

*These materials are for information only. They do not provide legal advice.  
If you have questions about whether a custodial power of attorney is right for you or your family, or how to  
prepare a custodial power of attorney, you should seek legal advice.*

## **INFORMATION ABOUT CUSTODIAL POWERS OF ATTORNEY**

### **What is a custodial power of attorney?**

Under District of Columbia law, a parent can sign a custodial power of attorney that authorizes a third party (a person other than a parent) to make decisions on the child's behalf and/or designate with whom his/her child will live. A custodial power of attorney can also authorize the third party to obtain services for the child, like medical care or mental health care. You may wish to give such authority to a third party if you cannot take care of your child due to, for instance, a physical or mental health condition, extended hospitalization, incarceration, military deployment, or for any reason. You do not have to say why you are granting a custodial power of attorney, but you may do so if you wish. ***The powers and responsibilities granted to a third person by a custodial power of attorney are broad. Both the parent and the third party can seek legal advice regarding this document.***

### **What powers does a custodial power of attorney grant?**

The parent decides what powers to grant to the third party when preparing the custodial power of attorney. The attached sample power of attorney lists various powers that a parent may wish to grant. To grant the *most* power to a third party, a parent should check all of the lines in paragraph 5, especially the last line.

A parent may also limit the powers granted by the power of attorney. A parent may do so by writing specific limitations in paragraph 7.

### **Do I have to get a custodial power of attorney notarized?**

Although notarization is not required, it may be helpful. Notarization may make it easier to use the form to obtain services for the child.

### **How should a third party use a custodial power of attorney?**

When the third party seeks to enroll a child in school, obtain medical care for the child, or obtain any other service or benefit for the child, the third party should bring the custodial power of attorney. It may also help to bring a copy of the law (which is attached).

### **Can a parent revoke or withdraw the custodial power of attorney?**

Yes. A parent can revoke the custodial power of attorney at any time after signing it. The custodial power of attorney form itself may describe *how* a parent can revoke the custodial power of attorney. A sample revocation form is also attached.

### **How long does a custodial power of attorney last?**

Generally, if the custodial power of attorney does not include a time limit, it lasts until the parent revokes it. The sample form provides that you can revoke it in writing at any time, and a sample revocation form is also attached.

A parent can also specify a time limit for the power of attorney. For example, the parent could write in the form: "This custodial power of attorney shall take effect on [date] and shall remain in effect until [date]."

### **What is the difference between a custodial power of attorney and a court custody order?**

A custodial power of attorney is a legal document signed by a parent but not approved by a court. Generally, it is easier to revoke a custodial power of attorney than to change a court custody order. Every case is different and you should seek legal advice if you have questions about which option to use.

**DISTRICT OF COLUMBIA CUSTODIAL POWER OF ATTORNEY  
PURSUANT TO D.C. CODE § 21-2301**

1. I, \_\_\_\_\_, am the parent of the child(ren) listed below. There are no  
Parent's name  
court orders now in effect which would prohibit me from exercising the power that I now seek to convey.

2. My address is:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. \_\_\_\_\_ is an adult whose address is:  
Third party's name  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. I grant to \_\_\_\_\_ the parental rights and responsibilities listed below  
Third party's name  
regarding care, physical custody, and control of the following child(ren):

<u>Name:</u>	<u>Date of Birth:</u>	<u>Relationship to Child:</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

5. I grant \_\_\_\_\_ these parental rights and responsibilities regarding the  
Third party's name  
above-listed child(ren):

INITIAL THE LINE IN FRONT OF EACH POWER YOU ARE GRANTING. IF YOU DO NOT WISH TO GRANT A SPECIFIC POWER, DO NOT INITIAL THE LINE IN FRONT OF IT. YOU MAY, BUT NEED NOT, CROSS OUT EACH POWER YOU DO NOT WISH TO GRANT.

- \_\_\_ physical custody of the child(ren) listed above;
- \_\_\_ the authority to enroll the child(ren) listed above in school;
- \_\_\_ the authority to obtain educational records regarding the child(ren) listed above;
- \_\_\_ the authority to make all school-related decisions for the child(ren) listed above;
- \_\_\_ the authority to obtain medical, mental health, or dental records regarding the child(ren) listed above;
- \_\_\_ the authority to consent to medical, mental health, or dental treatment for the child(ren) listed above;
- \_\_\_ the authority to act as representative payee for any Social Security benefits for which the child(ren) listed above may be eligible;

\_\_\_ the authority to receive any other benefits for which the child(ren) listed above may be eligible; and

\_\_\_ all of the rights and responsibilities listed above and, to the greatest extent possible by law, the authority to make any other decision or obtain any other benefits necessary for the welfare of the child(ren) listed above.

6. This custodial power of attorney does not include authority to consent to the marriage or adoption of the child. In addition, unless otherwise agreed by the parties in writing, the custodial power of attorney granted in this form does not affect:

- A) the right of the above-listed child(ren) to inherit from his or her (their) parent;
- B) the parent's right to visit or contact the child(ren);
- C) the parent's right to determine the child(ren)'s religious affiliation;
- D) the parent's responsibility to provide financial, medical, and other support for the child(ren).

7. The custodial power of attorney granted in this form is further limited by these instructions:

\_\_\_\_\_

8. As set forth in D.C. Code § 21-2301, the custodial power of attorney granted in this form does not affect my rights in any future proceeding concerning custody of or the allocation of parental rights and responsibilities for the child(ren) listed above.

9. The custodial power of attorney granted in this form shall take effect immediately. It shall continue to be effective even if I become disabled, incapacitated, or incompetent.

10. The custodial power of attorney granted in this form shall continue until I revoke it in writing and notify \_\_\_\_\_ in writing of my revocation.

**Third party's name**

11. A person or entity that relies on this custodial power of attorney in good faith has no obligation to make any further inquiry or investigation into the authority of the attorney to act as described in this document. Revocation of this custodial power of attorney is not effective as to a person or entity that relies on it in good faith until that person or entity learns of the revocation.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
(Parent's Signature)  
District of Columbia

This document was acknowledged before me on \_\_\_\_\_  
(Date) by \_\_\_\_\_ (name of Parent)

\_\_\_\_\_  
(Signature of notarial officer)

My commission expires: \_\_\_\_\_

**REVOCATION OF A DISTRICT OF COLUMBIA CUSTODIAL POWER OF ATTORNEY  
PURSUANT TO D.C. CODE § 21-2301**

1. I, \_\_\_\_\_, am the parent of the child(ren) listed below. My address is:  
Parent's name

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. \_\_\_\_\_ is an adult whose address is:  
Third party's name

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. On \_\_\_\_\_ I signed a custodial power of attorney granting to  
Date  
\_\_\_\_\_ parental rights and responsibilities regarding the care,  
Third party's name  
physical custody, and control of the following child(ren):

Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

4. I hereby revoke the above-reference custodial power of attorney. I have sent written notice of this revocation in person, by regular mail, or by fax to \_\_\_\_\_ on  
Third party's name  
\_\_\_\_\_.  
Date

**This revocation will take effect upon that person's receipt of that written notice.**

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
(Parent's Signature)  
District of Columbia

This document was acknowledged before me on  
\_\_\_\_\_ (Date) by \_\_\_\_\_ (name of Parent)

\_\_\_\_\_  
(Signature of notarial officer)

My commission expires: \_\_\_\_\_