

**OCERS SPECIAL DURABLE POWER OF ATTORNEY**

This document appoints an Attorney-in-Fact to transact all retirement matters relating to the Orange County Employees System (OCERS). It authorizes the person you designate, the "Attorney-in-Fact" to handle your retirement affairs, such as filing applications, benefit elections, designating beneficiaries and endorsing warrants. You have the option, by electing the appropriate grant of authority below, to make the power of attorney effective immediately or only upon the event of your incapacity.

If you elect to make the power of attorney effective immediately, then this *durable* power of attorney continues after you, the principal become incapacitated or unable to handle your own affairs or until you revoke it. 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. 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**

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 California Probate Code.

This power is expressly limited to decisions relating to my benefits as: (a) an OCERS member; or (b) the surviving spouse or beneficiary of an OCERS member.

**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)

***Please be advised that OCERS requires a copy of the photo ID and signature exemplar of the Attorney-in-Fact at the time of submission of this form. Generally, a driver's license or state issued photo ID are acceptable.***

OCERS does not require that its members nominate a successor Attorney-in-Fact should the original Attorney-in-Fact become unable or unwilling to carry out the duties of an Attorney-in-Fact. Under California Probate Code Section 4203, a Principal may appoint one or more successor Attorneys-in-Fact. 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 the following only if you wish to have 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:**

*Successor Attorney-in-Fact (If Any)*

\_\_\_\_\_, my \_\_\_\_\_,  
(Name of First Successor Attorney-in-Fact) (Relationship to Principal)

of \_\_\_\_\_.  
(Street Address, City, State and Zip Code)

**3. General Statement of Authority Granted**

You must choose whether you want this Power of Attorney to take effect immediately or to take effect only 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. 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:

\_\_\_\_\_a. I hereby immediately grant my Attorney-in-Fact full authority to transact all matters relating to OCERS, including, but not limited to, filing applications, making benefit elections, designating beneficiaries and endorsing warrants. I further give my Attorney-in-Fact full authority to perform every required act to be done to exercise any of the foregoing powers as fully as I might or could do if personally present, hereby ratifying and confirming all that my Attorney-in-Fact shall lawfully do or cause to be done. *My subsequent disability or incapacity shall not affect this power of attorney but will terminate upon my death.*

\_\_\_\_\_b. If I become incapable of giving informed consent to decisions about my retirement benefits, I hereby grant my Attorney-in-Fact full authority to transact all matters relating to OCERS, including, but not limited to, filing applications, making benefit elections, designating beneficiaries and endorsing warrants. I further give my Attorney-in-Fact full authority to perform every required act to be done to exercise any of the foregoing powers as fully as I might or could do if personally present, hereby ratifying and confirming all that my Attorney-in-Fact shall lawfully do or cause to be done. *My subsequent disability or incapacity shall not affect this power of attorney but will terminate upon my death.*

**4. Specific Authority for Spouse to Elect Retirement Allowance Options and Name a Beneficiary**

*This provision may only be used if you are naming your spouse as your Attorney-in-Fact.* An authorized eligible surviving spouse may elect any payment option or designate any beneficiary. An Attorney-in-Fact who has an interest in the member's retirement benefit or estate is not a neutral party and may only select the "Unmodified Option" on the member's behalf or designate the member's minor child(ren) as beneficiary(ies).

**You must initial the line in front of each power you are granting (for Paragraph 4 only). To withhold a power, do not initial the line in front of it:**

\_\_\_\_\_ 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.

\_\_\_\_\_ I give the following instructions which limit or extend the powers of my Attorney-in-Fact:

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**5. Duration of Special Durable Power of Attorney**

**Note:** By this Special Durable Power of Attorney, my Attorney-in-Fact must notify OCERS in writing of my disability, incapacity or death immediately.

*My subsequent disability or incapacity shall not affect this power of attorney but will terminate upon my death.*

**IMPORTANT REMINDERS:**

*This OCERS' Special Durable Power of Attorney is limited to OCERS matters. The person selected as your Attorney-in-Fact does not have any authority over your other real or personal property unless you have executed a separate Special Durable Power of Attorney concerning any other real or personal property. The language contained in the following 'WARNING' section refers to more extensive authority. This 'WARNING' is required by California Probate Code Section 4128 to be included in all pre-printed 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 be extended over real and/or personal property matters, or if you are concerned with the warning statement or the extent of authority granted by this form, it is recommended that you seek legal counsel in filling out a different power of attorney.*

## 6. WARNING TO PERSONS EXECUTING THIS DOCUMENT

### 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.

This 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 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 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.

*This durable power of attorney must be dated and must be acknowledged before a notary or signed by two witnesses. Please choose one or the other, but not both! 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.*

### 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.

**7a. Date and Signature of Agent (Attorney-in-Fact)**

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: \_\_\_\_\_

Typed or Printed Name: \_\_\_\_\_

Phone Number: \_\_\_\_\_

[At this time, you do not need the signature of any successor Attorney-in-Fact, only the original Attorney-in-Fact.]

**8a. Signature of Witnesses**

I, \_\_\_\_\_, have witnessed the principal's signature, or the principal's acknowledgment 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.

I, \_\_\_\_\_, have witnessed the principal's signature, or the principal's acknowledgment 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.

1. \_\_\_\_\_  
(Witness Signature)

\_\_\_\_\_  
(Witness Name)

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

2. \_\_\_\_\_  
(Witness Signature)

\_\_\_\_\_  
(Witness Name)

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

**8b. Acknowledgment of Notary Public**

State of \_\_\_\_\_, County of \_\_\_\_\_

on \_\_\_\_\_, before me \_\_\_\_\_, personally appeared.  
(Date) (Name of Notary)

(Name(s)) \_\_\_\_\_, personally known to me (or 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 instruments the person(s) or the entity upon behalf of which the person(s) acted, executed the instruments.

**Witness my Hand and Official Seal:**

**Seal:**

Signature of Notary Public: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

**7b. Date and Signature of Principal**

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

at \_\_\_\_\_,  
(City)

State of \_\_\_\_\_.

Signature: \_\_\_\_\_

Typed or Printed Name: \_\_\_\_\_

Social Security Number: \_\_\_\_\_

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