



POWER OF ATTORNEY

Frequently Asked Questions (FAQs)

1. What is the purpose of having a power of attorney for my SBCERA retirement account?

Whether an Active, Retired or Deferred Member of SBCERA, a power of attorney will allow you to designate a representative to conduct retirement affairs on your behalf. By doing so, this designated person called an Attorney-In-Fact can perform important duties relating to your retirement affairs.

2. What is an SBCERA Special Durable Power of Attorney form?

The [SBCERA Special Durable Power of Attorney \(POA\) form](#) has two distinguishing features:

- It allows an SBCERA member or their beneficiary to designate someone known as an Attorney-In-Fact to handle retirement affairs such as filing applications, making tax withholding elections, and endorsing checks.
- It also contains a durability clause, which allows the Attorney-In-Fact to work on retirement matters on the member's behalf in the event the member becomes ill or incapacitated.

3. Why would I need one?

As you age or experience illness, the chance that you may become unable to handle your personal business and financial affairs increases. You have the option to make the POA effective immediately or only upon the event of your incapacity. If you elect to make the POA effective immediately, then it will continue even after you, the principal, become incapacitated or unable to handle your own affairs.

4. Can I still handle my own retirement affairs with a Special Durable Power of Attorney on file?

Yes. With any type of POA form on file, you may still handle your own retirement affairs.

5. Can I use the SBCERA Special Durable Power of Attorney form to appoint an administrator of my estate prior to my death?

No. California Probate Code prohibits the use of this form to appoint an administrator of your estate. An administrator of your estate must be appointed by a court of law.

6. Does the SBCERA Special Durable Power of Attorney form automatically authorize my Attorney-In-Fact to conduct business after my death?

No. The Special Durable Power of Attorney form terminates upon your death.

7. Can I terminate my SBCERA Special Durable Power of Attorney should I desire to do so?

Yes, as long as you are still competent, you may submit a written request to SBCERA asking that the SBCERA Special Durable Power of Attorney form be revoked or terminated.

8. Can I execute the SBCERA Special Durable Power of Attorney form outside of California?

Yes, as long as it is properly notarized or witnessed as required on the form.

9. If I do not have an SBCERA Special Durable Power of Attorney form, can my Attorney-In-Fact change my beneficiary designation?

If you have already retired, neither you nor your Attorney-In-Fact may change your beneficiary designation. However, if you are not retired, either you or your Attorney-In-Fact may change your beneficiary designation depending on the type of POA that is on file with SBCERA. California Probate Code requires that an Attorney-In-Fact may only change beneficiary information if that power is expressly stated in the power of attorney form.

10. Should I retain a copy of the SBCERA Special Durable Power of Attorney?

Yes. It is a good idea to keep a copy of the original form for your personal records.

11. Are all power of attorney forms the same?

No, there are three types of power of attorney forms:

- **General or Special Power of Attorney Form**

A General or Special Power of Attorney form allows you to designate a representative to handle your retirement plan transactions as specified on the form. However, it does not contain a durability clause. Therefore, it automatically terminates once you become unable to act on your own behalf.

- **Durable General Power of Attorney Form**

Unlike a General or Special Power of Attorney form, a Durable General Power of Attorney form includes a durability clause. This durability clause is a provision stating that your designated representative can continue to act on your behalf should you become unable to handle your own retirement affairs.

- **Special Durable Power of Attorney Form**

A Special Durable Power of Attorney form grants broader powers than a General or Durable General Power of Attorney. In addition to changing your address, endorsing checks, and making tax elections, a representative holding a Special Durable Power of Attorney may be able to perform other actions depending on the language in the power of attorney. A Special Durable Power of Attorney will be terminated upon your death and the Attorney-In-Fact will no longer be able to conduct business on your behalf. SBCERA offers a [Special Durable Power of Attorney form](#) for your retirement matters.

If you can no longer handle your own retirement affairs and have a Durable General or Special Durable Power of Attorney, your designated representative will still be able to conduct them for you. However, if you only have a General or Special Power of Attorney without a durable provision, your representative may not be able to continue handling your affairs.

12. Does SBCERA accept power of attorney designations that are not on SBCERA forms?

Yes. However, the use of a non-SBCERA POA form may limit the scope of your Attorney-In-Fact's ability to conduct SBCERA business on your behalf. The primary advantage of using an SBCERA Special Durable Power of Attorney form is that it contains a durability clause and specifically shows your intent that your Attorney-In-Fact can conduct your retirement business with SBCERA.

Disclaimer

This FAQ Sheet was drafted by the SBCERA staff in order to help members understand pension issues surrounding powers of attorney. Every effort has been made to ensure the accuracy of the information offered. However, you should not rely solely on the information contained herein. In the event of any discrepancy between the information contained in this FAQ and state and federal law, the state and federal law will govern.

SBCERA's staff is unable to address specific legal questions. If you have legal questions about your power of attorney or executing one, then you should consult competent legal counsel.