



## SPECIAL DURABLE POWER OF ATTORNEY

This document should be used by members and beneficiaries for appointing an Attorney-In-Fact to transact all retirement matters relating to the Orange County Employees Retirement System (hereafter referred to as OCERS). ***This document authorizes the person you designate as your Attorney-In-Fact to handle your OCERS retirement affairs.*** Do not complete this form if you want this Power of Attorney to terminate when you become incapacitated.

### SECTION 1: CREATION OF SPECIAL DURABLE POWER OF ATTORNEY FOR OCERS RETIREMENT-RELATED BUSINESS ONLY

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 and rights as a member of OCERS.

Name of Principal (Member):

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Mailing Address:

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Phone Number:

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Email Address:

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## SECTION 2: DESIGNATION OF AGENT / ATTORNEY-IN-FACT

*OCERS requires the Attorney-In-Fact to submit a color copy of their government issued photo ID with signature exemplar before the Attorney-In-Fact can take any action.*

Name of Agent/Attorney-In-Fact:

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Relation to Principal:

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Mailing Address:

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Phone Number:

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Email Address:

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OCERS does not require the nomination of a successor Attorney-In-Fact. Under California Probate Code § 4203, a principal may appoint their successor Attorney(s)-In-Fact to act if the original Attorney-In-Fact is unable or unwilling to carry out their duties. A successor Attorney-In-Fact is subject to all the duties and restrictions set forth by you in this Special Durable Power of Attorney. You should complete this section only if you wish to name a successor Attorney-In-Fact.

**If the above-named Attorney-In-Fact is unable or unwilling to carry out the duties as my Attorney-In-Fact, I hereby nominate the following as successor Attorney-In-Fact:**

Name of Successor Agent/Attorney-In-Fact:

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Relation to Principal:

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Mailing Address:

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Phone Number:

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Email Address:

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**SECTION 3: GENERAL STATEMENT OF AUTHORITY GRANTED**

I hereby grant to my agent/attorney-in-fact full authority to transact all matters relating to my benefits and rights as a member of OCERS subject to any limitations I specify in SECTION 4.

**SECTION 4: SPECIFIC AUTHORITY FOR SPOUSE**

*This section should only be used if you are naming your spouse or registered domestic partner as your Attorney-In-Fact.*

**YOU MUST INITIAL THE LINE IN FRONT OF EACH POWER YOU ARE GRANTING TO YOUR SPOUSE**

\_\_\_\_\_ 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 themselves as my beneficiary.

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

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**SECTION 5: DURATION OF SPECIAL DURABLE POWER OF ATTORNEY** Choose only one (1).

By initialing one (1) **and only one** of the sections below, I have indicated under what circumstances this power of attorney will become effective. Once effective, this power of attorney will continue until revoked by me. My Attorney-In-Fact is hereby to notify OCERS in writing of my disability, incapacity, or death immediately upon its occurrence.

Initial on one of the lines below to indicate your choice (choose only one).

\_\_\_\_\_ This special durable power of attorney is to commence immediately and remain in effect until I specifically revoke it. My subsequent incapacity or disability shall not affect this power of attorney. However, it will terminate upon my death.

\_\_\_\_\_ This special limited power of attorney is to commence on \_\_\_\_\_ (mm/dd/yyyy) and terminate on \_\_\_\_\_ (mm/dd/yyyy).

\_\_\_\_\_ This special power of attorney is to commence only upon written determination that I am incapacitated and unable to handle my own affairs. Such determination shall be made by two (2) licensed physicians in the state where I am domiciled and must be written on each physician's letterhead.

**SECTION 6: NOTICE TO PERSON EXECUTING DURABLE POWER OF ATTORNEY**

The authority granted by the OCERS Special Power of Attorney is limited to matters relating to your benefits and rights as a member of OCERS. The person designated as your Attorney-In-Fact in the OCERS Special 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 such matters, 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 the power of attorney form. This warning statement is required by Probate Code § 4128 and must be included in all preprinted durable power of attorney forms that extend authority beyond the date you become 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.

**WARNING: Notice to Person Executing Durable Power of Attorney**

**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 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 7: SIGNATURE AND DATE OF PRINCIPAL** *To be completed and signed only by the member.*

Printed Name of Principal:

\_\_\_\_\_

City:\_\_\_\_\_ State:\_\_\_\_\_

Signature:\_\_\_\_\_ Date Executed: \_\_\_\_\_  
(mm/dd/yyyy)

**SECTION 8: NOTICE TO PERSON ACCEPTING 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 take either action. If you do so without the requisite authority, you may be prosecuted for fraud and/or embezzlement. If the principal is 65 years of age or older at the time of improper property transfer, you may also be prosecuted for elder abuse under Penal Code Section 368 and/or in civil court.

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

Printed Name of Attorney-In-Fact:

\_\_\_\_\_

Signature:\_\_\_\_\_ Date: \_\_\_\_\_  
(mm/dd/yyyy)

***OCERS requires the Attorney-In-Fact to submit a color copy of their government issued photo ID with signature exemplar before the Attorney-In-Fact can take any action.***

**SECTION 9a: SIGNATURE OF WITNESSES** *To be completed by two (2) witnesses.*

***Witnesses cannot be a beneficiary or be related to the principal by blood, marriage, or adoption.***

I have witnessed the principal's signature, or the principal's acknowledgement of their signature designating power of attorney. I am at least 18 years old and not the Agent/Attorney-In-Fact. My signature certifies that the principal is known to me, is the same person who signed and dated this affidavit, and that I am of sound mind.

Printed Name of Witness 1:

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Mailing Address:

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Phone Number:

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Email Address:

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Signature of Witness 1: \_\_\_\_\_ Date: \_\_\_\_\_  
(mm/dd/yyyy)

Printed Name of Witness 2:

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Mailing Address:

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Phone Number:

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Email Address:

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Signature of Witness 2: \_\_\_\_\_ Date: \_\_\_\_\_  
(mm/dd/yyyy)

**SECTION 9b: ACKNOWLEDGEMENT OF NOTARY PUBLIC**

***This section does not need to be completed if you have completed section 9a. Notaries may complete the following or attach the appropriate acknowledgment form as required in the state where acknowledged.***

**ACKNOWLEDGMENT**

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 California  
County of \_\_\_\_\_)

On \_\_\_\_\_ before me, \_\_\_\_\_ (insert name and title of the officer)

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.

Signature \_\_\_\_\_ (Seal)