Effective 9/1/2024
75A-2-217 Gifts.

(1) As used in this section, "for the benefit of" includes a gift to a trust, an account under Chapter 8, Uniform Transfers to Minors Act, and a tuition savings account or prepaid tuition plan as defined under Section 529, Internal Revenue Code.
(2) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to gifts authorizes the agent only to:
  (a) make outright to, or for the benefit of, a person a gift of any of the principal's property, including by the exercise of a presently exercisable general power of appointment held by the principal, in an amount per donee not to exceed the annual dollar limits of the federal gift tax exclusion under Section 2503(b), Internal Revenue Code, without regard to whether the federal gift tax exclusion applies to the gift, or if the principal's spouse agrees to consent to a split gift pursuant to Section 2513, Internal Revenue Code, in an amount per donee not to exceed twice the annual federal gift tax exclusion limit; and
  (b) consent, pursuant to Section 2513, Internal Revenue Code, to the splitting of a gift made by the principal's spouse in an amount per donee not to exceed the aggregate annual gift tax exclusions for both spouses.
(3) An agent may make a gift of the principal's property only as the agent determines is consistent with the principal's objectives if actually known by the agent and, if unknown, as the agent determines is consistent with the principal's best interest based on all relevant factors, including:
  (a) the value and nature of the principal's property;
  (b) the principal's foreseeable obligations and need for maintenance;
  (c) minimization of taxes, including income, estate, inheritance, generation-skipping transfer, and gift taxes;
  (d) eligibility for a benefit, program, or assistance under a statute or regulation; and
  (e) the principal's personal history of making or joining in making gifts.

Renumbered and Amended by Chapter 364, 2024 General Session