

**GEAUGA COUNTY JUVENILE COURT
JUDGE TIMOTHY J. GREDELL**

CHECKLIST – RESIDENTIAL GRANDPARENT POWER OF ATTORNEY

These instructions are provided as a public service of the Geauga County Juvenile Court, are intended as a guideline only, and are not legal advice. Depending on the circumstances of each case, additional steps may be required that are not listed below. The clerks are not attorneys and therefore cannot answer legal questions or assist you in completing the forms or deciding which forms apply to your situation. The documents that you file must be legible, and completed in their entirety. The clerks may refuse for filing illegible or incomplete documents. The Court recommends that you obtain legal advice from your attorney or obtain assistance from the Court’s Help Center before preparing and filing any forms. You may make an appointment with the Help Center by calling 440-279-1834. If you decide to proceed without assistance from your attorney or from the Court’s Help Center, then you should read:

- R.C. Sections 3109.51 to 3109.80
- Juvenile Information Sheet titled “Nonparent Rights”
- Residential Grandparent Power of Attorney – particularly page 2

Background

Ohio law allows a grandparent, with whom a child is residing, to hold Power of Attorney (POA) over a child in certain circumstances. Those circumstances are set forth on page two of the Power of Attorney form and R.C. Section 3109.57. The POA allows the parent(s), guardian, or custodian to grant the right to care, physical custody, and control of the child to that grandparent. 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. (see R.C. Section 3109.52)

KEY POINTS

1. **Who Must Sign the POA, Notice of Filing.** Both (i) the residential parent, legal guardian, or legal custodian and (ii) a grandparent must sign the POA form before an Ohio notary public. (R.C. Sections 3109.53 and 3109.54). The POA must be notarized. Additionally, with a few exceptions, the non-residential parent must sign the POA if:
 - a. The parents are married and living together as husband and wife; or
 - b. The child is subject to a shared parenting order; or
 - c. The child is subject to a custody order under R.C. Section 3109.04, **UNLESS**
 - (1) The non-residential parent is prohibited from receiving a notice of intent to relocate under R.C. Section 3109.051; or
 - (2) Parental rights of the non-residential parent have been terminated by a juvenile court under R.C. Chapter 2151; or
 - (3) The non-residential parent cannot be located through reasonable efforts. (R.C. Section 3109.56)
2. **Notice Requirement.** In cases where the non-residential parent does not sign the POA and is not required to sign the POA (e.g., the non-residential parent is unmarried father and there is no court order regarding child custody), notice **MUST** be sent to that parent by certified mail no later than five days after the signing of the POA unless exceptions (1), (2) or (3)

above apply (see R.C. Section 3109.55). The grandparent shall use form titled “GC JF 9.3 – Notice to Nonresidential Parent” to notify the non-residential parent.

3. **Court Filing Requirement.** No later than five days after the POA is signed and notarized, the POA must be filed in a juvenile court in either (1) the county where the grandparent resides or (2) a county that has already exercised jurisdiction over the child (e.g., in a previous custody case). The grandparent may file the POA and other required documents with the Court by certified mail.
4. **Prohibition of Filing.** A POA CANNOT be filed if any of the following apply:
 - a. There is a pending court case involving:
 - (1) The appointment of a guardian for the child; or
 - (2) Adoption of the child; or
 - (3) Custody of the child, including temporary, permanent, legal, planned permanent living arrangement, or ex parte emergency custody; or
 - (4) Divorce, dissolution, legal separation, annulment, or allocation of parental rights and responsibility; or
 - b. The child is subject to a temporary custody order under R.C. Section 2151.33, or
 - c. The purpose for filing the POA is to enable the child to 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 as of the date it was created.

Filing Requirements – Residential Grandparent Power of Attorney

1. **Form “Residential Grandparent of Attorney”**
2. **Form GC JF 9.4A “Information Sheet”**
3. If both parents did not sign the Custody Power of Attorney, then prepare and file **Form GC JF 9.4 “Receipt Showing Compliance with Notice to Nonresidential Parent”**
 - If delivery of a notice is required, then confirm that the grandparent did deliver the notice by certified mail, return receipt requested, no later than five days after signing the Custody Power of Attorney
 - i. Attach a copy of the completed form “GC JF 9.3 Notice to Nonresidential Parent,” and
 - ii. Upon receipt, promptly file with the Clerk the “green card” as evidence of delivery by certified mail
4. **Form GC JF 12.5 “Supporting Facts Affidavit”**

Additional Notes

- A separate Residential Grandparent Power of Attorney must be created for each child.
- The Residential Grandparent Power of Attorney must be notarized.
- No costs are assessed at the time of filing of a Residential Grandparent Power of Attorney.