



SBCERA Special Durable Power of Attorney

About This Form

A power of attorney is a legal document used to delegate authority. This document should be used by members and beneficiaries for appointing an Attorney-In-Fact to transact all retirement matters relating to the San Bernardino County Employees' Retirement Association (SBCERA). The **SBCERA Special Durable Power of Attorney** can *only* be used to designate another person to act on your behalf for SBCERA-related matters. This form will allow you to appoint a representative (called an Attorney-in-Fact) to handle your SBCERA retirement affairs, such as filing applications, making benefit elections, designating beneficiaries, or setting up direct deposit for your retirement benefits. These can be significant decisions, so make sure to choose your representative carefully. If you are unsure of any of the details and/or requirements, please consult a competent attorney to assist you.

Section 1 Creation of Special Durable Power of Attorney for Retirement-Related Business

I intend to create a Special Durable Power of Attorney by appointing the person named below to make retirement-related decisions for me as allowed by the California Probate Code. This power is expressly limited to decisions relating to my benefits as: (a) a SBCERA member, or (b) the surviving spouse or beneficiary of a SBCERA member.

Section 2 Designation of Attorney-in-Fact

I, _____, of _____
(Principal's Name) (Street Address)

_____, DO HEREBY APPOINT AS MY ATTORNEY-IN-FACT:
(City, State, and Zip Code)

_____, my _____
(Name of Attorney-In-Fact) (Relationship to Principal)

of _____
(Street Address, City, State and Zip Code)

(Telephone) (E-mail)

Section 3 Designation of Alternate Attorney-In-Fact (Optional)

I, the above named Principal, HEREBY APPOINT AN **ALTERNATE** ATTORNEY-IN-FACT to act if my Attorney-in-Fact is unwilling or unavailable due to absence, illness, or other temporary incapacity. Such person will have the same powers granted to my Attorney-in-Fact.

_____, my _____
(Name of Attorney-In-Fact) (Relationship to Principal)

of _____
(Street Address, City, State and Zip Code)

(Telephone) (E-mail)

Section 4 General Statement of Authority Granted

I hereby grant to my Attorney-In-Fact full power and authority to transact all matters relating to my SBCERA benefits, subject to the limitations below, including all matters relating to retirement in accordance with SBCERA plan terms. I further grant to my Attorney-In-Fact full power and authority to perform every act necessary and proper in the furtherance of any such matters as I could do if personally present, with the understanding that this authority will be used for my benefit and exercised only in a fiduciary capacity. I understand that this authority is granted to my Attorney-In-Fact even if that person is related to me by blood, marriage, or legal domestic partnership.

Notwithstanding the authority granted above, my Attorney-In-Fact may not conduct any of the following transactions unless specifically authorized in this paragraph. If authority for any of these options is not specifically granted, the Attorney-In-Fact will not have authority for that option.

By initialing next to any of the following options, it is my intention that the Attorney-In-Fact has the specific authority to carry out each option, so long as such option is allowed under the SBCERA plan terms.

My Attorney-In-Fact is granted full authority to transact all matters relating to SBCERA including, but not limited to (initial those which apply):

_____ Filing an application for benefits, which include an application for a service retirement and/or disability retirement, or refund of accumulated contributions.

_____ Making benefit elections, such as the selection of a retirement option available under the retirement plan, even though it may reduce the monthly allowance which would otherwise be paid to me during my lifetime. However, if I have a spouse or minor children eligible to receive a benefit, my Attorney-in-Fact may only select the "Unmodified Option" on my behalf, or designate my eligible spouse or minor child(ren) as beneficiary(ies).

_____ Designating or changing beneficiaries.

_____ Designating himself or herself as my beneficiary, if I do not have an eligible spouse or minor child(ren) eligible to receive a benefit.

_____ Designating a bank account for electronic transfer of retirement benefits. I must be an account holder and my name must appear on such bank account.

_____ Submitting a change of address form.

_____ All of the powers listed above (you do not need to initial all other items individually if you select this option).

_____ I give the following instructions which limit or extend the powers of my Attorney-in-Fact (Optional):

Section 5 Duration of Special Durable Power of Attorney (Select one option only)

You must choose whether you want this Special Durable Power of Attorney to take effect immediately or to take effect upon the event that you become incapacitated. If you wish for the power of attorney to take effect immediately, you must initial the line in front of statement (a) below. You must revoke it pursuant to applicable legal formalities and should consult an attorney if you decide to revoke the power of attorney in the future. If you wish for the power of attorney to take effect only if you become incapacitated, you must initial only the line in front of statement (b) below. Do not complete this form if you want the power of attorney to terminate when you become incapacitated.

_____ a. I hereby designate this Special Durable Power of Attorney to take effect immediately.

_____ b. I hereby designate this Special Durable Power of Attorney to take effect only upon my incapacity as verified by two licensed physicians.

Once effective, this Special Durable Power of Attorney will remain in effect for my lifetime or until I specifically cancel it in writing. My Attorney-in-Fact is hereby instructed to notify SBCERA of my death immediately.

Section 6 Notice Regarding Specific Authority for Spouse or Registered Domestic Partner to Elect Retirement Allowance Options and Name a Beneficiary

To elect any option or designate any beneficiary on behalf of the member, an Attorney-In-Fact must be either a “neutral” party or an eligible spouse or registered domestic partner who has been given specific authority to do so. An Attorney-In-Fact is neutral if he or she is not related by blood or marriage to either the member or the designated beneficiary. If the Attorney-In-Fact is not neutral, SBCERA will only accept the following: an election of the “Unmodified Option” made on the member’s behalf and / or designation of the member’s minor child(ren) as beneficiary(ies). If a non-neutral Attorney-In-Fact wishes to take any other action that is not specifically authorized in this section, he or she must obtain a conservatorship of the member. If the Attorney-In-Fact is neutral, SBCERA will accept the election of any payment option or the designation of any beneficiary, so long as it does not benefit the Attorney-In-Fact.

Section 7 WARNING: Notice to Persons Executing this Document

The authority granted by the SBCERA Special Durable Power of Attorney is limited to matters relating to your benefits and rights as a member of SBCERA. The person designated as your Attorney-In-Fact in the SBCERA Special Durable Power of Attorney does not have any authority over your other real or personal property or health care decisions. If you wish your Attorney-In-Fact to have authority over your real and / or personal property, or health care decisions, you are advised to consult legal counsel to complete a different power of attorney.

You may notice that the language contained in the following warning statement refers to more extensive authority than what is granted by this power of attorney form. This warning statement is required by Probate Code section 4128 and must be included in all preprinted durable power of attorney forms that extend authority beyond the date you become disabled or incapacitated. If you are concerned about this warning statement or the extent of the authority being granted by this form, you are advised to consult legal counsel.

A durable power of attorney is an important legal document. By signing the durable power of attorney, you are authorizing another person to act for you, the principal. Before you sign this durable power of attorney, you should know these important facts:

- Your agent (attorney-in-fact) has no duty to act unless you and your agent agree otherwise in writing.
- This document gives your agent the powers to manage, dispose of, sell, and convey your real and personal property, and to use your property as security if your agent borrows money on your behalf. This document does not give your agent the power to accept or receive any of your property, in trust or otherwise, as a gift, unless you specifically authorize the agent to accept or receive a gift.
- Your agent will have the right to receive reasonable payment for services provided under this durable power of attorney unless you provide otherwise in this power of attorney.
- The powers you give your agent will continue to exist for your entire life time, unless you state that the durable power of attorney will last for a shorter period of time or unless you otherwise terminate the durable power of attorney. The powers you give your agent in this durable power of attorney will continue to exist even if you can no longer make your own decisions respecting the management of your property.
- You can amend or change this durable power of attorney only by executing a new durable power of attorney or by executing an amendment through the same formalities as an original. You have the right to revoke or terminate this durable power of attorney at any time, so long as you are competent.
- This durable power of attorney must be dated and must be acknowledged before a notary public or signed by two witnesses. If it is signed by two witnesses, they must witness either (1) the signing of the power of attorney or (2) the principal's signing or acknowledgment of his or her signature. A durable power of attorney that may affect real property should be acknowledged before a notary public so that it may easily be recorded.
- You should read this durable power of attorney carefully. When effective, this durable power of attorney will give your agent the right to deal with property that you now have or might acquire in the future. The durable power of attorney is important to you. If you do not understand the durable power of attorney, or any provision of it, then you should obtain the assistance of an attorney or other qualified person.

Section 8 Acknowledgement and Signature of Principal

I confirm that I have received, read, and understood the instructions provided with this Power of Attorney form. I further confirm that I have read and understood this entire Power of Attorney form.

I am of sound mind and have consulted with an attorney or otherwise understand my elections. I am executing this legal document under my own free will. I agree that any third party who receives a copy of this document may act under it. Revocation of the Power of Attorney is not effective as to a third party until the third party has actual knowledge of the revocation.

Executed this ____ day of _____, 20 ____.

At _____, (City)

State of _____.

Signature of Principal _____.

Typed or Printed Name: _____.

Social Security Number: _____.

Section 9 Notice to Person Accepting the Appointment as Attorney-In-Fact

By acting or agreeing to act as the agent (attorney-in-fact) under this power of attorney you assume the fiduciary and other legal responsibilities of an agent. These responsibilities include:

- a. The legal duty to act solely in the interest of the principal and to avoid conflicts of interest.
- b. The legal duty to keep the principal's property separate and distinct from any other property owned or controlled by you.
- c. You may not transfer the principle's property to yourself without full and adequate consideration or accept a gift of the principal's property unless this power of attorney specifically authorizes you to transfer property to yourself or accept a gift of the principal's property. If you transfer the principal's property to yourself without specific authorization in the power of attorney, you may be prosecuted for fraud and/or embezzlement. If the principal is 65 years of age or older at the time that the property is transferred to you without authority, you may be prosecuted for elder abuse under Penal Code Section 368. In addition to criminal prosecution, you may also be sued in civil court.

I have read the foregoing notice and I understand the legal and fiduciary duties that I assume by acting or agreeing to act as the agent (Attorney-In-Fact) under the terms of this power of attorney.

Executed this ____ day of _____, 20 ____.

At _____, (City)

State of _____.

Signature of Agent (Attorney-In-Fact): _____.

Typed or Printed Name: _____.

COMPLETE THIS SECTION ONLY IF YOU ARE THE ALTERNATE ATTORNEY-IN-FACT NAMED IN SECTION 3:

Executed this _____ day of _____, 20____.

At _____, (City)

State of _____.

Signature of Agent (Alternate Attorney-In-Fact): _____.

Typed or Printed Name: _____.

Section 10 (a) Signature of Witnesses

I, _____, have witnessed the principal's signature, or the principal's acknowledgement of the signature designating power of attorney. I am an adult, at least 18 years old and not the Attorney-in-Fact. My signature certifies that the principal is known to me, and is the same person who signed and dated this affidavit on _____.

_____, _____
(Witness Signature) (Relationship to Principal)

(Street Address, City, State and Zip Code)

I, _____, have witnessed the principal's signature, or the principal's acknowledgement of the signature designating power of attorney. I am an adult, at least 18 years old and not the Attorney-in-Fact. My signature certifies that the principal is known to me, and is the same person who signed and dated this affidavit on _____.

_____, _____
(Witness Signature) (Relationship to Principal)

(Street Address, City, State, and Zip Code)

Section 10 (b) Acknowledgement of Notary Public

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of _____)

County of _____)

On _____, before me _____
(Date) (Insert Name and Title of the Officer)

personally appeared (Name of Principal identified in Section 2); _____, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and Official Seal:

Seal:

Signature of Notary Public: _____

My Commission Expires: _____