

## GENERAL INFORMATION ON POWERS OF ATTORNEY

This handout provides general information on powers of attorney. Military members are often called away from home on short notice. With a power of attorney, you can appoint someone to act on your behalf and to administer your personal affairs while you are away. If you will be unable to act for yourself due to a deployment, overseas assignment, or extended TFY, you may consider using a power of attorney.

A power of attorney is a document that allows someone else to act as your legal agent in your absence. A power of attorney can be used to allow a friend to sell your car, to let your spouse ship your household goods, or to authorize a relative to take your child to the hospital. While a power of attorney can be useful, it can also be harmful if abused. An agent with a general power of attorney could use it to run up debts that you did not intend, but for which you would be held responsible. A power of attorney can be used to create new debts, buy or sell property, and deplete your bank account. It is important to remember when granting a power of attorney that you will be legally responsible for many your agent's acts. You should exercise great care in selecting your agent.

A power of attorney will be accepted as valid for most purposes. However, there are some actions so personal in nature that they cannot be delegated to another. For example, a marriage ceremony or the execution of a will cannot be done by power of attorney. In addition, some businesses require the power of attorney to be in a certain form or be recorded. For example, MPF might only accept a special power of attorney, or a commercial bank might require that every account number be listed on the power of attorney. Whenever possible, you should check with an institution at which you wish a power of attorney to be used before obtaining that power of attorney.

Always give the smallest amount of power necessary to your agent. Never make a power of attorney that is indefinite or permanent, except a durable power of attorney for healthcare. It is best to set a date for the power of attorney to expire; this date should be written into the power of attorney. This ensures that your power of attorney will not be effective after the date specified on its face. The Malmstrom Legal Office creates powers of attorney that expire one year after their execution, unless special circumstances exist.

If you want to cancel or terminate a power of attorney before it expires, you can give a Revocation of power of Attorney to any person who might deal with your original agent. In many states, you may also record the revocation in the office where the original power of attorney was recorded. Realize, however, that it is usually impossible to entirely cancel a power of attorney: you would likely have to retrieve the original document, as well as all copies that had been made of it.

This handout is meant for informational purposes only and does not substitute for the advice of a competent attorney. The discussion of law here is only a brief overview. Laws can and do change. If you would like to speak with an attorney, please call the Malmstrom Legal Office at 731-2878.

## TYPES OF POWERS OF ATTORNEY

A GENERAL POWER OF ATTORNEY authorizes your agent to do any act that you could do yourself relating to your property and personal affairs. Because this document grants broad and virtually unlimited authority to your agent, it should only ever be granted to a person whom you trust completely. Your agent may obligate you in a way you never intended and for which you will be held accountable. The general power of attorney should be granted sparingly. Use it only when you must, and limit its duration to the absolute minimum amount of time necessary to accomplish the purpose for which you sought it.

A SPECIAL POWER OF ATTORNEY authorizes your agent to do one or more specified acts, such as selling your car, shipping your household goods, or cashing a check. A special power of attorney limits the authority granted to your agent, and so is safer than a general power of attorney. Special powers of attorney are drafted to fit individual needs, and are usually the appropriate instrument when you need to authorize another to act on your behalf.

A DURABLE POWER OF ATTORNEY authorizes your agent to perform certain specified duties for a specified time period, similar to a special power of attorney. Unlike a special power of attorney, however, a durable power of attorney will remain effective even if you become incapacitated, where a special power of attorney will not. This sort of power of attorney is typically used for healthcare purposes.

A SPRINGING POWER OF ATTORNEY authorizes your agent to perform general or special duties only in the event that you become incapacitated

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