

Section B-7 Legal Affairs

The contents of this Toolkit have been developed to assist you in your efforts to support family readiness. Every effort has been made to ensure that the information provided is current and accurate. However, because statutory and regulatory changes may have occurred since the publication of this Toolkit, the Office of the Assistant Secretary of Defense for Reserve Affairs cannot assume responsibility for its continued accuracy. Before taking any significant action based on the contents of this Toolkit, you should contact your Family Readiness Program representative or legal officer, as appropriate, to secure the most current information.

Powers of Attorney

Legal Affairs

Power of Attorney

A Power of Attorney (POA) is a document that allows a person you designate as the legal authority to act on your behalf when you are unavailable. Upon mobilization you may not be able to manage your own affairs and you may need to appoint someone else to act for you. When determining whether you will need a power of attorney, consider the following:

There are two primary types of Powers of Attorney –

- **General:** The individual you name can act in all matters. A general POA gives your designated representative the authority to conduct any transaction on your behalf. The benefit to a general power of attorney is that your representative can use the power of attorney to handle any unforeseen issues that may arise during deployment. The danger of a general power of attorney is that you are legally bound by any decisions this person may make to include selling your possessions as well as buying new possessions for you using your credit. Therefore, a general POA should be used with caution. With proper planning, a general Power of Attorney is rarely necessary. Most military legal assistance offices would recommend a special or limited Power of Attorney instead.
- **Limited/Special:** The individual you name can act only on specific matters. A limited or special POA grants your representative the right to act on your behalf for a specific transaction. For example, many active duty service members give their spouses a special POA to manage all the transactions needed for moving (housing, transportation, and closing accounts). Another example is a separate special power of attorney that authorizes the individual you name to get medical treatment for eligible family members and make medical decisions for those family members who are minors. Yet another special Power of Attorney authorizes a person to take care of your child(ren) in your absence.

Most Powers of Attorney have a beginning and an ending date. Many service members set the length of their POA based on when they are due to return from deployment or training. If a Power of Attorney is desired, it should be effective for no more than the period necessary to accomplish the purpose and it is not recommended to be given for more than a period of one year. If during the period of the power of attorney you no longer want the individual you designated to act on your behalf, the power of attorney may be revoked. You should revoke the POA with the same formalities taken in executing it, retrieve the original and all copies and notify any individual or organization who may be relying on the power of attorney that it has been revoked.

State laws differ regarding the format and content of a POA. It is highly recommended that before deployment you show your Power of Attorney to anyone you anticipate will be asked to honor it, such as health care professionals or school officials. If the individual you are designating lives in a different state, it is also highly recommended that you have your power of

GUARD & RESERVE FAMILY READINESS PROGRAMS TOOLKIT

attorney prepared by a judge advocate from a military legal assistance office. These powers of attorney will have a military power of attorney preamble which will ensure that it is given the same legal effect as a power of attorney which was prepared in the state where the person you designate needs to use it.

Another word of caution for single parents is that a Power of Attorney will not prevent another person such as a relative or non-custodial parent from petitioning a court of jurisdiction to obtain temporary or permanent custody of your children. If you have concerns regarding this issue, contact a legal assistance attorney before mobilization.

A POA is a legal document that needs to be taken very seriously. The person you grant a Power of Attorney should be trustworthy, reliable, competent, capable, and one who would make decisions similar to the ones you would make.