



Grandparents Caretaker Law

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This fact sheet is designed to address the most frequently asked questions about Ohio's Grandparent Caretaker Law. The information is of a general nature. Readers should seek advice of legal counsel with specific legal problems or questions.

What is the Grandparent Caretaker Law?

In many families, grandparents act as caregivers for their grandchildren. Often, legal steps to obtain custody have not been taken and/or no formal change in custody is desired. However, schools have legal options to properly enroll students whose grandparents are acting in this role. This fact sheet provides an overview of the law regarding grandparent caretakers and enrollment of their grandchildren.

General information

Under Ohio law, two legal documents – a grandparent power of attorney (POA) and a caretaker authorization affidavit (CTA) – make it possible for grandparents with a grandchild living with them to enroll the grandchild in school and make other educational decisions for the child. The law prescribes a form that must be used for both documents and the specific circumstances under which each document can be created. The Supreme Court of Ohio has developed [standardized forms](#) that may be used by grandparents interested in filing.

Under Ohio Revised Code Section [\(RC\) 3109.52](#), the POA is created by a parent, guardian or custodian and “grants to the grandparent of the child with whom the child is residing any of the parent’s, guardian’s or custodian’s rights or responsibilities regarding the care, physical custody and control of the child, including the 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.” The POA does not convey legal custody of the grandchild to the grandparent and does not affect the rights of a parent, guardian or custodian in any future proceedings.

Under [RC 3109.65](#), a CTA may be executed by a grandparent who has made “reasonable attempts to locate and contact both of the child’s parents or the child’s guardian or custodian, but has been unable to do so.” The CTA gives the grandparent the “authority to exercise care, physical custody and control of the child, including the authority to enroll the child in school, to discuss with the school district the child’s educational progress, to consent to all school-related matters regarding the child and to consent to medical, psychological or dental treatment for the child.” The decision of a grandparent to consent to or refuse medical treatment or school enrollment for a child is superseded by a contrary decision of a parent, custodian or guardian of the child, unless the decision of the parent, guardian or custodian would jeopardize the life, health or safety of the child ([RC 3109.66](#)).

Neither document may be used to enroll a child in a school district just so that the child may participate in academic or interscholastic athletic activities ([RC 3109.78](#)). If either document is executed for these purposes, the document is void from the date of execution. Persons who execute either document for such purposes may be prosecuted for the criminal offense of falsification of a legal document.

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For more information on this subject, please contact OSBA’s Division of Legal Services

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When may a POA be executed?

A POA may be executed only if one of the following circumstances exists:

- the parent, guardian or custodian of the child is: seriously ill, incarcerated or about to be incarcerated; temporarily unable to provide financial support or parental guidance; temporarily unable due to a physical or mental condition to provide adequate care and supervision of the child; homeless or without a residence because the current residence has been destroyed or is otherwise uninhabitable; or in or about to enter into a residential program for substance abuse;
- the child's other parent is deceased and the surviving parent has the authority to execute the POA;
- the parent has a well-founded belief that the POA is in the child's best interest.

The POA is created using the form provided in [RC 3109.53](#), which must be signed by the parent(s), guardian(s) or custodian(s) and by the grandparent with all signatures notarized. The parent(s), guardian(s) or custodian(s) must file the POA with the juvenile court in the county where the grandparent resides or in any other court having jurisdiction over the child within five days of the document's execution ([RC 3109.74](#)).

A POA may not be executed while certain legal proceedings concerning the child are pending. These include the appointment of a guardian, adoption proceedings, custody proceedings or a divorce, dissolution, separation, annulment or allocation of parental rights and responsibilities proceeding ([RC 3109.58](#)).

When may a CTA be executed?

A CTA may be executed by a grandparent if the child is living with the grandparent and the grandparent has made "reasonable attempts" to locate and contact both of the child's parents or the child's guardian or custodian but has been unable to do so. The grandparent is not required to attempt to locate: 1) the child's father if paternity has not been established; 2) a parent who is prohibited from receiving notice of relocation; or 3) a parent whose parental rights have been terminated.

The CTA is created using the form provided in [RC 3109.66](#), which must be signed by the grandparent, notarized and filed in the juvenile court in the county where the grandparent resides or any other court having jurisdiction over the child within five days of the document's execution ([RC 3109.74](#)).

A CTA may not be executed while certain legal proceedings concerning the child are pending. These include the appointment of a guardian, adoption proceedings, custody proceedings or a divorce, dissolution, separation, annulment or allocation of

parental rights and responsibilities proceeding ([RC 3109.68](#)).

What must a school district do to comply with this law?

First, a school district should ensure its admissions policies reflect the law. Second, school officials should ask if either of these documents applies when a child is being enrolled in the district. Under [RC 3313.672](#), the grandparent must produce a copy of the POA or CTA to the school district if they are seeking to enroll the child in that district pursuant to one of these documents. Third, school districts should remember that the parents of a child subject to one of these documents may still have certain rights under other laws. For example, neither the POA or CTA prevent the parent, guardian or custodian of the child from having access to all school records pertinent to the child ([RC 3109.53](#) and [RC 3109.66](#)).

Can our school district charge tuition for a child admitted under a grandparent POA or CTA?

No. A school district must admit a child subject to one of these documents into the district free of tuition ([RC 3313.64](#)).

May a district require proof that the grandparent lives in the school district?

Yes. The prescribed forms found in the law clearly state that a school district may require additional evidence that the grandparent resides at the claimed address.

How do the documents terminate?

Both the POA and CTA terminate after any of the following events:

- the child ceases to reside with the grandparent;
- the document is terminated by court order;
- the grandchild or grandparent dies.

Additionally, a POA terminates if the person who created it revokes it in writing and gives notice to the grandparent designated as attorney in fact and the juvenile court with which the POA was filed.

Additionally, a CTA is terminated if the child's parent, custodian or guardian acts to negate, reverse or otherwise disapprove an action or decision of the grandparent and the grandparent either voluntarily returns the child to the physical custody of the parent, guardian or custodian or fails to file a complaint to seek custody within 14 days.

When one of these terminating events occurs (excluding the death of the grandparent), it is the responsibility of the grandparent to inform all relevant parties in writing, including the school district, within one week of the terminating event.

May a grandparent challenge the termination or revocation?

Yes. If the grandparent designated as the attorney in fact receives written notice of revocation of the POA or CTA or the parent, custodian or guardian removes the child from the grandparent’s home and the grandparent believes that the revocation or removal is not in the best interest of the child, the grandparent may, within 14 days, file a complaint in the juvenile court seeking custody. The grandparent may retain physical custody of the child until the 14-day period elapses or, if a complaint is filed, until the court orders otherwise ([RC 3109.76](#)).

What happens if a school district relies on documents that are later found to be invalid?

Under [RC 3109.61](#) and [3109.73](#), a person who relies on or takes action based on either document in good faith is “immune from criminal or civil liability for injury, death or loss to persons or property that might otherwise be incurred or imposed solely as a result of the person’s reliance or action.” The law also shields a person from disciplinary action from any entity that licenses or certifies an individual.

A school district may verify if a POA or CTA has been filed by contacting the juvenile court in which the document was filed ([RC 3109.75](#)).

Can there be more than one document executed for a child at one time?

No. [RC 3109.80](#) specifically states that only one POA or CTA may be in effect at a time.

The information in this fact sheet is designed to provide authoritative general information. It should not be relied upon as legal advice. OSBA recommends that questions of legal interpretation be directed to your board’s legal counsel.