

What is Power of Attorney?

Power of attorney is an instrument in writing whereby one person appoints another as his/her agent and confers authority to perform certain specified acts or kinds of acts on behalf of the person.

Power of Attorney to be Appointed to a Grandparent

Pursuant to Section 3109.27 of the Ohio Revised Code, a parent or a guardian of a child may transfer to a grandparent the power of attorney to execute certain parental responsibilities, if one of the following conditions exists for a parent or a guardian:

- Seriously ill.
- Incarcerated or about to be incarcerated.
- Temporarily unable to provide financial support or parental guidance to the child.
- Temporarily unable to provide adequate care and supervision for the child because of the physical or mental condition of the parent or guardian.
- Homeless or without residence because the current residence is destroyed or otherwise uninhabitable.
- In or about to enter a residential treatment program for substance abuse.
- The parent or guardian has a well-founded belief that the transfer of power of attorney is in the child's best interest.

The Process by Which a Grandparent May Obtain Power of Attorney

If any of the conditions listed above exist and the parent(s)/guardian(s) wishes to transfer power of attorney to a grandparent, two forms must be completed:

1. Power of Attorney form
2. Parenting Affidavit form

Both forms must be completed in full relative to one of the following conditions:

1. The mother and the father and the grandparent must sign the "Power of Attorney" affidavit form in the presence of a notary if:
 - parents are married
 - a divorce is pending
 - parents are parties to a shared-parenting order

If the whereabouts of a parent is unknown, this parent's address should be noted as "unknown" on the Power of Attorney affidavit form.

2. The custodial parent/legal guardian and the grandparent must sign the "Power of Attorney" affidavit form in the presence of a notary if:
 - Parents were never married
 - One parent/legal guardian has been granted sole custody

The non-custodial parent must be notified of the power of attorney in the following manner: a copy of the "Power of Attorney" form which has been signed by the custodial parent/guardian and grandparent *in the presence of a notary*, must be mailed to the non-custodial parent, and a receipt in the form of a "Certificate of Service" must be obtained from the post office. This "Certificate of Service" must be presented to the Lorain County Juvenile Court Clerk's Department to serve as proof that a copy of the affidavit was mailed to the non-custodial parent.

The Parenting Affidavit Form Must Accompany the Power of Attorney Form and Must be Notarized. The completed Parenting Affidavit form must accompany the completed Power of Attorney Affidavit form, if power of attorney is to be transferred to a grandparent. Either a parent/guardian or a grandparent may complete the "Parenting Affidavit" form. The parent/guardian or the grandparent who completed the "Parenting Affidavit" form must sign the form in the presence of a notary. THE NOTARIZED PARENTING AFFIDAVIT and THE NOTARIZED POWER OF ATTORNEY AFFIDAVIT MUST BE SUBMITTED TO THE JUVENILE COURT CLERK'S DEPARTMENT, LORAIN COUNTY JUSTICE CENTER, FIRST FLOOR, 225 COURT STREET, ELYRIA, OHIO WITHIN 5 DAYS FOLLOWING THE NOTARIZATION OF THE FORMS.

Death of Parents or Parental Whereabouts are Unknown

If the whereabouts of both parents/legal guardians are unknown or parents are deceased, the grandparent must complete both the:

1. "Caretaker Authorization Affidavit" form.
2. "Parent Affidavit" form.

The grandparent must sign both forms in the presence of a notary. THE NOTARIZED PARENT AFFIDAVIT and THE NOTARIZED POWER OF ATTORNEY AFFIDAVIT MUST BE SUBMITTED TO THE JUVENILE COURT CLERK'S DEPARTMENT, LORAIN COUNTY JUSTICE CENTER, FIRST FLOOR, 225 COURT STREET, ELYRIA, OHIO WITHIN 5 DAYS FOLLOWING THE NOTARIZATION OF THE FORMS.

The Revoking of Power of Attorney

Any "significant" party or Court can revoke a grandparent's power of attorney at anytime.

The Conditions of Power of Attorney Status

The conditions of the power of attorney are the ability to:

- Enroll the child in school.
- Obtain from the school district, the educational and behavioral information about the child.
- Consent to all school-related matters regarding the child.
- Consent to medical, psychological, or dental treatment for the child.

Forms and Questions

Forms for the grandparent power of attorney status may be obtained at the Department of Juvenile Court Clerks at the Justice Center, 225 Court Street, First Floor, Elyria, or from the Court's website: www.loraincounty.com/domesticrelations. All questions regarding the grandparent power of attorney process or forms should be directed to the Lorain County Juvenile Clerks Department at (440) 329-5472.

Other Options

Section 3309.27 of the O.R.C. applies to the transfer of power of attorney only, and the transfer is exclusively to a grandparent.

Guardianship of a Child

If a grandparent, or any other relative or a friend of the family, wishes to obtain legal guardianship of a child either:

- An attorney may be contacted to facilitate the legal guardianship of a child OR
- Parties may file for legal guardianship in Probate Court (329-5175); located at the Justice Center, sixth floor. Upon the filing with the Probate Court a fee must be paid.

Custody of a Child

If a grandparent, or any other relative or a friend of the family, wishes to obtain legal custody of a child either

- An attorney may be contacted to facilitate the process **OR**
- A complaint may be filed in the Lorain County Juvenile Court for custody of a child. Costs required include \$200 to file a complaint and \$100 to file a motion. Additionally, the party must prepare the necessary forms. The necessary pre-printed forms for filing for legal custody may be found on the website:
<http://www.supremecourt.ohio.gov/jcs/cfc/drforms/default.asp>