—like new cultures and beliefs—that can arise from bringing an “outsider” into the family. They also fail to plan for welcoming a new spouse. When embracing new members, stay mindful that unions introduce fresh ideas and perspectives.

Divorce—How does a change in marital status (with or without remarriage) affect the entitlement to shared assets? Will spouses continue to work in a family business if the marriage ends? If not, who receives shares and who manages the company going forward? Even if all couples in a family get along, it is prudent to take intentional steps to protect family assets from a divorce.

Remarriage and Blended Families—Changes in family composition impact how the members operate and make decisions. Stepchildren often spend time with each parent, moving in and out of the family system and sometimes feeling misaligned with biological peers. New stepparents often struggle to find their place while new babies tend to create fresh connections. Introducing new members also adds complexity to the decision-making surrounding family wealth. A common pitfall is failing to consider how disputes will be handled if communications break down—which is not uncommon at the outset of new relationships.

Introducing Cultural Diversity—As families create global villages, they introduce new faiths, cultures, and perspectives—along with potential complications. Families should be prepared to address transformation into a multicultural and multi-jurisdictional system. Beyond developing cultural sensitivity, legal, tax, and other financial implications also come into play. Consider that 23% of next-generation wealth holders have international banking needs, and one-in-five own property in a country outside the US.⁶ It's essential for global families to agree on processes and work with their team of advisors to establish effective agreements, limiting potential challenges and nullifications.

CASE STUDY: Incorporating New Spouses

Single-father George had one adult daughter, Katie, who recently became engaged to her college sweetheart. With his family tree expanding, George revisited his estate plan to ensure it still provided for his daughter while fulfilling his charitable mission. Working with an estate planning attorney, George restructured the plan, funding a trust for her benefit with 20% of the estate's value and a Donor Advised Fund (DAF) with the remainder. Katie initially felt let down. She was upset that her father wasn't leaving assets to her outright, interpreting it as a lack of trust in her and a lack of value for her soon-to-be spouse. To help resolve the issue, Bernstein facilitated a family meeting, including the estate planner. The attorney explained the trust's broad provisions, as well as its asset protection goals. She also pointed out that Katie would become sole trustee at age 40 with discretion to make distributions for her own health, support, maintenance, and education. Katie gained comfort with the plan, but still sensed a subtle disapproval of her fiancé. Father and daughter used the forum to air their concerns openly, and George came around to Katie's perspective. Ultimately, he amended the provisions, naming her soon-to-be spouse as trustee should Katie pass away. This would give him input on how the assets would be managed while protecting wealth for any future children. George also named Katie's fiancé a successor advisor on the DAF, provided the couple remained married.

Death—Beyond leaving a significant void, the loss of a central decision-maker can also create tension. Establishing a governance framework during times of stability creates a process for working together and making joint decisions about critical issues. If a family business is involved, clarifying and communicating a succession plan helps ensure an orderly transition of management and ownership. While many struggle to prepare for the emotional loss, putting specific structures and documents in place can mitigate future uncertainty related to family wealth, relationships, and legacy.

Setting up a well-defined governance plan can help establish predefined rules and clear communication channels.

⁶ “The next generation of global enterprising families: shaping tomorrow, today, 2020.” RBC/Campden Wealth.

First Steps—Where to Begin

Family involvement and communication become more challenging as a family's size and complexity increase. By providing a strong yet flexible framework for joint decision-making and communication, effective governance can preserve values while incorporating skills and life experiences. Families can use several formal and informal structures to organize, build strong bonds, and communicate the intended direction of family wealth. More importantly, entrenching governance before a pivotal event can guard against vulnerabilities that may arise as the family expands across generations, jurisdictions, and cultures. Successful families start by defining the family, establishing roles and responsibilities, and agreeing on a shared purpose linked to core values.

Who Is Considered “Family”?—The definition of family often extends beyond a group of people related solely by blood or marriage. Today, it includes stepfamilies, single parents, unmarried partners (either of the same or opposite sex), adopted and foster families, and those where grandparents or other relatives raise children. The word “family” also takes on new meaning in the second or third generation of a shared family business. Down the road, extended family consists of several households and continues to grow exponentially.

Entrenching governance before a pivotal event can guard against vulnerabilities that may arise as the family expands.

Defining family is central to structuring unique governance systems that make a difference in keeping family, relationships, and wealth intact. Too often, families implement generic structures with little regard for personal circumstances. As a result, many families have a rigid set of rules and organizational designs that don't address their most critical issues. Importantly, each branch of the family may assume its own cultural identity while still respecting and identifying with overall shared values and goals. Ultimately, outlining and clearly communicating the agreed-upon definition of family to all members is vital. Once defined, effective governance helps engage, empower, and activate each member's strengths and capabilities.



Establishing clear roles and responsibilities is an essential step toward creating a governance framework that helps manage growth and disruptions. Depending on the family structure, some members could fulfill multiple roles, while others might have no part or even a desire to participate. It's also not uncommon to see competition for roles or established members viewing newcomers as a threat to power or privilege. Well-defined roles and responsibilities can put existing members at ease, staving off potentially unfriendly welcomes for new members. Which family members should be included in discussions? The answer ranges from the entire family to a smaller group who in turn represents a collective, depending on the issue. Assessing each member's skills and qualifications, designating roles and responsibilities, and clarifying who decides which questions should be addressed all remain essential to how a family operates and communicates.

What is our purpose? What do we stand for?—Preserving and protecting family wealth takes preparation, thoughtfulness, and communication. Start by reflecting on “*Who are we as a family?*” and “*What is the purpose of our wealth?*” These questions allow families to begin identifying the values that unite them. Family values set the tone for how the unit thinks, feels, assesses, and acts. A family grounded in an understanding of what it stands for has a greater motivation to stick together through future shifts in structure. For instance, research shows that family businesses with a written form of values tend to handle succession better and are more communicative and transparent.⁷ Every transition offers different knowledge, connections, and experiences.

⁷ “From trust to impact: why family businesses need to act now to ensure their legacy tomorrow,” *PwC Global Family Business Survey 2021*.

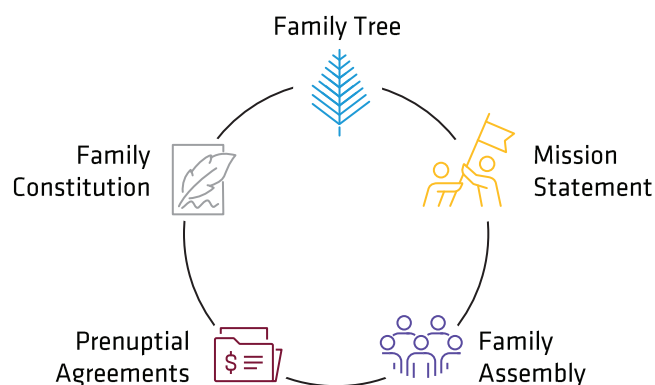
As a result, some changes have the potential to create physical and emotional space between family members. Focusing on shared values can keep families connected through inevitable evolutions.

Establishing family values begins with each member prioritizing what's most important—the tenets that motivate and guide personal decisions. A deep understanding of these personal values gives the broader unit a springboard for discussions. But a family's shared values are not meant to replace or overshadow individual ones. They are about finding alignment and establishing a shared family purpose that still honors each member's independence. A shared sense of purpose and values representing both the individual and collective mindset enables more cohesive decision-making.

Families are in a constant state of transition as each member cycles through life and the family itself moves from one stage to the next. Marriages, births, divorces, and deaths change the composition and, in thoughtful ways, can alter family values. That's why it's vital to revisit shared values, especially as the family makeup evolves. More importantly, having this bedrock creates support for generations to drive decisions and establish governance structures.

Organizing, Overseeing, and Protecting Wealth in Flux

Well-thought-out governance systems promote cohesion and flexibility through effective communication⁸ and conflict resolution processes. Cohesion refers to the emotional bond between family members and the degree to which they are connected.⁹ Families are also unpredictable, making flexibility key to balancing stability and change. Governance tends to succeed when put in place before it becomes necessary and when it includes communication protocols and a conflict resolution process. The following structures, among others, aim to prepare a family for unforeseen evolution and potential adversity:



Family Tree—A visual representation of how family members relate to each other, a family tree provides current and future generations with an appreciation of their ancestors and origins. When created together, it can help strengthen bonds while sharing history and stories. Members should also consider capturing the complex story that is family by filling the tree with those considered family—generation after generation—no matter their biological or legal affiliation. The output becomes a resource for members to better understand the family system, their role, and existing complexities. It also serves as a helpful guide for professionals who work closely with the family. Completing a family tree and discussing the final product also hones the ability to communicate, which aids in crafting additional governance policies. In many families, the graphic hangs on the wall as a point of pride.

Mission Statements—The mission statement outlines the purpose of the family and the wealth it intends to steward through multiple generations. The unique declaration gives the family a game plan, aligning members while incorporating and solidifying core values. The mission statement articulates how a family sees itself, what it's trying to accomplish, and what kind of legacy it would like to pass on to future generations and prospective members. A mission statement can also reinvigorate a family's long-standing policies and practices. Above all, the proclamation should not be rigid; it should change and grow just as the family evolves. As a best practice, families should review the statement periodically and confirm that it remains an accurate reflection of their values and goals.

Family Assembly—As families grow, emerging households in the extended family can disperse and move in different directions, making it critical to reinforce deep, personal bonds. Families that rely on informal, one-off conversations and brief discussions attached to holiday gatherings may struggle to effectively meet the demands of wealth oversight and continuity. Once the family grows beyond a single unit, an annual gathering or assembly may be needed. A family assembly is a regular gathering of all adult members, their spouses, and children over a certain age. Its core purpose is to keep the family informed and provide an open forum to connect, discuss family values, and align on major issues. More specifically, it offers an opportunity to:

- provide updates on changing family dynamics (births, divorces, deaths, etc.) and welcome new family members;
- create cohesion and build relationships; and
- articulate and reinforce the mission and values.

⁸ Olson, D.H. 2000. "Circumplex model of marital and family systems." *Journal of Family Therapy*, 22(2), 144-167.

⁹ Ibid.

The social component of an assembly allows members and their spouses to engage with the family and form connections. Having designated activities such as dinners, sporting events, or other bonding activities helps develop stronger relationships and better collaboration between members. This element is essential given that each family has its own unique culture, and it can sometimes be a challenge for spouses, adopted children, and stepchildren to integrate. The assembly also provides an opportunity for extended family to share experiences and stories, making new memories along the way. This exploration helps young children and new members understand the family's identity and their place in the world. New members bring additional skills and experiences and including them in family assemblies shows an appreciation for diverse views.

The family assembly is also a forum to discuss personal values while celebrating collective ones. Sharing these strongly held beliefs across an expanding family tree is an effective way to incorporate different ideals into a family's culture. When families revisit these principles on a routine basis, it holds members accountable and helps the family stay connected to each other and to common goals.

Extended families should have a way to communicate news and keep members united. Family assemblies provide a formal channel for communication, through which everyone hears the same information at the same time. Families often use this dedicated structure to transparently involve all parties in discussions and decisions and foster a regular dialogue.



QUICK TIP: Family Newsletter

A family newsletter can be an informal way to communicate regularly with each other. Using a monthly e-mail to reflect on family news, philanthropic activity, vacation plans, and stories is a great way for the broad unit to connect and get members involved.

Family Constitution—American author and family expert Stephen R. Covey observed that “your family constitution can be the foundational document that will unify and hold your family together for decades—even generations—to come.”¹⁰ A family constitution is a formal document that includes all the agreements, policies, and expectations that govern interactions and decision-making with the hopes of protecting family wealth in times of stress and transition. Therefore, a core consideration in a constitution should be a family's rules concerning marriage, divorce, and the transfer of wealth on death. The constitution should also outline family values. While not legally binding, the agreement can have implications for legal arrangements such as marriage and inheritance contracts and shareholder agreements. The constitution can further explain and clarify various legal trust (and corporate, if necessary) agreements as later generation members grow up and marry.

An effective constitution relies heavily on the entire family's input to accurately capture their identity. Some create practical rules that place little burden on the individual members. For example, a constitution might require that all members create a will or trust, make provisions for guardians as needed, and keep beneficiary designations up to date. On the other hand, family constitution rules for wealth transfer might constrain the rights of certain members. Suppose the goal is to preserve family wealth as much as possible. In that case, a constitution might outline general expectations of who members' beneficiaries will be at death and might limit bequests or transfers outside the family. These policies become critical if wealth transfer involves shares in a family business. The family constitution might, in these cases, contain directives about succession planning and dictate the transfer of leadership (and ownership) to one person. If a family member chooses to ignore the agreed-upon policies, they could face restricted access to certain family assets.

¹⁰ Covey, Stephen R. 2020. *The 7 Habits of Highly Effective People: Powerful Lessons in Personal Change*. Simon & Schuster, rev. (May 19).

A family constitution should be considered a living, breathing document. It works best if referred to frequently and allows for updates and guidance as circumstances change. While under review, the family should also determine whether additional policies are needed. For a family constitution to last, it should evolve with changing situations and shifting relationships.

Prenuptial Agreements—Divorce has the potential to be “one of the world’s biggest destroyers of wealth.”¹¹ When it comes to divorce or death, one of the most effective actions a family can take is to help its members create meaningful prenuptial agreements (“prenup”).

A prenuptial agreement is a written agreement made between two people before marrying that establishes rights to property and support in the event of divorce or death.¹² Spouses come from all walks of life and do not always share similar financial backgrounds. A future spouse should be made aware of the magnitude of wealth they’re marrying into, as well as the family’s values, objectives, and policies related to it. As a result, many include specific protocols in the family constitution requiring the creation of prenuptial agreements. The goal of these agreements is not to assert power in a punitive way, but to prevent destructive conflicts.



Prenuptial Agreements and a Family Business

Implementing a prenuptial agreement can also protect a family business, its income, resources, and assets. In this case, a family could define separate property as the family business, no matter how attained—whether by gift, bequest, or by purchase—including all appreciation in value and income, whether generated before or after the marriage and regardless of the extent of the contribution and efforts of the spouses.¹⁴ A prenuptial agreement can promote the business’s long-term success by preventing liquidations required to satisfy a divorce ruling. It can also keep management positions and decision-making within the immediate family.¹⁵

As helpful as a prenup can be, talking about it and implementing it can be highly charged. The family assembly often presents the perfect opportunity to address the benefits of prenuptial agreements and how they work, counteracting the media’s stigma. Along with protecting family assets, a prenuptial agreement can:

- encourage healthy discussions about values, purpose, finances, and expectations for the marriage;
- offer financial security to a spouse who brings less property and fewer assets to the union;
- afford peace of mind to a spouse making sacrifices (moving, quitting a job, etc.); and
- protect a spouse if there are children from prior marriages by documenting intentions for support.¹³

¹¹ Marcovici, Philip. 2016. *The Destructive Power of Family Wealth: A Guide to Succession Planning, Asset Protection, Taxation, and Wealth Management*. Wiley; 1st edition, (December 12).

¹² “Prenuptial agreement.” *Merriam-Webster.com Dictionary*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/prenuptial%20agreement>. Accessed February 23, 2022.

¹³ Meyers, Susan Gel. 2019. “Approaching prenuptial agreements positively,” Partner, Warner Norcross + Judd LLP, (Feb 19). <https://www.familyoffice.com/insights/approaching-prenuptial-agreements-positively>.

¹⁴ Schaefer, Karen. 2021. “Should business owners ask their children—the next generation—to sign prenuptial agreements?” Barclay Damon LLP, (February 9). <https://www.barclydamon.com/blog-post/should-business-owners-ask-their-children-the-next-generation-to-sign-prenuptial-agreements>

¹⁵ Widmyer, Matthew. 2022. “Prenuptial agreements can help protect your family business.” Davis Wright Tremaine LLP, (January 11). <https://www.dwt.com/blogs/family-business-resource-center/2022/01/prenuptial-agreement-family-business-owners>

Most families only consider what the addition of a new spouse will mean when engagements occur. However, this should be anticipated and planned for well before it comes to fruition.

Families can focus on making the prenuptial agreement a tool for strengthening relationships both before and throughout marriages. One way to do so is to integrate the legal prenuptial document into a broader process that encourages open dialogue about realistic expectations as well as individual concerns and fears. This practice also helps surface potential issues and formulate strategies to proceed with various aspects of the couple's life. Like pre-marital counseling, creating a holistic "partnership agreement"¹⁶ can facilitate a healthy discussion and transparency regarding such questions as:

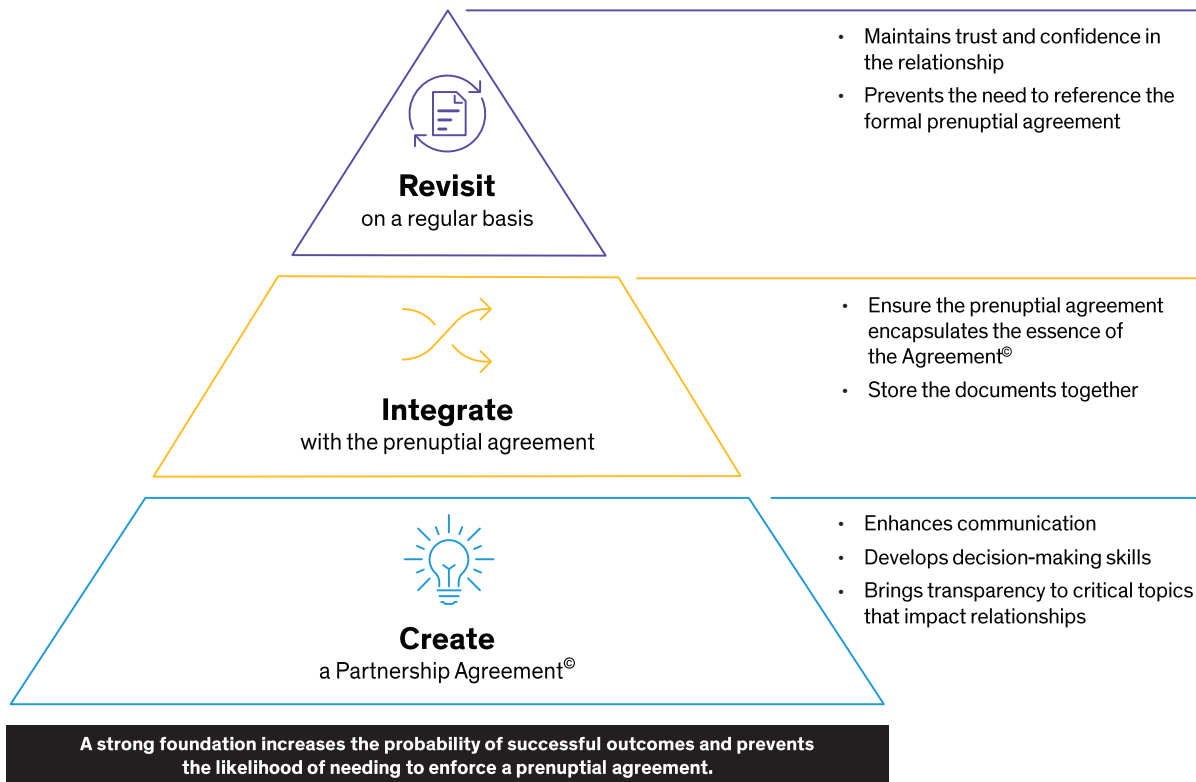
- What kind of relationship aspirations does the couple have?
- Does a partner want to leave work to raise kids?
- Are there plans to start a business or return to school?
- What kind of investments should be planned for?

The more families can prepare for disputes and potential challenges in advance, the more clarity couples will have at the start of a marriage **(Display)**.

Families can focus on making the prenuptial agreement a tool for strengthening relationships.

STRENGTHENING YOUR RELATIONSHIP FOUNDATION

A positive and impactful approach to the prenuptial agreement, a common component of family governance



¹⁶ Copyright© Northbound Consulting 2022. More information on Northbound Consulting's Partnership Agreement process can be accessed [here](#).

After marriage, a postnuptial agreement (“postnup”) serves the same purpose as a prenuptial agreement. Here, a postnuptial sets out how assets will be distributed should the marriage end. Why use a postnup rather than a prenup? Reasons include:¹⁷

- lack of planning before a marriage;
- time constraints that prevent proper considerations, negotiations, and execution;
- a spouse stops working to stay home and care for minor children; or
- a change in financial circumstances (gift or inheritance) for a spouse.

Before proceeding with a postnuptial agreement, families should consult legal advisors and keep in mind that enforceability can vary across states.

Resolving Disputes Without Discord

Conflicts and misunderstandings are bound to occur. Without a resolution process, a family can become paralyzed by differences across generations or branches. Shifts in family structure can disrupt roles and routines, insert new decision makers, and introduce diverse cultures and viewpoints. If a spouse is involved in ownership or management of a family-owned business, the end of a marriage can bring conflict to the forefront. Using governance structures to handle disputes promptly helps avoid potential negative repercussions. The family assembly can be used as a forum where members can air disagreements and resolve issues amicably. A family constitution that captures shared values and agreed-upon protocols for managing transitions, conflict, and decision-making can move conversations toward a peaceful resolution. Most importantly, thinking through governance during times of stability—well before it appears necessary—may be the best conflict prevention and planning measure of all.

Good Governance Provides Clarity, Protection—and Evolves

While uncertainty and transition will always be a part of life, how a family handles disruptive events reflects their unity and resilience, as well as the strength of intrafamily relationships. Effective governance is designed to help families manage the change, upheaval, and chaos that often accompanies the adjustment to new realities. Establishing structures that are founded on and guided by the family’s shared values—while outlining transparent rules and guidelines for how a family operates—can help mitigate conflict when strained relationships jeopardize family wealth.

Like a family itself, successful governance constantly evolves. The agreed-upon documents and structures should incorporate flexibility, in anticipation of future marriages, divorces, remarriages, and stepchildren entering the picture. Families should also monitor these structures to ensure they remain consistent with codified values. Ultimately, families should aim to create a framework that establishes a process for joint decision-making, while promoting open communication and encouraging cohesive relationships, regardless of how family structures fluctuate over time.



¹⁷ “Everything you need to know about postnuptial agreements.” <https://www.legalnature.com/guides/everything-you-need-to-know-about-postnuptial-agreements>



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