

INTRODUCTION: WHAT IS A POA?

A **Power of Attorney (POA)** is a written instrument that allows you (the “principal”) to authorize your agent (the “attorney-in-fact”) to conduct certain business on your behalf. It is one of the strongest legal documents that an individual can give to another person.

The POA authorizes your agent to act on your behalf and to carry on your business in your absence. Acts performed by the agent and authorized by the Power of Attorney are legally binding on you.

Since a POA is such a powerful document, it should be given only to a trustworthy person, and only when absolutely necessary. Your legal assistance office can advise you about, and prepare for you, the appropriate POA needed for your situation.

PLEASE NOTE: Third parties (banks, businesses, etc.) *DO NOT* have to accept or acknowledge your Power of Attorney; it is totally within their discretion to do so. However, most will recognize them as legally binding documents when properly executed and notarized.

There are several types of POAs, discussed further in this brochure. Your legal assistance office can advise you about, and prepare for you, the appropriate POA needed for your situation.

The Misawa Legal Office will ask you to fill out a POA worksheet on the Legal Assistance website beforehand. The Office will then prepare your POA on a walk-in basis Monday through Friday, 0900 to 1600.

OTHER RESOURCES

- **POA/LEGAL ASSISTANCE WEB SITE**
 - ◇ <https://aflegalassistance.law.af.mil>
 - ◇ Select “Legal Worksheets”
 - ◇ Select “Powers of Attorney”
- **AFI 51-304, LEGAL ASSISTANCE, NOTARY, PREVENTATIVE LAW, AND TAX PROGRAMS**

POA Walk In Hours:
0900 - 1600 | Monday - Friday



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POWERS OF ATTORNEY

THIS BROCHURE INCLUDES:

- WHAT IS A POA?
- WHEN AND HOW ARE POAS USED?
- TYPES
- REVOCATION OF POA



The information in this brochure is of a general nature and is not intended as a substitute for legal counsel.

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WHEN AND HOW ARE POAS USED?

POAs are typically used when an individual requires someone else to act on their behalf because the individual is either not available in the specific location where business must take place or is unable to act in the moment a transaction occurs.

There are many situations where this may apply, but frequently, POAs are used when an individual is permanently changing stations, deploying, living in a different location than family members, or in need of medical care.

POAs are particularly pertinent in emergency situations, such as when non-combatant family members must be evacuated and separated from a military member. Ultimately, these documents can be tailored to suit the needs of almost any situation.

Here are some examples of how POAs are used:

- When changing stations, an individual might use a POA to allow a friend or co-worker to sell their car after the person has left the base.
- When a spouse is deployed, POAs can be used to grant the remaining spouse the ability to sign legal documents requiring joint signatures, such as when closing on a home.
- When part of a single-parent, military to military, or blended-family household, POAs can be used to grant other family members or friends the ability to make medical decisions for a child, enroll them in school, and obtain the child's health and school records when the child is cared for by a grandparent or family friend.

TYPES OF POAS

(A) GENERAL POWERS OF ATTORNEY

A "general" POA gives your agent the right to conduct any business transaction you could do personally, including the right to sell your property and take out loans in your name for which you will be responsible.

While a general POA may be helpful, it can also be dangerous. In the past, some individuals have sold property, closed bank accounts, or run up credit card debts through use of a general POA.

Consequently, a general POA should only be used when necessary and for a limited time (generally to no more than one year).

You should always ensure that your agent is someone that you trust with your money and legal decisions. If you lose trust in your agent, consult a legal assistance attorney about revoking the general POA.

It is important to remember that a general POA is so broad in nature that some agencies may refuse to recognize or accept them. This is particularly true for real estate transactions. For these reasons, it is generally better to consider using a "special" power of attorney when possible.

(B) SPECIAL POWERS OF ATTORNEY

A "special" POA limits your agent's authority to act on your behalf to specific transactions such as registering a car, shipping household goods, cashing a paycheck, buying or leasing a house, or signing for government housing.

Because it is more specific, the special POA is safer than a broad general POA and more likely to be accepted by third parties. Your legal assistance attorney can help you determine the POA that will meet your needs.

NOTE: You should grant a POA only for the absolute minimum amount of time necessary to accomplish the act set out in the POA.

(C) SPRINGING POWER OF ATTORNEY

A springing POA can give your agent the right to conduct your business transactions if you become incapacitated by an illness, such as a coma or stroke. This power of attorney only becomes effective upon your incapacity. You may revoke the POA when you are no longer incapacitated or the POA will be revoked upon your death.

A springing general POA is very effective especially if you do not have joint accounts or property, such as bank accounts, property or mutual funds. This document allows your agent to access your bank accounts, pay your bills and care for your property while you are unable. Without this document or joint accounts, your family would likely need to go to court to become your

guardian in order to access your financial accounts. Healthcare POAs should usually be springing as well, meaning that your agent will not make health care decisions for you unless you are unable to do so. Consult your legal assistance officer or civilian attorney concerning springing general POAs.

REVOCATION OF POWERS OF ATTORNEY

Generally, your non-durable POAs, both "General" and "Special," are automatically revoked upon your disability, death, or upon the termination date specified on the document itself. However, you may also revoke a POA prior to the termination date by taking the appropriate steps, including executing a revocation of the POA, delivering notice of the revocation to your agent, and delivering notice of the revocation to all third parties that have relied or may rely on the POA.

In addition, to the greatest extent possible, it is important to recover the original POA from the agent and destroy the original and all existing copies of the POA. However, it is important to note that you may be responsible to any third party who did not receive notice of the revocation.

If you are deployed, revoking a POA may be especially difficult and you should contact your nearest legal assistance attorney for advice. If you have a POA now in effect and you desire to revoke it, consult your legal assistance officer or civilian attorney concerning the legal steps you must take.

ADDITIONAL INFORMATION

All endorsements and instruments made by your agent pursuant to the POA should be executed through the agent signing your name, followed by his or her name and the words "attorney-in-fact."

Appropriate "durability language" may be added to POAs to ensure that the POA remains effective during any period of incapacity.

Many financial institutions and businesses have their own POAs which they prefer to be used to conduct business. It is always a good idea to ask your own institutions if they have their own forms.