



SBCERS SPECIAL DURABLE POWER OF ATTORNEY FORM

This document is intended for appointing an Attorney-In-Fact to transact all retirement matters relating to the Santa Barbara County Employees’ Retirement System. **It authorizes the person you designate (called an “Attorney-In-Fact”) to handle your retirement affairs such as filing applications, making benefit elections, designating beneficiaries, and endorsing warrants.**

This document creates a *durable* power of attorney which continues after you, the principal, become incapacitated or otherwise unable to handle your own affairs. This *Special* Durable Power of Attorney form can only be used for SBCERS retirement matters. Do not complete this form if you want this power of attorney to terminate when you become incapacitated.

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

By this document, 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 member of the Santa Barbara County Employees’ Retirement System—hereinafter SBCERS.

2. Designation of Attorney-In-Fact

I, _____
SBCERS Member Name
of _____, City of _____,
Street Address
County of _____, State of _____,
do hereby appoint: _____ (Relationship to Member _____)
Name of Attorney-In-Fact
of _____, City of _____,
Street Address
County of _____, State of _____, as my Attorney-In-Fact.

3. General Statement of Authority Granted

If I become incapable of giving informed consent to decisions concerning my retirement benefits, I hereby grant to my Attorney-In-Fact full power and authority to transact all matters relating to SBCERS including, but not limited to filing applications, making benefit elections, designating beneficiaries, and endorsing warrants.

I further give and grant unto my said Attorney-In-Fact full power and authority to do and perform every act necessary and proper to be done in the exercise of any of the foregoing powers as fully as I might or could do if personally present, hereby ratifying and confirming all that my said attorney shall lawfully do or cause to be done by virtue hereof.

4. Specific Authority for Spouse

This provision may ONLY be used if you are naming your spouse or domestic partner as your Attorney-In-Fact.*

➤ **You must initial the line in front of each power you are granting.**

_____ My Attorney-In-Fact is authorized to select any payment option available under the retirement plan, even though it may reduce the monthly allowance which would otherwise be paid to me during my lifetime.

_____ My Attorney-In-Fact is authorized to designate himself or herself as my beneficiary.

On the following lines, you may give special instructions which limit or extend the powers granted your Attorney-In-Fact.

* To elect any option or designate any beneficiary on behalf of a member, an Attorney-In-Fact must be either an eligible spouse or domestic partner who has been given specific authority to do so or a "neutral" party. (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, SBCERS will only accept the following: an election of the "Unmodified Option" made on the member's behalf and/or the designation of the

member's minor child(ren) as beneficiary(ies). If a non-neutral Attorney-In-Fact wishes to take any other action, he or she must obtain conservatorship of the member.

If the Attorney-In-Fact is neutral, SBCERS 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.

5. Duration of Special Durable Power of Attorney

Note: This language creates a Special Durable Power of Attorney. My Attorney-In-Fact is hereby instructed to notify SBCERS in writing of my disability or incapacity or of my death

immediately upon this occurrence. *My subsequent disability or incapacity shall not affect this power of attorney. However, it will terminate upon my death.*

➤ **Please initial to indicate you want to be a Special Durable Power of Attorney.**

_____ This Special Durable Power of Attorney will remain in effect for my lifetime or until I specifically cancel it. Do not initial and do not complete this form if you want this power of attorney form to terminate when you become incapacitated.

➤ **IMPORTANT REMINDERS:** *The authority granted by SBCERS's Special Durable Power of Attorney form is limited to matters relating to SBCERS. The person designated on this form as your Attorney-In-Fact does not have any authority over your other real or personal property. You may note that the language contained in the following "WARNING" section refers to more extensive authority. This "WARNING" is required by Probate Code section 4128 to be included in all preprinted power of attorney forms that may extend*

authority beyond the time you become disabled or incapacitated. *If you wish that your Attorney-In-Fact's authority to be extended over real and/or personal property matters, it is recommended that you seek legal counsel in completing a different power of attorney. Also, if you are concerned with the warning statement or the extent of the authority being granted by this form, we again urge you to consult with a private lawyer.*

6. Notice to Person Executing this Document

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 lifetime, 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 though 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. This durable power of attorney that may affect real property should be acknowledged before a notary public so that it may be easily recorded.
- You should read this durable power of attorney very 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.

7. Date and Signature of Principal

Executed this _____ day of _____, 20____,

at _____, _____
City State

Signature: _____

Print name: _____ Employee No.: _____

8. 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:

1. The legal duty to act solely in the interest of the principal and to avoid conflicts of interest.
2. The legal duty to keep the principal's property separate and distinct from any other property owned or controlled by you.

You may not transfer the principal'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 also 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 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.

Date and Signature of Accepting Attorney-In-Fact:

Date: _____

Signature of agent: _____

Print name of agent: _____

9a. Signature of Witnesses

1. 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.*

2. 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.*

Signature

Print your name here

Street Address

City, State, Zip Code

Signature

Print your name here

Street Address

City, State, Zip Code

---OR---

9b. Acknowledgement of Notary Public (California Version)

County of _____

On _____, before me, _____,

personally appeared _____,

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) 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: _____

***This acknowledgement form is valid for California notaries only!
If notarized outside the State of California, the notary of the applicable state must complete and attach that state's acknowledgement form.***