



New York State Power of Attorney Guide for Agents

What is a Power of Attorney?

A power of attorney gives someone the power to make legal or financial decisions for someone else. In a power of attorney, the person who gives the power to make legal or financial decisions is the **principal**. To sign or execute a power of attorney, the principal must understand the power of attorney and choose the person they trust to be their power of attorney.

The person(s) named in the document who can make those decisions is the **agent**.

Someone chose me as their agent in a power of attorney....

How do I use the power of attorney?

You will need to sign your signature page in front of a notary. You can use the power of attorney after the document is signed and notarized by the principal and you. You do not need to sign the document at the same time as the principal or use the same notary.

What are my responsibilities?

You should listen to the principal and follow their directions. If they can no longer give directions, you should act in their best interest. They chose you because they trust you and you have a legal obligation to act in their best interest. You should keep your property separate from their property. For example, keep your money separate from their money unless it is already in a joint account or you properly create a joint account later. When you use the power of attorney, you should keep a record of all payments and transactions.

What am I not allowed to do?

You should check the power of attorney and see which powers the principal gave you. For example, if they initialed banking transactions, but not real estate transactions, you are allowed to go to the bank for the principal, but you cannot sell their home or apartment.

You should not make gifts of the principal's property to yourself unless the power of attorney allows this. You cannot write or sign a will for the principal. You cannot make health care decisions with a power of attorney (look at our Health Care Proxy Guide for more information).

What's a durable power of attorney?

A **durable** power of attorney means that the principal wants the power of attorney to be used even if they lose the ability to make decisions or communicate for themselves. If the principal has already signed a **durable** power of attorney, but they now cannot make decisions or communicate for themselves, the agent can still use the power of attorney.



What if there are two or more agents?

If the principal named co-agents, you should check if they initialed "My agents may act SEPARATELY" on the power of attorney. If they initialed this, then you and your co-agent can act separately.

If the principal named co-agents and did not initial "My agents may act SEPARATELY," you and your co-agent will need to act together. For example, if you are going to the bank to take out money for the principal, you will need to go to the bank together.

A principal can also name one or more **successor agents**. A **successor agent** can use the power of attorney only when the primary agent(s) are not able or are not willing to be the power of attorney anymore. There may be more than one successor agent. Successor agents may need to act together or may be able to act separately just like primary agents. If you are a successor agent, you need to sign your signature page in front of a notary.

Can I be reimbursed if I use my own money for the principal?

Yes, you can be reimbursed for reasonable expenses if you use your own money. For example, if you pay for the principal's medicine, you can request reimbursement for the money you used.

Am I now responsible for the principal's debts?

No, agents are not responsible for the principal's debts. But if you share an account with the principal, if you share a lease, or if you take out a loan together, then you could be responsible for those accounts or contracts.

What if I can no longer act as an agent?

You can resign or quit being a power of attorney agent. You should give written notice to the principal and any co-agent, successor agent, and, if assigned, any monitor.

When does a power of attorney end?

The power of attorney ends when the principal dies or if the principal revokes the power of attorney and informs you. If the principal has died, you cannot use it. When a principal revokes a power of attorney, they are ending the power of attorney and you cannot use it. A principal can revoke their power of attorney by sending you a written letter that ends the power of attorney or by signing a new power of attorney that says they are ending the old power of attorney.