

Grandparent Power of Attorney (POA)

Ohio law (R.C. 3109.52 *et seq.*) allows a grandparent to hold Power of Attorney (POA) over a child in certain circumstances. These circumstances can be found on page 2 of the attached Power of Attorney form or under Ohio Revised Code Section 3109.57.

POA allows the parent(s), guardian, or custodian to grant the right to care, physical custody, and control of the child to the grandparent with whom the child resides. This includes the ability to enroll the child in school and manage school related matters, however, it does not transfer either legal custody of the child or child support. (R.C. 3109.52)

INSTRUCTIONS:

1. Complete the attached General Information Sheet, Power of Attorney, and Parenting Proceeding Affidavit.
2. Both the residential parent, legal guardian, or legal custodian and grandparent must sign the POA form before an Ohio notary public. (R.C. 3109.53 and 3109.54)
 - Both parents must sign if:
 - (1) The parents are married and living together as husband and wife;
 - (2) The child is subject to a shared parenting order; or
 - (3) The child is subject to a custody order under R.C. 3109.04, **UNLESS**
 - (a) The non-residential parent is prohibited from receiving notice of intent to relocate under R.C. 3109.051;
 - (b) Parental rights have been terminated by a juvenile court under R.C. Chapter 2151; or
 - (c) The non-residential parent cannot be located through reasonable efforts. (R.C. 3109.56)
 - In cases where the non-residential parent is not required to sign the POA, notice **MUST** be sent to that parent by certified mail within 5 days of the signing of the POA unless (a)(b) or (c) above applies (R.C. 3109.55)
3. **THE POA MUST BE FILED IN JUVENILE COURT WITHIN 5 DAYS OF BEING NOTARIZED.**
 - The POA may be filed in either the juvenile court in the county where the grandparent resides or in a county that has already exercised jurisdiction over the child (ex. in a previous custody case)
 - If notice to the non-residential parent by certified mail is required (see above), proof of certified mailing **MUST** accompany the filing (R.C. 3109.53)
4. **TERMINATION OR REVOCATION OF THE POA (R.C. 3109.59)**
 - If POA is ever terminated for any reason, (see item 7 under “Notices” on the POA form or R.C. 3109.59 for conditions of termination), notice of termination must be filed with the court where the POA was originally filed.
 - Notice of revocation must be filed within 5 days of the POA being revoked / terminated.

- The Grandparent must provide written notice to any person or entity who received a copy of or would reasonably have relied on the POA within one week of the filing. A list of persons / entities required to receive notice can be found under item 7 under “Notices” on the POA form or R.C. 3109.60.
- If the grandparent receives written notice of revocation of the power of attorney or the parent, custodian, or guardian removes the child from the grandparent’s home and if the grandparent believes that the revocation or removal is not in the best interest of the child, R.C. 3109.53 provides that the grandparent may, within fourteen (14) days, file a complaint in the juvenile court to seek legal custody. The grandparent may retain physical custody of the child until the fourteen-day period elapses or, if a complaint for custody is filed, the grandparent may retain the child until the court orders otherwise.

(R.C. 3109.58) A GRANDPARENT POWER OF ATTORNEY CANNOT BE FILED IF ANY OF THE FOLLOWING APPLY:

1. There is a pending court case involving:
 - a. The appointment of a guardian for the child;
 - b. Adoption of the child;
 - c. Custody of the child, including temporary, permanent, legal, planned permanent living arrangement, or ex parte emergency custody;
 - d. Divorce, dissolution, legal separation, annulment, or allocation of parental rights and responsibility; or
2. The child is subject to a temporary custody order under R.C. 2151.33

FILING A CAA FOR THE PURPOSE OF PARTICIPATION IN ACADEMIC OR SPORTS PROGRAM IS PROHIBITED BY LAW

R.C. 3109.78 prohibits any person from creating a Grandparent POA or CAA for the purpose of enrolling a child in a school or school district so that the child may participate in the academic or interscholastic sports programs provided by that school or school district. Violation of this provision is a first degree misdemeanor and voids the POA or CAA as of the date it was created.

NOTES:

- Free notary services are available at most banks or at the Montgomery County Juvenile Court Office of Citizen Services. Photo ID required.
- A notarized Parenting Proceeding Affidavit, completed by the filing party, must be attached to the POA form when filing. (R.C. 3109.53)
- The court cannot charge a filing fee for the filing of a Grandparent POA.

ALL PARTIES ARE STRONGLY ENCOURAGED TO THOROUGHLY READ THE ENTIRE POA FORM, INCLUDING THE “NOTICES” AND “ADDITIONAL INFORMATION” SECTIONS PRIOR TO SIGNING.