

Community Legal Aid

A non-profit law firm serving the legal needs of low-income individuals and families in central northeast Ohio



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Grandparent Power of Attorney

What is a Grandparent Power of Attorney (POA)?

A Grandparent POA is a legal document giving a grandparent temporary authority to make decisions about a grandchild's care.

A Grandparent POA does not:

- Grant the grandparent legal custody
- Affect the enforcement of a child support order
- Affect the rights of the child's parents, guardian or custodian in any future legal proceeding;

What does a Grandparent POA do? It gives the grandparent legal authority to:

- Enroll the child in school
- Access the child's school information
- Provide consent for school activities
- Be involved in the child's educational planning
- Arrange for the child's medical, dental and psychological treatment

Who creates the Grandparent POA? Only a custodial parent, guardian or legal custodian of a child may create a Grandparent POA.

Must both parents sign a Grandparent POA? It depends.

A POA may be signed by only one parent if:

- The parent is designated by court order as residential parent and legal custodian; or
- There is no order designating the child's parent as the residential parent and legal custodian and the child lives a majority of the school year with that parent.

A POA must be signed by both parents if:

- The parents are married to each other and are living as husband and wife

- There is a shared parenting court order and both parents share legal custody

Can any relative of the child be given a Grandparent POA? No, only grandparents.

When can a Grandparent POA be created? It can be created only if:

- The parent is unable to care for the child due to the parent's serious illness or physical or mental condition or to provide financial support or parental guidance
- The parent is homeless or without a residence
- The parent is in or is about to enter a residential treatment program for substance abuse
- The parent has a well-founded belief that having a grandparent temporarily care for the child is in the child's best interest. However, it **may not** be created for the **sole purpose** of changing schools to participate in academic or sports programs. (Falsification, 1st degree misdemeanor).

What if there is a case already pending?

A Grandparent POA is not effective if there is:

- A proceeding to appoint a guardian
- A proceeding for the adoption of the child
- A divorce proceeding
- A dissolution of marriage
- A legal separation proceeding
- An annulment proceeding
- A proceeding to allocate parental rights and responsibilities
- A proceeding where the child is alleged to be dependent, neglected or abused
- The child is in shelter care or detention and no hearing has yet been held
- The child is the subject of a temporary custody order for emergency medical treatment

How is a Grandparent POA created? A Power of Attorney form must be completed and signed in front of a notary public by the parent(s), (or custodial parent, guardian or legal custodian) and by the grandparent being given authority

What are the other requirements after the Grandparent POA is created?

- Either parent who did not sign must be sent notice by certified mail within 5 days. The notice must state the grandparent's name and address.
- It must be filed in court within the next 5 days along with the certified mail receipt showing notice was sent to the parent(s). File the original POA with the Juvenile Court in the county where the grandparent lives. If another court in the past has made a custody order for the child, the POA must be filed in that court. There is no filing fee.

Does the non-custodial parent always have to be notified? The non-custodial parent does not have to be notified if:

- A court order prohibits that parent from receiving a notice of change of residence of the child

- That parent's parental rights have been terminated by a Juvenile Court order
- That parent cannot be located with reasonable efforts
- Both parents sign the Power of Attorney

Is there a court hearing after the Grandparent POA is filed? No court hearing is required. However, if the non-custodial parent seeks custody of the child, a hearing will be held.

What could the court do at this hearing? The court may take any of the following actions:

- Approve the Grandparent Power of Attorney
- Terminate the Grandparent Power of Attorney and order the child returned.
- Treat the filing of the Grandparent POA as a petition for legal custody and award legal custody of the child to the grandparent.

How long is the Grandparent POA valid? It ends at:

- The child stops living with the grandparent
- The child dies
- Designated grandparent dies
- It is terminated by court order
- The parent revokes and gives written notice to the grandparent and the court where the POA was filed.

What must I do if the Grandparent POA is revoked? Within 5 days, the grandparent must file a copy of the revocation with the court. Also, the grandparent must send written notice within 7 days to:

- The child's school
- The child's health care providers
- The child's health insurance coverage provider
- Any other person or entity that has an ongoing relationship with the child
- The Court in which the POA was filed after it was created
- The non-custodial parent, if notice was provided at the time of it was created

What if my grandchild was left in my care and I cannot locate the parents? You may be eligible to create a Caretaker Authorization Affidavit.

Can I contest a revocation of my Grandparent POA? Yes. If the child is removed from your home or you received written notice of revocation and you believe that the revocation is not within the best interest of the child, you can file a complaint with the Juvenile Court seeking a determination of custody. This complaint must be filed within 14 days of revocation. You may retain custody of the child during the 14 day period for filing a complaint, if you file, or until the court orders otherwise.

*This article is meant to give you general information and not to give you specific legal advice.
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