

Power of Attorney (POA)

Are you currently caring for one or more grandchildren because the child's parent cannot? If so, your grandchild's parents can grant you Power of Attorney. Power of Attorney allows you temporarily to:

- Arrange for the child's routine and emergency medical, dental and psychological treatment
- Authorize your grandchild's enrollment in school
- Access information regarding their education
- Provide consent for educational activities

Filing Directions

1. Complete POA with signatures of the grandparent and parent.
2. Notarize POA prior to filing. Notary is required to witness both signatures (custodial parent and grandparent). Free notary services provided at your local bank and Legal Aid.
3. Grandparent must notify the non-custodial parent by certified mail within 5 days of filing for the POA.
4. Attach the receipt showing the notice was sent to the non-custodial parent. The receipt must accompany the POA forms.
5. Only one child can be included on a POA form. In the case of multiple children make 6 copies per child. One copy needs to be mailed to the non custodial parent (s).
6. Turn the POA in at **380 West Second Street, Dayton, Ohio, 45402, Family Courts Building**, main floor (Clerks Office) across from the information desk.
7. If POA is revoked for any reason the grandparent is required to notify in writing, the school, healthcare provider, or healthcare insurance provider which had been previously notified of affidavit.

****** The statute requires the Court to waive all filing fees for these and related documents.**

If you have additional questions about these forms please contact:

Kinship Caregiver Coalition
Dionne Simmons
One Elizabeth Pl, W Med Plaza, Ste 110
Dayton, Ohio 45417
937-775-8249

Legal Aid of Western Ohio
333 W. Third Street
Suite 500A
Dayton, Ohio 45402
1-888-534-1432

This document was prepared by Legal Aid of Western Ohio, Inc. and members of the Kinship Caregiver Coalition formerly known as GrandParent/GrandChildren Initiative. 10/25/04

**IN THE COMMON PLEAS COURT OF MONTGOMERY COUNTY
JUVENILE DIVISION**

IN RE: _____ : **CASE #**
:
: **POWER OF ATTORNEY**
: **ORC §3109.54**
:
:

I, the undersigned, residing at _____, in the county of _____, state of _____, hereby appoint the child's grandparent, _____, residing at _____, in the county of _____, in the state of Ohio, with whom the child of whom I am the parent, guardian, or custodian is residing, my attorney in fact to exercise any and all of my rights and responsibilities regarding the care, physical custody, and control of the child, _____, born _____, having social security number (optional) _____, except my authority to consent to marriage or adoption of the child _____, and to perform all acts necessary in the execution of the rights and responsibilities hereby granted, as fully as I might do if personally present. The rights I am transferring under this power of attorney include the ability to enroll the child in school, to obtain from the school district educational and behavioral information about the child, to consent to all school-related matters regarding the child, and to consent to medical, psychological, or dental treatment for the child. This transfer does not affect my rights in any future proceedings concerning the custody of the child or the allocation of the parental rights and responsibilities for the care of the child and does not give the attorney in fact legal custody of the child. This transfer does not terminate my right to have regular contact with the child.

I hereby certify that I am transferring the rights and responsibilities designated in this power of attorney because one of the following circumstances exists:

- (1) I am:
 - (a) Seriously ill, incarcerated or about to be incarcerated,
 - (b) Temporarily unable to provide financial support or parental guidance to the child,
 - (c) Temporarily unable to provide adequate care and supervision of the child because of my physical or mental condition,
 - (d) Homeless or without a residence because the current residence is destroyed or otherwise uninhabitable, or
 - (e) In or about to enter a residential treatment program for substance abuse;
- (2) I am a parent of the child, the child's other parent is deceased, and I have authority to execute the power of attorney; or
- (3) I have a well-founded belief that the power of attorney is in the child's best interest.

I hereby certify that I am not transferring my rights and responsibilities regarding the child for the purpose of enrolling the child in a school or school district so that the child may participate in the academic or interscholastic athletic programs provided by that school or district.

I understand that this document does not authorize a child support enforcement agency to redirect child support payments to the grandparent designated as attorney in fact. I further understand that to have an existing child support order modified or a new child support order issued administrative or judicial proceedings must be initiated.

If there is a court order naming me the residential parent and legal custodian of the child who is the subject of this power of attorney and I am the sole parent signing this document, I hereby certify that one of the following is the case:

- (a) I have made reasonable efforts to locate and provide notice of the creation of this power of attorney to the other parent and have been unable to locate that parent;
- (b) The other parent is prohibited from receiving a notice of relocation; or
- (c) The parental rights of the other parent have been terminated by order of a juvenile court.

This POWER OF ATTORNEY is valid until the occurrence of whichever of the following events occurs first:

- (1) One year elapses following the date this POWER OF ATTORNEY is notarized;
- (2) I revoke this POWER OF ATTORNEY in writing;
- (3) The child ceases to reside with the grandparent designated as attorney in fact;
- (4) This POWER OF ATTORNEY is terminated by court order;
- (5) The death of the child who is the subject of the power of attorney; or
- (6) The death of the grandparent designated as the attorney in fact.

WARNING: DO NOT EXECUTE THIS POWER OF ATTORNEY IF ANY STATEMENT MADE IN THIS INSTRUMENT IS UNTRUE. FALSIFICATION IS A CRIME UNDER SECTION 2921.13 OF THE REVISED CODE, PUNISHABLE BY THE SANCTIONS UNDER CHAPTER 2929. OF THE REVISED CODE, INCLUDING A TERM OF IMPRISONMENT OF UP TO 6 MONTHS, A FINE OF UP TO \$1,000, OR BOTH.

Witness my hand this ____ day of _____, _____

Parent/Custodian/Guardian's signature

Parent's signature

Grandparent designated as attorney in fact

State of Ohio)
 ss)

County of _____)

Subscribed, sworn to, and acknowledged before me this ____ day of _____.

Notary Public

Notices:

1. A power of attorney may be executed only if one of the following circumstances exists:
 - (1) The parent, guardian, or custodian of the child is:
 - (a) seriously ill, incarcerated or about to be incarcerated;
 - (b) Temporarily unable to provide financial support or parental guidance to the child;
 - (c) Temporarily unable to provide adequate care and supervision of the child because of the parent's, guardian's, or custodian's physical or mental condition;
 - (d) Homeless or without a residence because the current residence is destroyed or otherwise uninhabitable; or
 - (e) In or about to enter a residential treatment program for substance abuse;
 - (2) One of the child's parents is deceased and the other parent, with authority to do so, seeks to execute a power of attorney; or
 - (3) The parent, guardian, or custodian has a well-founded belief that the power of attorney is in the child's best interest.
2. The signatures of the parent, guardian, or custodian of the child and the grandparent designated as the attorney in fact must be notarized by an Ohio notary public.
3. A parent, guardian, or custodian who creates a power of attorney must notify the parent of the child who is not the residential parent and legal custodian of the child unless one of the following circumstances applies:
 - (a) The parent is prohibited from receiving a notice of relocation in accordance with section 3109.051 of the Revised Code of the creation of the power of attorney;
 - (b) The parent's parental rights have been terminated by order of a juvenile court pursuant to Chapter 2151. of the Revised Code;
 - (c) The parent cannot be located with reasonable efforts;
 - (d) Both parents are executing the power of attorney.

The notice must be sent by certified mail not later than five days after the power of attorney is created and must state the name and address of the person designated as the attorney in fact.
4. A parent, guardian, or custodian who creates a power of attorney must file it with the juvenile court of the county in which the attorney in fact resides, or any other court that has jurisdiction over the child under a previously filed motion or proceeding. The power of attorney must be filed not later than five days after the date it is created and be accompanied by a receipt showing that the notice of creation of the power of attorney was sent to the parent who is not the residential parent and legal custodian by certified mail.
5. A parent, guardian, or custodian who creates a second or subsequent power of attorney regarding a child who is the subject of a prior power of attorney must file the power of attorney with the juvenile court of the county in which the attorney in fact resides or any other court that has jurisdiction over the child under a previously filed motion or proceeding. On filing, the court will schedule a hearing to determine whether the power of attorney is in the child's best interest.
6. This power of attorney does not affect the rights of the child's parents, guardian, or custodian regarding any future proceedings concerning the custody of the child or the allocation of the parental rights and responsibilities for the care of the child and does not give the attorney in fact legal custody of the child.
7. A person or entity that relies on this power of attorney, in good faith, has no obligation to make any further inquiry or investigation.
8. This power of attorney terminates on the occurrence of whichever of the following occurs first:
 - (1) One year elapses following the date the power of attorney is notarized;
 - (2) The power of attorney is revoked in writing by the person who created it;
 - (3) The child ceases to live with the grandparent who is the attorney in fact;
 - (4) The power of attorney is terminated by court order;
 - (5) The death of the child who is the subject of the power of attorney; or
 - (6) The death of the grandparent designated as the attorney in fact.

If this power of attorney terminates other than by the death of the attorney in fact, the grandparent who served as the attorney in fact shall notify, in writing, all of the following:

- (a) Any schools, health care providers, or health insurance coverage provider with which the child has been involved through the grandparent;
 - (b) Any other person or entity that has an ongoing relationship with the child or grandparent such that the other person or entity would reasonably rely on the power of attorney unless notified of the termination;
 - (c) The court in which the power of attorney was filed after its creation; and
 - (d) The parent who is not the residential parent and legal custodian of the child who is required to be given notice of its creation. The grandparent shall make the notifications not later than one week after the date the power of attorney terminates.
9. If this power of attorney is terminated by written revocation of the person who created it, or the revocation is regarding a second or subsequent power of attorney, a copy of the revocation must be filed with the court with which that power of attorney was filed.

Additional information:

To the grandparent designated as attorney in fact:

1. If the child stops living with you, you are required to notify, in writing, any school, health care provider, or health care insurance provider to which you have given this power of attorney. You are also required to notify, in writing, any other person or entity that has an ongoing relationship with you or the child such that the person or entity would reasonably rely on the power of attorney unless notified. The notification must be made not later than one week after the child stops living with you.
2. You must include with the power of attorney the following information:
 - (a) The child's present address, the addresses of the places where the child has lived within the last five years, and the name and present address of each person with whom the child has lived during that period;
 - (b) Whether you have participated as a party, a witness, or in any other capacity in any other litigation, in this state or any other state, that concerned the allocation, between the parents of the same child, of parental rights and responsibilities for the care of the child and the designation of the residential parent and legal custodian of the child or that otherwise concerned the custody of the same child;
 - (c) Whether you have information of any parenting proceeding concerning the child pending in a court of this or any other state;
 - (d) Whether you know of any person who has physical custody of the child or claims to be a parent of the child who is designated the residential parent and legal custodian of the child or to have parenting time rights with respect to the child or to be a person other than a parent of the child who has custody or visitation rights with respect to the child;
 - (e) Whether you previously have been convicted of or pleaded guilty to any criminal offense involving any act that resulted in a child being an abused child or a neglected child or previously have been determined, in a case in which a child has been adjudicated an abused child or a neglected child, to be the perpetrator of the abusive or neglectful act that was the basis of the adjudication.

To school officials:

1. Except as provided in section 3313.649 of the Revised Code, this power of attorney, properly completed and notarized, authorizes the child in question to attend school in the district in which the grandparent designated as attorney in fact resides and that grandparent is authorized to provide consent in all school-related matters and to obtain from the school district educational and behavioral information about the child. This power of attorney does not preclude the parent, guardian, or custodian of the child from having access to all school records pertinent to the child.
2. The school district may require additional reasonable evidence that the grandparent lives in the school district.
3. A school district or school official that reasonably and in good faith relies on this power of attorney has no obligation to make any further inquiry or investigation.

To health care providers:

1. A person or entity that acts in good faith reliance on a power of attorney to provide medical, psychological, or dental treatment, without actual knowledge of facts contrary to those stated in the power of attorney, is not subject to criminal liability or to civil liability to any person or entity, and is not subject to professional disciplinary action, solely for such reliance if the power of attorney is completed and the signatures of the parent, guardian, or custodian of the child and the grandparent designated as attorney in fact are notarized.
2. The decision of a grandparent designated as attorney in fact, based on a power of attorney, shall be honored by a health care facility or practitioner, school district, or school official.

Source: H.B. 130 Enrolled Version, 125th General Assembly