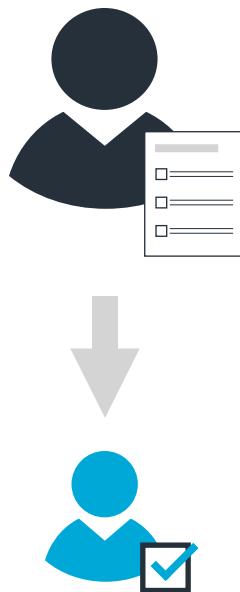


Powers of Attorney

Ask a trusted person to manage some of your affairs.





Éducaloï's mission is to explain to Quebecers the law, their rights, and their responsibilities in everyday language that is easy to understand.

Important Notice

The law changes. This guide is up to date to November 2022. Visit Éducaloï's website at educaloï.qc.ca/seniors to see if there is a more recent version of this guide.

This guide is meant as legal information, not legal advice. If you need advice on a specific situation, consult a notary or a lawyer. This guide applies only in Quebec.

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What Is a Power of Attorney?

A power of attorney is a kind of legal agreement.

A power of attorney lets you ask someone you trust to do some things on your behalf. In particular, you can ask someone to manage financial affairs and your property. For example, that person could:

- Sign a lease or contract
- Do your banking and manage your investments
- Pay your bills and deal with service providers (e.g., Internet)
- Sell your house or manage upkeep



The power of attorney doesn't need to be written, but it's preferable. A written document is proof of the power of attorney and can be helpful in case of a disagreement with the person you appointed.

You keep the right to supervise!

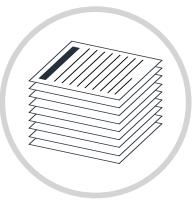
A power of attorney can only be used while you have all your decision-making abilities. (Sometimes, this is called being of "sound mind.")

You keep the right to supervise the person acting for you. You can ask questions at any time. You can also ask the person to report back to you.

Why Make a Power of Attorney?

A power of attorney can be useful when you have all your decision-making abilities, but it would be more practical to have someone else manage your affairs. Here are some situations when a power of attorney could be useful:

- not enough time to manage your affairs
- going on a long trip
- your affairs are complicated
- physical mobility challenges



Use a power of attorney only when necessary!

It's a good idea to assess your needs before using a power of attorney. What tasks require help from another person? For how long? You can always renew it if you have to.

Most banks offer “direct deposit” and “automatic bill payment” options. This means cheques you receive are deposited directly into your account, and bills (credit card, telephone, etc.) can be paid automatically. These options can often avoid the need for a power of attorney. Speak to your bank about setting this up.

Powers of Attorney, Protection Mandates, and Wills: What Are the Differences?

Power of Attorney	Protection Mandate	Will
You can name one or more people to act on your behalf to: <ul style="list-style-type: none">• manage your finances or your property	You can name one or more people to act on your behalf to: <ul style="list-style-type: none">• manage your finances or your property• take care of you or your children under 18	You can name the people who you want to: <ul style="list-style-type: none">• inherit your money or your property• take care of your children under 18• settle your affairs
In what situation?		
		
While you are alive and can make decisions.	While you are alive but incapacitated.	When you die.
Why?		
Because you're going on a trip, you're too busy, or your affairs are complicated, etc.	To choose someone to make decisions for you if you become unable to make them yourself.	So that your wishes will be respected after your death.
When can you make them?		
While you still have all your decision-making abilities.		Don't wait until it's too late!



Confused about what kind of document you have?

If you have one of these documents, but are not sure which kind it is, consult a legal professional or one of the organizations listed at the back of this guide.

Sometimes, a power of attorney and a protection mandate are in the same document. But they are still for different situations: a power of attorney can only be used while you still have all your decision-making abilities. A protection mandate is for when a person is declared incapacitated.



Sample Power of Attorney

Here is a model of a power of attorney. The Resources section of this guide mentions places to get other models.

Don't use this model without adapting it for your situation! It is just to give you an idea of what the document might look like.

Power of Attorney for Banking

I give to Athena Vassilikos these powers:

1. Deposit my cheques in my account at the Bank of Montreal: account number 12345.
2. Withdraw \$200 from my account on the first day of every month and deliver it to me.

She must deliver to me every month all bank slips for any deposits and withdrawals she does for me.

This power of attorney expires on March 1, 2024.

My name:
Kaliopi Vassilikos

Acceptance of
Athena Vassilikos

Signature

Signature

Date of signature
Place of signature
Address

Date of signature
Place of signature
Address

Power of Attorney: Six Key Points

1. It's a legal agreement.

This means the person acting for you must respect the limits of the powers you gave. Also, this person must act in your best interests.

On the other hand, if the person respects these limits, acts in your best interests, and respects the law, it will be hard for you to cancel their decisions.

Remember, you keep the right to supervise the person, ask questions, and get reports.

You must know what you are signing.

To give a power of attorney, you must understand what you are doing. Also, you cannot be pressured into giving one.

If a power of attorney is signed by someone who did not understand it, or who was pressured, it is not valid.



2. You can name a family member, friend, or professional.

The important thing is to name someone trustworthy.

Here are examples of people you can name:

Power of Attorney



husband, wife, partner



family member



friend, colleague



a professional
(accountant, etc.)



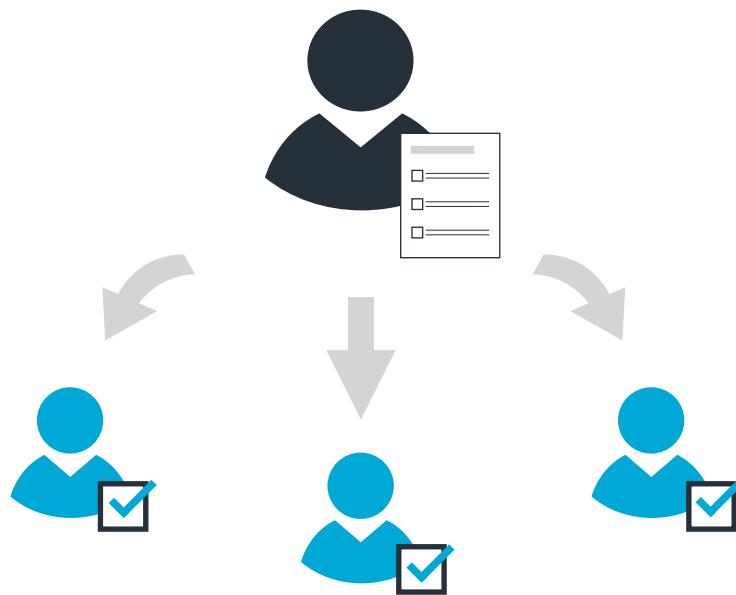
Naming a professional means you get some protection: most professionals must follow rules that apply to their professions and are supervised by an oversight organization.

3. You can give it to one person or several people.

In a power of attorney, you can name someone to do a specific task, like sell your house. Or, you can name someone to handle all your finances. You can also name different people to handle different tasks.

This means you can have more than one power of attorney in place at the same time.

But be careful about giving the same powers to several people. They might not agree on how to do things. It's a good idea to include rules about how they will make decisions.



4. It can be for one thing or many things.

In a power of attorney, you can name a person to do a specific task, such as sign a lease.

You can also name a person to take care of all your affairs and do several things, such as:

- Get your mail
- Pay your bills
- Manage your bank account
- Access your information or records
- Manage, sell, or mortgage one or more of your properties (e.g., a triplex).



5. You can make it yourself.

You can write one yourself, or ask a notary or lawyer to make one. There are no special rules to follow. For example, you don't need witnesses.

If you are giving one for complicated matters, or for something that involves a lot of money, it is a good idea to get professional advice. A legal professional can help you write a power of attorney adapted to your needs.

If you write your own, the next page has a list of important information to include.

For models, see the Resources section at the end of this guide.

Legally, a power of attorney can be verbal, but it is a good idea to put it in writing. Most institutions (banks, etc.) will require a written one. A written document is proof of the power of attorney and of the powers that you granted.



Do you have to use their forms?

Some institutions and companies have their own forms.

They might ask you to use their forms. But you don't have to if your power of attorney is clear, complete, and valid.

Here is some key information to include.

Power of Attorney

Your name

Name of person
who will act for you

Address

Address

Contact information

Contact information

- Powers you are giving and limits on those powers
- How the person will report back to you and how often (e.g., give you bills and reports monthly)
- Payment for the person, if you want to pay
(Even if you don't pay a salary, the person is entitled to reimbursement of any expenses.)
- Expiry date
- Any deadlines for getting things done
- Date of signature

Your signature

Signature of other person

6. You can end it at any time.

You can end it at any time, even if it has an expiry date sometime in the future.

If you end it, here are important things to do:

1. Tell the person acting for you and ask for a report.
Keep proof you did this.
2. Tell everyone that person was dealing with on your behalf (banks, etc.).
3. Get back all originals and copies of the power of attorney and write on it that it is cancelled.



You had a notarized power of attorney?

Tell the notary, who will write on it that it has been cancelled.

A power of attorney also comes to an end in these situations:

- The person you named dies or is declared incapacitated by a court.
- You are declared incapacitated by a court. The person named in your power of attorney must make a final report to whoever is taking over management of your affairs.
If you have a protection mandate, a court can activate it.
- You die. The person named in your power of attorney must give a report to the executor (officially called a “liquidator”) - the person responsible for settling your affairs.

Do you suspect abuse?

In a power of attorney, you grant important powers to the person who will act on your behalf. In some cases, that person might not do things the way you would like or might abuse those powers.

If so, here are some suggestions:

- Discuss the situation with the person involved.
In some cases, you can cancel things they did
(e.g., the person went beyond the powers given).
- Banks try to watch for unusual transactions.
Ask your bank for help.
- You can end the power of attorney at any time,
even if it has an expiry date.
- Are you a senior or person concerned about a senior?
Contact Quebec's Elder Mistreatment Helpline:
1-888-489-2287.
- If you want compensation (for a loss of money,
for example), it is a good idea to seek legal advice.
See the Resources section at the end of this guide.

Legal Information

Éducaloï

educaloï.qc.ca/en

educaloï.qc.ca/seniors

Gouvernement du Québec

<https://www.quebec.ca/en>

Go to “Finance, income and other taxes”,
then “Power of Attorney and legal protection”,
then “Power of Attorney (Contract)”.

Find a Notary

Chambre des notaires du Québec

www.cnq.org

Switch to English, then go to “Find a Notary”.
You can search by language, region, accessibility
for people with reduced mobility, and notaries
who accept legal aid.

Find a Lawyer

Barreau du Québec (Quebec Bar):

www.barreau.qc.ca

Switch to English, then go to “Find a lawyer”.

For a free or low-cost consultation

- Montreal: 514-866-2490
60 minutes for \$60
- Longueuil: 450-468-2609
30 minutes for \$50
- Quebec City, Beauce and Montmagny: 418-529-0301
30 minutes for \$30

Juris Référence

www.jurisreference.ca/en

Select Find a Lawyer and click on “find the lawyer” in red. Search by region or area of law.

Free and Low-Cost Legal Services

La boussole juridique

boussolejuridique.ca/en/

List of legal services in Quebec. Search by region and area of law.

Info Justice Centres

<https://info-justice.ca/>

Get legal information in person and sometimes by phone.

Model Powers of Attorney

Justice Québec

www.justice.gouv.qc.ca/en

Go to “Your Money and Your Possessions”,
then “Power of Attorney and Legal Protection”,
then “Power of Attorney contract”,
then “Sample powers of attorney”.

Autorité des marchés financiers (Quebec agency that oversees financial markets and services):

www.lautorite.qc.ca/en/

Go to “Publications” at the bottom of the page,
then “For the General Public”, then “Retirement planning”, then “Sample Power of Attorney and Explanatory Notes”.

Éducaloï explains the law to Quebecers in everyday language.



Read about these and other topics at www.educaloï.qc.ca:

- Wills
- Estates
- Planning ahead
- Housing for seniors
- Preventing fraud, exploitation and abuse
- Health care decisions
- Protections for people with loss of autonomy



Print guides and pamphlets

Éducaloï has a selection of print guides and pamphlets. To order, go to the “Order Éducaloï’s Products” page on our website.

Practical tools for seniors

All our information tools for seniors, including these, are available for free online. Please visit educaloï.qc.ca/seniors to download them.