



7th Army Training Command Legal Assistance Information

Power of Attorney Counselling

Please note that this information paper provides only basic information. While it may serve as a substitute for a personal consultation with a Legal Assistance Attorney, you should speak with an Attorney if you have any questions.

1. What is a Power of Attorney?

A power of attorney (POA) is a document in which the principal appoints an agent to make legally enforceable decisions. Here the word *attorney* means *legal representative*. So, when you give a POA to an agent, they step into your shoes. This means that they have the power to legally represent you in transactions with third parties. It is important to note that POAs are designed to protect the third parties who accept them. For example, if your agent uses a POA to steal money from your checking account, the bank is protected.

2. Which is better, a General or Special Power of Attorney?

Special POAs are better, because they are more widely accepted by banks, governmental agencies and vendors. They also protect the principal from the greater risks of abuse associated with a general POA. As a rule, you should avoid giving general POAs which grant very broad powers including entering in to contracts, borrowing money, and buying and selling property. A special POA only authorizes the agent to do a specified task for the principal. For example, you could grant a special POA, "to ship my car to Virginia." The first step in getting a special POA is to determine what acts you need your agent to accomplish for you. It is far better to provide your agent with one or more special POAs, instead of a single general POA.

3. Do third parties have to accept my POA?

No. Every business, bank, government agency, or any other institution is free to accept or reject a POA. Some businesses and financial institutions require that the POA be recorded and others may only accept special POAs. The best rule is to check with the business, bank or other institution before obtaining or using a POA to ensure that it will be accepted; especially since many businesses prefer to use their own standardized POA forms. NOTE: Service Credit Union and Community Bank do not accept general

POAs. USAA and Navy Federal Credit Union have their own special POAs available on their website.

4. How can I protect myself?

First, use great care in picking your agent. Never give a POA to anyone who you don't know very well or have known for only a short period of time. Relationships change, and your agent might not remain loyal to you over time. It is very difficult to revoke POAs, and an agent with a general POA who no longer has your best interests in mind can cause significant problems. **Second**, avoid using general POAs. Everything you can do with a general POA can be accomplished with one or more special POAs. Special POAs are not difficult to draft and can provide you – the principal – with a lot more security and peace of mind. **Third**, use the shortest expiration date possible. Normally, our offices will not issue any POA without an expiration date of one year or less. While POAs may be revoked by the principal at any time, there are several major challenges. The principal must first give notice to the agent that the POA is revoked – so, it's important for the principal to keep copies of active POAs. Next, notice of the revocation must be given to all third parties who previously relied on the POA or might unwittingly rely on the POA in the future. This is extremely difficult with general POAs, because the number of places where a general POA might be used are almost endless.