



LEGAL
SERVICES

INCORPORATED

What Rights Do I Have to Visit with My Grandchildren?

As a grandparent, do I have the right to visit my grandchild?

Grandparents do not have an automatic right to visit their grandchildren. A child's parents have the legal right to decide who can and cannot have contact with their children. Judges rarely decide to give grandparents a right to visit a grandchild if the child's parents do not want those visits to happen.

How do I get to visit my grandchild?

If your grandchild is living with a biological mother or father, you should try to work out a visitation arrangement before going to Family Court. If this is impossible or if your grandchild is in foster care, you may ask or "petition" the Family Court to order visits with the children. In most cases, you will have to complete a background check before the judge will order visits.

If your grandchild is in foster care, you can ask the court to order visits with him or her. Those visits may take place at the agency or you may have "unsupervised" visits at a location that you choose. Sometimes, you may also have a right to ask the judge to place those children in your home if they are in the care of unrelated foster parents.

If you already went to court and received an order granting your request for visits, you have a right to make sure that visitation order is enforced.

What do I have to show the court in order to have visits with my grandchild?

You have to show more than love for your grandchild to convince a judge to order visits, as follows:

- **Standing:** Courts usually respect a parent's right to decide which people will have contact with his or her child. To overcome that right, you first have to meet certain "standing" requirements. If one of the child's biological parents is deceased or if the child is in foster care, then you have standing to ask for visits. If both parents are living, you usually must show that you have a strong relationship with your grandchild. For this reason, it is difficult to prove that a grandparent has standing to seek visits with an infant. Sometimes a court will find standing if the child lived with you for a long time or if you were the child's primary caregiver during the child's lifetime. If the judge decides that you do not have standing, the court will dismiss your case.
- **Best interests:** If you have standing to seek visitation, then the court will have to decide if it is in the child's "best interests" to visit with you. "Best interests" are hard to define. However, the most important issue is how the child will benefit from having a relationship with you—not how you will benefit from seeing the child. Some judges have found that a grandparent who can

expand the child's educational and cultural opportunities or build relationships with extended family should have visits in the grandchild's "best interests."

How might domestic violence involving the child's parents affect my visitation petition?

Some grandparents are unable to visit their grandchildren because their adult child is the victim of domestic violence, and the abuser restricts contact with the grandchildren and their abused parent. In these cases, a grandparent should speak with advocates for domestic abuse survivors to decide whether filing a petition for visitation may place the children and their abused parent at an even greater risk of being hurt.

If, on the other hand, your adult child has been accused of abusing an intimate partner or child, a judge will need to make sure that visits with you will not place the children or their abused parent at greater risk of being harmed. The court will deny a visitation request that might allow an abuser to violate an order of protection.

What if the parents are strongly opposed to my seeing my grandchildren?

If the court finds that you have standing to seek visitation, it will consider the reasons why the parents don't want you to visit with the child. The court will also want to see that the parents' ability to raise their child won't be harmed by visiting with you.

How can I strengthen my case?

Your petition should include specific facts, including dates whenever possible, to describe your relationship with your grandchild. It should also say when you have cared for the child and connected with him or her by sending birthday cards, gifts, letters, telephone calls, text messages and emails. You should avoid making negative statements about the child's parents.

Additional Resources

- MFY's Kinship Caregiver Law Project – 212.417.3850
- Legal Information for Families Today – 212.343.1122
- Mayor's Office to Combat Domestic Violence:
 - New York City Family Justice Center (Bronx) – 718.508.1222
 - New York City Family Justice Center (Brooklyn) – 718.250.5111
 - New York City Family Justice Center (Manhattan) – 212.602.2800
 - New York City Family Justice Center (Queens) – 718.575.4500