

New York Powers of Attorney – Selected Highlights – NY General Obligations Law

- Fiduciary obligations and accountability of the Agent are now clearly stated in the statute – Agent must follow the Principal's instructions or act in the best interest of the Principal. (5-1505)
- Now only one statutory form for durable, nondurable, and springing POA – special instructions are found in the Modifications section.
- Third party must accept validly executed statutory form POA – cannot require use of institution's own form, cannot refuse based on lapse of time since execution, or lapse of time between date signed by Principal and Agent. Valid statutory POA executed prior to 2009 amendments is still valid. (5-1504)
- Reasonable cause to refuse a POA: (5-1504)
 - Agent refuses to provide an original or certified copy.
 - Third party's good faith referral to Adult Protective Services, or actual knowledge that a referral has been made.
 - Knowledge or reasonable belief that Principal has died.
 - Knowledge or reasonable belief that Principal is incapacitated if a nondurable POA.
 - Knowledge or reasonable belief that Principal was incapacitated at time POA was executed.
 - Knowledge or reasonable belief that POA procured through fraud, duress, or undue influence.
 - Proper notice of termination or revocation of POA.
 - Refusal by title insurance company to underwrite title insurance for gift of real property.
- Third party is not required to accept a POA that is not a statutory short form POA. (5-1504)
- Third party may require that the agent execute an acknowledged affidavit stating that the POA is in full force and effect. (5-1504)
- Agent must sign the POA acknowledging legal responsibilities. (5-1513)
- Agent must provide an accounting of all transactions within 15 days of a written request by: principal; monitor; co-agent or successor; court evaluator; government official investigating report of abuse or neglect; guardian; executor of principal's estate – special proceeding can be used to compel. (5-1505)
- If more than one agent appointed:
 - If may act separately, then POA is valid when one has signed.
 - If must act together, then POA not valid until all have signed.
- Automatic revocation issue as stated in new forms:
 - If executed between Sept 1, 2009 and Sept 11, 2010 – all previous POAs are automatically revoked unless stated otherwise.
 - If executed after Sept 12, 2010, a new POA does not automatically revoke previous POAs unless stated otherwise in the Modifications section.
- Personal and Family Maintenance - \$500 limit for total dollar amount in one calendar year to all recipients – otherwise a gift rider is required.