

What Powers Are You Actually Giving Your Power of Attorney?



A power of attorney, or POA, is a legal document that appoints one individual (the agent) the power to act on behalf of another individual (the principal). The agent may get broad abilities or be limited to decisions about medical needs or banking. POAs are often used when the principal becomes ill or disabled and needs another individual to handle their affairs. In the military, POAs are commonly used when a servicemember is deployed so that a loved one can manage their finances at home. Note that an agent is required to act in the best interest of the principal once the POA becomes active.

Several designations are important to understand when it comes to powers of attorney. Typically, a power of attorney is either durable or non-durable and general or limited. It may also be designated as springing.

1. Durable vs. Non-Durable

A durable power of attorney is one in which the agent gains control of the legal and/or financial matters written into the agreement immediately and maintains control even if the principal becomes incapacitated. The legal agreement automatically terminates upon the principal's death.

A non-durable power of attorney is one in which the agent remains active for a specific period of time, typically until the principal becomes incapacitated or on a date otherwise specified by the principal (e.g., if the principal loses their mental capabilities due to dementia, the legal agreement automatically terminates).

Note: Provided the principal retains their mental capabilities, both durable and non-durable POAs can be revoked at any time.

2. General vs. Limited

A general power of attorney gives the agent the authority to complete almost any legal action on behalf of the principal. This includes financial actions such as filing taxes, depositing checks, and paying bills;



real estate transactions, including buying and selling property; and legal actions like signing contracts. Note that no one can make changes to anyone else's Last Will and Testament, even with a general POA.

A limited power of attorney, sometimes called a special power of attorney, gives the agent the authority to complete specific actions or transactions on behalf of the principal. These actions are detailed within the document, and the agent cannot perform tasks that are not specified. Typically, after the actions are performed, (e.g., if the principal needed their agent to deposit a check that arrived when they were out of the country) the agreement terminates.

3. Springing

A springing power of attorney describes a specific event that must occur before the POA goes into effect. For example, the principal may decide that they want their agent to have POA only upon their incapacitation or if they deploy overseas. Once the required event occurs, the POA "springs" into action. Prior to then, the agent has no ability to manage the legal or financial matters granted to them in the POA.

There are two common POAs that you may be familiar with:

- Also called a [health care proxy](#), a **durable power of attorney for health care** allows you to designate whom you would like to make health care decisions on your behalf if you are rendered incapable of doing so. This POA is *durable* in that it lasts beyond the principal's incapacitation, *limited* in that it only allows the agent to make decisions related to healthcare, and *springing* in that it only takes effect after the principal becomes incapacitated.
- A **durable power of attorney for finances** allows you to designate whom you would like to manage your financial affairs. This POA is *durable* in that it lasts beyond the principal's incapacitation and *limited* in that it only allows the agent to make financial decisions. You could also designate this POA as "springing," meaning that you want the POA to go into effect only if certain circumstances are met – for example, if you are rendered incapable of managing your own finances. A springing, durable power of attorney for finances, then, allows you to retain sole control of your finances unless or until you become disabled.

When it comes to what powers you give your POA, you have full discretion. If you are deploying, for example, it may be wise to give your spouse or parent the power to handle all of your financial affairs by creating a durable POA for finances. This allows them to continue managing your finances throughout your deployment. If you are finalizing your estate plan, you may want to designate a durable POA for health care so that you know any necessary end-of-life medical care will be handled. If you need help selling your home, paying your taxes, or managing your retirement accounts, you could create a limited POA for that specific purpose.

A legal expert can help you draft your POA. Those who are deploying may have access to legal personnel during a pre-deployment brief. If you are using a POA as part of your estate plan or simply need help drafting your documents outside of a specific occasion, visit your base's legal office or find one nearby using this [tool](#). The American Bar Association also maintains a [directory of legal programs](#) that are available to military families in each state.

Navy Mutual is here to help with your estate planning efforts. Download our [Estate Planning: Personal Log](#) to document information about your powers of attorney and other important legal documents. If you would like to speak with a representative about how a life insurance policy or



annuity can fit into your estate plan, [schedule an appointment](#) or email us at counselor@navymutual.org.

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