

Commonly Asked Questions

- 1) What is a Power of Attorney?
A Power of Attorney is a document that allows you to give someone else the authority to care for and make decisions about your child or children.
- 2) Do I need to complete a separate form for each of my children?
YES
- 3) In the Power of Attorney, what is the person who would get the authority to care for my child or children called?
An "Attorney in Fact"
- 4) Does the "Attorney in Fact" have to be an attorney? Does the "Attorney in Fact" have to be a person with some legal immigration status?
NO – An "Attorney in Fact" does *not* have to be an attorney. You can appoint any adult (18 years of age or over) who you trust and with whom your child/ren would feel comfortable. It is preferable if you appoint someone with legal immigration status, but it is not necessary.
- 5) What can an "Attorney in Fact" do?
The Power of Attorney allows you to give someone else the authority to do the following: (1) care for and provide for your child, (2) make medical and educational decisions, (3) approve and arrange for travel plans, (4) and handle any financial matters in which your child may be involved. You can specify which of these authorities you wish to delegate. You can check only some or you can check all of them. However, if you want the person to be able to fully care for your child if you are not able to do so, then you should check off all of the specific authorities.
- 6) Does the Power of Attorney have to be signed by both parents?
The Power of Attorney is best when signed by both parents. However, if that is not possible, you should still complete the form to the best of your ability. The form includes a section where one parent can explain why the other is not signing.

- 7) Does the Power of Attorney have to be witnessed?
In order to ensure the validity of the Power of Attorney, it should be witnessed by two people. These people do not have to have any immigration status, but they should be over 18 years old. However, if you cannot find any adult to witness your signature, or can only find one adult, you should still complete the form to the best of your ability. The person you use to notarize the document cannot also be a witness.
- 8) Does the Power of Attorney have to be notarized?
In order to ensure the validity of the Power of Attorney, it should be notarized. However, if this is not possible, you should still complete the form to the best of your ability. Notaries are different from *notarios*. Any attorney in New Jersey is a notary. Many banks, UPS stores, and sometimes libraries also have notaries on staff, who for a small fee will notarize documents.
- 9) Does the Attorney in Fact need to sign the Power of Attorney?
NO
- 10) Can someone other than a parent initiate a Power of Attorney?
YES – A person who has legal guardianship can enter into a Power of Attorney, and a person who has legal custody (as opposed to legal guardianship) may also be able to do so. You should complete the form if you are concerned about who will care for the child/ren in your care if you are unable to do so.
- 11) If I am an ORR sponsor, can I initiate a Power of Attorney?
MAYBE – An ORR sponsor who is not a parent and who has no Family Court order authorizing him or her to care for child cannot enter into a Power of Attorney. But an ORR sponsor who goes to Family Court and becomes the child’s legal guardian can initiate a Power of Attorney, and a sponsor who has obtained a legal custody order may also be able to do so.
- 12) Do I need to go to a lawyer to complete a Power of Attorney?
NO – You do not need the assistance of an attorney to complete the Power of Attorney, but it may be helpful to consult a lawyer.
- 13) For how long is the Power of Attorney in place?

The Power of Attorney is only good for 6 months, but you can complete more than one.

- 14) Do I lose my authority as a parent if I enter into a Power of Attorney?
NO – While a Power of Attorney is in place, both the parent(s) and the “Attorney in Fact” can make decisions on behalf of the child.
- 15) How can I end a Power of Attorney?
You can end (“revoke”) the Power of attorney at any time. To revoke, you simply put in writing that you are revoking the Power of Attorney. It is best if the revocation is witnessed and notarized just like the Power of Attorney, but this is not necessary. You should give a copy of the revocation to the person you appointed as Attorney-in-Fact and try to get the original Power of Attorney back. It also would be a good idea to give a copy of the revocation to any doctor or school (or anyone else) who received a copy of the Power of Attorney. This is not necessary, but is the best way to let people (such as doctors or teachers) know that the Power of Attorney is no longer in effect.
- 16) Once a Power of Attorney form is finalized, who should keep the original document?
The Attorney in Fact should keep the original notarized document and the parent should keep a copy. It may also be useful to give copies to the children and/or other close family friends or relatives.
- 17) Will the Power of Attorney keep DCPD (child welfare officials) from taking custody of my child?
The Power of Attorney shows that you made a plan for someone else to care for your child if you could not. However, if DCPD has concerns about the welfare of your child, it may still act to protect the child.
- 18) Is this Power of Attorney good in other states?
NO – This power of attorney is only good for New Jersey. Do not share it with family members in other states. If you have family members outside of New Jersey, they should look for similar documents in their home state.
- 19) If my child is a U.S. Citizen should I get him or her a passport?
YES – If possible, parents should get U.S. passports for their U.S. citizen children. It is difficult for anyone other than the parents to obtain a passport for a child. Therefore, you should get a passport for your child if

you want to make sure the child can travel to another country (including any country to which you or other family members might return). The Power of Attorney allows you to authorize the Attorney in Fact to make travel arrangements and purchase airline tickets for the child/ren, but the Attorney in Fact will probably not be able to get the child/ren a passport.

20) How can I get a U.S. Passport for my child?

You can get a passport at the Post Office and other places that advertise that they accept passport applications. For information on how to get a passport for a child under 16 years of age, go to this link.

<https://travel.state.gov/content/passports/en/passports/under-16.html>

21) What are the necessary steps to get a passport?

1. Fill Out Form DS11
2. Provide Proof of the child's U.S. Citizenship (e.g., U.S. Birth Certificate)
3. Bring a Photocopy of the Proof of U.S. Citizenship (copy the back and the front of the document)
4. Show Parental Relationship (U.S. Birth Certificate, Adoption decree, divorce/custody decree)
5. Present your own ID (a foreign passport is okay)
6. Bring a Photocopy of your ID (copy front and back)
7. Show Parental Consent (Both parents must consent unless one parent has sole legal custody. It is best if both go to the passport office. If this is not possible, a parent can consent by completing Form DS-3053. If a parent cannot be located, then form DS-5525 can be submitted)
8. Provide a 2x2" Portrait Photo of the Child
9. Pay the fees (Total is usually \$100)
10. Submit Your Completed Application