

## POWERS OF ATTORNEY

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Q. I am about to deploy and in trying to get my things squared away before I leave. Do I have to give my spouse or anyone else a General Power of Attorney?

A. No, you do not need to give your spouse or anyone else a General Power of Attorney. Allow me to explain why this is. A power of attorney (POA) is a legal document by which you give another individual of legal age the authority to act for you or on your behalf. The person giving the POA is called the principal or grantor and the one receiving the power is called the grantee, agent or the attorney in fact.

**There are two types of Powers of Attorney:** general and special or specific. Every act performed by the agent within the authority of the POA is legally binding upon you. This means that if you have given someone the power to do whatever the POA states they can do, then you are held responsible for the action of your attorney in fact. Therefore, you should make sure that you are choosing someone who has proven to be trustworthy and only give a POA when it is absolutely necessary.

A General Power of Attorney gives your agent the right to conduct practically any business transaction you could do yourself. They could write checks and pay your bills, borrow money, and sign contracts or make purchases in your name. This power of attorney may not be accepted by everyone. For instance, you may not be able to use the General POA to cash Government checks, buy or sell stock or other securities, transact business involving privacy act matters, or conduct real estate transactions. Moreover, the law does not require acceptance of a Power of Attorney, but once a valid POA is accepted, the courts will enforce it against you.

A Special or Specific Power of Attorney gives your agent the authority to act on your behalf for a particular transaction or purpose. These POA's are many depending on your situation and need. A Specific Power of Attorney could allow your agent to ship your household goods, register your vehicle, obtain medical care for your child, or purchase or sell a home.

A Special or Specific POA is more often used than the General POA because the extent to which your agent may bind you to certain transactions is limited to just those specific actions. For instance, in giving a general POA your agent may obligate you to \$400,000 worth of debt which may not have been your intention. However, in giving a specific POA your agent may only obligate you to just what you need them to do and nothing more than that.

A Power of Attorney may be revoked before its expiration date but this may be difficult to do. The best way to revoke a POA is to retrieve the actual document and destroy it. If this is not possible, you would have to complete a revocation of a power of attorney form and deliver it to the agent; you may obtain this form from your local Legal Assistance Office. It is advised that you provide certified copies of this revocation form to creditors, banks, individuals or any company with whom your agent has dealt or is likely to deal on your behalf. In some situations state law requires the POA to be filed in court, so you should file a copy of the revocation

document with the court as well. However, be aware that if your agent continues to use the POA after you have revoked it in writing, the business who has accepted it is protected (assuming that the business was not aware of the revocation) and the contract or other legal obligation entered into by the agent is still binding on you.

Considerations to keep in mind:

1. Any third party has the right to refuse to accept a Power of Attorney whether it is a GPOA or Specific POA;
2. A Power of Attorney should be given for only a limited amount of time;
3. Many financial institutions have their own POA's which they prefer to be used. Therefore, it is best to first ask them if they have their own or will they accept a specific one from your legal office to ensure that your POA is acceptable when you are unavailable.
4. Do not give a general POA when a special or specific POA will accomplish the mission. This will give less opportunity for abuse because it limits the power of the agent.
5. It is a good practice to maintain a copy of your power of attorney for your own records. Having a personal copy makes it a lot easier to do a revocation if necessary. Remember no one else needs to have a copy of your POA other than you and your agent. The legal office does not maintain your document. So keep your POA in a safe place where you can retrieve it if necessary.

Located within the Office of The Staff Judge Advocate building on 4217 Roberts Avenue, the Legal Assistance Division prepares Powers of Attorney on a walk-in basis between the hours of 0800 – 1600 Monday through Friday except when we're closed for federal holidays, inclement weather conditions or unforeseen situations.