RETIREMENT

The Simple Legal Document Families Need to Protect Their Kids (But Don't Know About)

If you're not present during an emergency, authorities may need to see a Delegation of Parental Authority before they will allow another adult to make decisions for your child. Here's how to set one up.



Most parents assume that if something unexpected happens to them, a family member can automatically step in and take care of their children when they can't. While that may be true for day-to-day life, it may not be true in an emergency.

When parents become unavailable to care for their children due to illness, injury or legal concerns, schools and medical providers require written legal authority before allowing another adult to act on a child's behalf.

Without legal authorization in place, even trusted relatives may be unable to help. In some situations, agencies such as Child Protective Services, may intervene and place children into temporary foster care.

What many parents don't realize is this outcome can be avoided with proper planning. There is a simple estate planning tool that allows you to designate a trusted adult to care for your child while you're unavailable. It's known as a Delegation of Parental Authority.

What can a Delegation of Parental Authority do — and what can't it do?

A Delegation of Parental Authority is essentially the equivalent of a durable power of attorney. It allows you to appoint a trusted adult to make decisions on your child's behalf when it comes to medical care, school enrollment and day-to-day needs and supervision.

With this document, designations are temporary and revocable. It does not transfer custody, void parental rights or require court involvement. However, many parents are unaware that this document even exists.

Like other estate planning tools, a Delegation of Parental Authority is only effective if it's properly prepared and in place. The next course of action is figuring out how to implement it.

Deciding who to appoint

Start by having a conversation with your spouse about who you would trust to care for your children temporarily in an emergency, for example a grandparent, adult sibling, an aunt or uncle, or a family friend.

When determining who to designate, parents must consider whether this person is actually capable and willing to serve in this role. Some questions to ask are:

- Can this individual be available on short notice, manage school schedules and handle transportation and meals?
- Are they able to confidently and effectively communicate with medical professionals and school administrators on your child's behalf?
- Will they maintain consistency, emotional support and stability if you're temporarily unavailable?

Preparing the document

Once you've identified an individual to delegate, meet with an estate planning attorney. Since delegation requirements vary by state, working with an estate planning attorney can ensure the document is prepared correctly and complies with the law.

They can also help you understand how long a delegation can remain in effect, be modified or revoked when circumstances change.

For this document to be effective, it needs to be signed and completed according to state requirements. This may require notarization or witnesses to be present. Informal letters or verbal agreements won't cut it.

Once the document is completed, parents should keep copies in a secure and accessible place. To prevent delays during an emergency, consider providing a copy to the designated caregiver, school administrators and medical professionals.

Ensuring everyone is on the same page is crucial in times of crisis. If family dynamics change, parents should review their delegation to make sure it still aligns with their current wishes. If not, the document needs to be updated promptly.

NYSUT NOTE: When you need help preparing an important legal document, the NYSUT Member Benefits Trust–endorsed Legal Service Plan is invaluable. With unlimited access to toll-free legal advice from 9 to 5 on weekdays, you can get the help you need with the most important questions of your life.

Maintaining stability

No parent wants to think about a time where they may be separated from their children. But putting a plan in place isn't about expecting the worst, it's about ensuring your child's life remains as stable and normal as possible if you can't be there.

A Delegation of Parental Authority gives families the opportunity to ensure their children are cared for when the unexpected happens.

This article was written by and presents the views of our contributing adviser, not the Kiplinger editorial staff. You can check adviser records with the SEC or with FINRA.

About the Author

Patrick M. Simasko, J.D.
Partner, Simasko Law

Patrick M. Simasko is an elder law attorney and financial adviser at Simasko Law and

Simasko Financial, specializing in elder law and wealth preservation. He's also an Elder Law Professor at Michigan State University School of Law. His self-effacing character, style and ability have garnered him prominence and recognition throughout the metro Detroit area as well as the entire state.

Kiplinger

Kiplinger is part of Future plc, an international media group and leading digital publisher
© 2026 Future US LLC