



**Minnesota National Guard  
Office of the Staff Judge Advocate  
Legal Assistance Information Sheet**

## **Power of Attorney**

This fact sheet is for information purposes only. It is not intended to constitute legal advice and is not a substitute for speaking with a judge advocate.

### **1. What is a power of attorney?**

a. A power of attorney is a legal document that lets you appoint someone to manage your finances and property for you. In a power of attorney document, you are called the “principal” (person giving the power). The individual who you appoint to handle financial and other matters for you is called the “attorney-in-fact.” This individual does not have to be an attorney.

b. There are two types of power of attorney: “general” and “limited”. A general power of attorney gives your agent the authority to do most things you could do yourself, such as write checks and pay bills, borrow money, and sign contracts in your name. A special power of attorney grants your agent authority to perform only specific tasks on your behalf.

### **2. Who should you pick as your attorney-in-fact?**

a. A power of attorney is one of the strongest legal documents that you can give to another person. Every act performed by your agent within the authority of the power of attorney is legally binding upon you. Since a power of attorney is such a powerful document, it should be given only to a trustworthy, responsible, honest, and diligent person and only when absolutely necessary.

b. You can name more than one attorney-in-fact (co-agents) who can exercise powers independently or jointly depending on your designation. In naming more than one person to act as agent at the same time, be aware to the possibility that all may not be available to act when needed, or they may not agree. You can also name a successor attorney-in-fact. A successor attorney-in-fact is not the same as designating a co-attorney in fact. A successor attorney-in-fact serves in the event the initial attorney-in-fact or one of the initial co-attorneys-in-fact is unable or unwilling to serve.

### **3. What are some things I should consider when requesting a power of attorney?**

✓ Make sure your agent is someone you can trust and is responsible, honest, and diligent.

✓ Limit the power you give away to only that necessary. If you need someone to perform only specific tasks for you, then you don’t need a “general” power of attorney. Get a “special” power of attorney — one that will authorize your agent to perform only those specific tasks. There is less opportunity for abuse when only limited powers are given.

✓ Limit the duration of your power of attorney. Don’t set the expiration date longer than you will need your agent’s services, and don’t give the power of attorney before it will be needed.

✓ Any third party (business, bank, etc.) has the right to refuse to accept a power of attorney. Check with the third party before obtaining a power of attorney to ensure it will be accepted. In addition, many financial institutions and other businesses have their own power of attorney's which they prefer to be used to conduct business.

**4. Can you revoke your power of attorney?** You can revoke your power of attorney at any time. However, an executed power of attorney may be revoked only by a written instrument of revocation signed by you. Revocation is not effective as to any party until received by the party. While not required, it may be advisable to mail the revocation by certified mail requesting a return receipt. Send copies to attorney-in-fact and to any person, office, or bank the attorney-in-fact dealt with for you. You should also try to get the original power of attorney back.