

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.

General Information Sheet

Please check what you are filing for:

_____ **Grandparent Power of Attorney**

_____ **Grandparent Caretaker Authorization Affidavit**

Child's Name' ('F QD: _____

Grandparent's Name' ('P wo dgt: _____ "

....." _____ aaaaaaaaaaaaaaaaaaaaaaaaaaaaa

Address: _____

Parent's Name' ('P wo dgt: _____ "

....." _____ aaaaaaaaaaaaaaaaaaaaaaaaaaaaa

Address: _____

Non-Custodial Rct gpwr'P co g'< aa
"

Cf f t gu< aa"
"

If child is changing schools, please tell us:

What school / district the child is leaving: _____

What school / district will the child attend: _____

IN THE COMMON PLEAS COURT OF MONTGOMERY COUNTY
JUVENILE DIVISION

IN RE: _____ [CHILD'S NAME]

DOB: _____

Juvenile Court Tracking: U# _____

POWER OF ATTORNEY

I, the undersigned, residing at (parent, guardian, or legal custodian's current address) _____,
in the county of _____, state of _____, hereby appoint
the child's grandparent, _____,
residing at _____,
in the county of Montgomery, 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 (child's name)
_____, 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
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 the parent of the child, the child's other parent is deceased, and I have authority to execute this 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:

- (1) 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;
- (2) The other parent is prohibited from receiving a notice of relocation; or
- (3) The parental rights of the other parent have been terminated by order of a juvenile court.

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. 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.

6. A person or entity that relies on this power of attorney, in good faith, has no obligation to make any further inquiry or investigation.
7. This power of attorney terminates on the occurrence of whichever of the following occurs first: (1) the power of attorney is revoked in writing by the person who created it and that person gives written notice of the revocation to the grandparent who is the attorney in fact and the juvenile court with which the power of attorney was filed; (2) the child ceases to live with the grandparent who is the attorney in fact; (3) the power of attorney is terminated by court order; (4) the death of the child who is the subject of the power of attorney; or (5) 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;
 - (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.
8. 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's 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.

3. If you receive written notice of revocation of the power of attorney or the parent, custodian, or guardian removes the child from your home and if you believe that the revocation or removal is not in the best interest of the child, you may, within fourteen days, file a complaint in the juvenile court to seek custody. You may retain physical custody of the child until the fourteen-day period elapses or, if you file a complaint, until the court orders otherwise.

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.

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

IN THE MATTER OF:

_____ **JC#** _____

_____ **JC#** _____

_____ **JC#** _____

Minor Child(ren)

_____ **SETS** _____
Plaintiff/Petitioner

JUDGE _____

v./and

MAGISTRATE _____

Defendant/Petitioner/Respondent

Instructions: Check local court rules to determine when this form must be filed. By law, an affidavit must be filed and served with any Complaint, Petition or Motion regarding the allocation of parental rights and responsibilities, parenting time, custody, or visitation. Each party has a continuing duty while this case is pending to inform the Court of any parenting proceeding concerning the child(ren) in any other court in this or any other state. **If more space is needed, add additional pages.**

PARENTING PROCEEDING AFFIDAVIT (R.C. 3127.23(A))

Affidavit of _____
(Print Your Name and Relationship to Child)

ONLY CHECK THE FOLLOWING BOX IF YOU BELIEVE THAT THE HEALTH, SAFETY, OR LIBERTY OF YOURSELF OR YOUR CHILD(REN) WOULD BE JEOPARDIZED BY THE DISCLOSURE OF YOUR ADDRESS OR IDENTIFYING INFORMATION. YOU ACKNOWLEDGE THAT THE COURT MAY CONDUCT A HEARING REGARDING THE BASIS FOR YOUR REQUEST.

Pursuant to R.C. 3127.23 (D), I allege that my health, safety, or liberty or that of my child(ren) would be jeopardized by the disclosure of identifying information to my spouse or the public. Therefore, I request that my address be placed under seal. I have marked the corresponding box next to each address I am requesting to be sealed.

1. (Number): _____ Minor child(ren) is/are subject to this case as follows:

Insert the information requested below for all minor or dependent children of this relationship. You must list the residences for all places where the children have lived for the last **FIVE** years.

a. Child's Name: _____ **Place of Birth:** _____
Date of Birth: _____ **Sex:** Male Female

<u>Period of Residence</u>	<u>Check if Confidential</u>	<u>Person(s) With Whom Child Lived (name & address)</u>	<u>Relationship</u>
_____ to present	<input type="checkbox"/> Address Confidential?	_____	_____
_____ to _____	<input type="checkbox"/> Address Confidential?	_____	_____
_____ to _____	<input type="checkbox"/> Address Confidential?	_____	_____

b. Child's Name: _____ **Place of Birth:** _____
Date of Birth: _____ **Sex:** Male Female

Check this box if the information requested below would be the same as in subsection 2a and skip to the next question.

<u>Period of Residence</u>	<u>Check if Confidential</u>	<u>Person(s) With Whom Child Lived (name & address)</u>	<u>Relationship</u>
_____ to present	<input type="checkbox"/> Address Confidential?	_____	_____
_____ to _____	<input type="checkbox"/> Address Confidential?	_____	_____
_____ to _____	<input type="checkbox"/> Address Confidential?	_____	_____

c. Child's Name: _____ **Place of Birth:** _____
Date of Birth: _____ **Sex:** Male Female

Check this box if the information requested below would be the same as in subsection 2a and skip to the next question.

<u>Period of Residence</u>	<u>Check if Confidential</u>	<u>Person(s) With Whom Child Lived (name & address)</u>	<u>Relationship</u>
_____ to present	<input type="checkbox"/> Address Confidential?	_____	_____
_____ to _____	<input type="checkbox"/> Address Confidential?	_____	_____
_____ to _____	<input type="checkbox"/> Address Confidential?	_____	_____

d. Additional children are listed on Attachment 1(d). (Provide requested information for additional children on an attachment labeled 1(d).

2. Participation in custody case(s): (Check only one box)

I HAVE NOT participated as a party, witness, or in any capacity in any other case, in this or any other state, concerning the custody of, or visitation (parenting time) with, any child subject to this case.

I HAVE participated as a party, witness, or in any capacity in any other case, in this or any other state, concerning the custody of, or visitation (parenting time) with, any child subject to this case.

Explain: _____

a. Name of each child: _____

b. Type of case: _____

c. Court and State: _____

d. Date and court order or judgement (if any): _____

3. Information about custody case(s): (Check one box only)

I HAVE NO INFORMATION concerning cases that could affect the current case, including any cases relating to custody; domestic violence or protection orders; dependency, neglect or abuse allegations; or adoptions concerning a child subject to this case.

I HAVE THE FOLLOWING INFORMATION concerning cases that could affect the current case, including any cases relating to custody; domestic violence or protection orders; dependency, neglect or abuse allegations; or adoptions concerning a child subject to this case other than listed in Paragraph 2.

Explain: _____

e. Name of each child: _____

f. Type of case: _____

g. Court and State: _____

h. Date and court order or judgement (if any): _____

4. Information about criminal convictions:

List all of the criminal convictions, including guilty pleas, for you and the members of your household for the following offenses: any criminal offense involving acts that resulted in a child being abused or neglected; any domestic violence offense that is a violation of R.C. 2919.25; any sexually oriented offense as defined in R.C. 2950.01; and any offense involving a victim who was a family or household member at the time of the offense and caused physical harm to the victim during the commission of the offense.

<u>Name</u>	<u>Case Number</u>	<u>Court/State/County</u>	<u>Charge</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

5. Persons not a party to this case: (Check only one box)

I DO NOT KNOW OF ANY PERSON not a party to this case who has physical custody or claims to have custody or visitation rights with respect to any child subject to this case.

I KNOW THAT THE FOLLOWING NAMED PERSON(S) not a party to this case has/have physical custody or claim(s) to have custody or visitation rights with respect to any child subject to this case.

a. Name / Address of Person: _____

has physical custody claims custody rights claims visitation rights

Name of each child: _____

b. Name / Address of Person: _____

has physical custody claims custody rights claims visitation rights

Name of each child: _____

c. Name / Address of Person: _____

has physical custody claims custody rights claims visitation rights

Name of each child: _____

OATH

(Do Not Sign Until Notary is Present)

I, (print name) _____, swear or affirm that I have read this Affidavit and, to the best of my knowledge and belief, the facts and information stated in this Affidavit are true, accurate and complete. I understand that if I do not tell the truth, I may be subject to penalties for perjury.

Your Signature

Sworn before me and signed in my presence this ____ day of _____, _____.

Notary Public

Printed Name of Notary

(Affix seal here)

Commission Expiration Date: _____