



ADVANCE PLANNING FOR NON-CITIZEN PARENTS

Disclaimer: This advisory has been created by The Legal Aid Society, Immigration Law Unit. This advisory is not legal advice, and does not substitute for the advice of an immigration expert.

If you are the parent of a minor child, you are not a U.S. citizen, and believe that you might be at risk for being removed (deported) from the U.S. in the future, there are certain steps you can take now to plan for the care and custody of your child.

School Emergency Contact

If your child is enrolled in school, you can name up to three people whom the school can contact if there is an emergency or if your child is sick. Add them to your child's "Blue Card" at school.

- Blue Card, NYC DOE <http://bit.ly/2p1GOXd>

Passport

Use this form to request a U.S. passport for your child, if he or she is a U.S. citizen. If he or she is under 18 years of age, the other parent will have to give their consent, or you must explain why the other parent's permission cannot be obtained or is not necessary.

- Form DS-11, U.S. Passport Application <http://bit.ly/2oUTa3A>
- Form DS-3053, Consent of Other Parent <http://bit.ly/2nAUNmY>

If your child is not a U.S. citizen, ask the appropriate foreign consulate for instructions on how to obtain a passport for your child.

Travel Permission

If you would like to authorize your minor child to travel abroad alone, or if you would like someone to accompany your minor child on a trip abroad, sign this authorization (each parent should sign one, or you must explain why the other parent's permission cannot be obtained or is not necessary). It must be signed in front of a notary public. Your child should travel with his or her original birth certificate and passport, as well as with copies of the documents listed on the Travel Permission form. Also, check the airline's requirements for unaccompanied children.

- Travel Permission <http://bit.ly/2p3HMzt>

Here are some of the airlines' unaccompanied minor travel policies:

- United Airlines <http://bit.ly/1UZKdw5>
- American Airlines <http://bit.ly/2a2mkWt>
- Delta Airlines <http://bit.ly/1f9erXv> (click on "Children traveling alone")
- Jet Blue <http://bit.ly/2oIh9Sz>
- Aero México <http://bit.ly/2ojXgyv> (click on "Children")

Designation of Person in Parental Relationship

Use this form to allow someone to make school decisions and health care decisions for your child. Sign in front of a notary public. You do not need an attorney for this.

- Designation of Person in Parental Relationship, in English <http://bit.ly/2o3HQhH>
- Designation of Person in Parental Relationship, in Spanish <http://bit.ly/2nB67iX>

Standby Guardianship Designation

This form is only for people with serious medical issues. It becomes effective only if a doctor certifies that you have become mentally incompetent; if you have become physically debilitated and you consent to the designation taking effect; or if you pass away. This can be filed with the Family Court, but that is not mandatory.

- Standby Guardianship Designation <http://bit.ly/2oYinKB>

Power of Attorney

Use this form to allow someone to handle property transactions for you. It must be signed in front of a notary public. You do not need an attorney for this. The Power of Attorney does not directly concern care or custody of children, but rather is limited to property matters such as your bank account, apartment lease, insurance matters, health care billing, and so on.

- Power of Attorney <http://bit.ly/2p3CRyw>

Guardianship or Custody Petition in Court

The Family Court or Surrogate's Court can issue orders regarding formal guardianship or custody of your child. **WARNING:** Although having an order of guardianship or custody can be very helpful in terms of establishing someone's rights regarding your child, there are many **risks** with going into court for custody, guardianship, or standby guardianship:

- The other parent must generally be notified of these sorts of court proceedings.
- The other parent can call immigration to come to court when you are going to be there! This is especially dangerous if you already have a final removal (deportation) order.
- The other parent may reappear after being absent from your child's life, and file their own petition regarding your child.
- In a court battle, the other parent will have greater rights to your child than the person that you hope will get custody or guardianship.
- Once a custody order is finalized, it can be very hard to get a court to change the order. So if you want to get custody back, you would need to show a substantial change in circumstances in your child's life; this can be difficult to show.
- The custodian may seek child support from you!

Speak with a qualified attorney before starting any sort of court proceedings regarding your child.

If you have any questions or need assistance, please call our Immigration Hotline at 844-955-3425.