

Power of Attorney for Care of a Child (*IN LOCO PARENTIS*)

A Power of Attorney (POA) for Care of a Child, also referred to as a POA *in loco parentis*, allows a natural or adoptive parent to grant someone who is not a natural or adoptive parent the ability to make parental decisions for minor children on behalf of the natural/adoptive parent. The authority to act begins as soon as the Power of Attorney for Care of Child is executed and lasts until the expiration date (which can only be one year from the date that the principle executed the Power of Attorney per the Legal Assistance Office Policy).

If the principle who granted the Power of Attorney for Care of Child becomes incapacitated during the one year term, the Power of Attorney becomes a Durable Power of Attorney, authorizing the grantee the ability to continue to make parental decisions on behalf of the incapacitated natural parent until further action can be taken to ensure the well being of the child.

Many people get Powers of Attorney for Care of a Child confused with naming a guardian for their children in a will. A Power of Attorney for Care of Child is nothing like naming a guardian in a will because the Power Of Attorney for Child Care is never effective after the death of the principle. If the principle who authorized the Power Of Attorney for Child Care passes away, the Power of Attorney for Child Care immediately ceases to be effective and has no legal authority. Only a validly executed will can control who will be named as guardians for children after a principle's death.

No matter how long it has been since a biological mom or dad has seen a child or which parent has custody, a POA for Care of a Child cannot override a natural or adoptive parent's rights to take a child when the custodial parent is deployed. If natural parents are disputing custody, a POA will not allow a stepparent or grandparent to retain custody if the natural parent comes to retrieve physical custody of their child. Only a court order can grant custody to someone other than a non-natural or adoptive parent. Another issue that comes up often is that deploying Marines and Sailors don't realize that a step-parent needs a Power of Attorney for Care of a Child in order to make decisions for a child because they are not a natural or adoptive parent.

The Power Of Attorney for Child Care is most useful in scenarios where one parent is deployed and the other parent gets called back to her home state for a family emergency and must leave her child in California with close family friends who have volunteered to care for the child for the time that both parents are gone. If in this scenario, the child staying with the family friends becomes ill, the best friends cannot authorize emergency medical care for the child unless a Power Of Attorney for the Care of a Child (*in loco parentis*) has been executed naming them as agents of one of the natural/adoptive parents.

The Joint Legal Assistance office gives classes every Monday, Tuesday, and Wednesday at 1300 specifically dealing with Wills and Power Of Attorneys, and other predeployment legal issues. The Office is located in the 22 Area, Building #22161 on Camp Pendleton. They may be reached via phone at (760) 725-6172.