

# **SPECIAL/LIMITED POWER OF ATTORNEY**



## **Notice to Principal (Person Executing *Special / Limited Power of Attorney*)**

The authority granted by this *Special / Limited Power of Attorney* is limited to matters relating to the Alameda County Employees' Retirement Association (ACERA). The person designated as your agent in this Power of Attorney (or attorney in fact) does not have any authority over your other real or personal property. If you wish that your agent (attorney in fact) have authority over your real and/or personal property, it is recommended that you seek independent legal counsel and prepare a general power of attorney.

You will notice the language contained in the following (Warning) statement refers to a more extensive authority than granted by this Power of Attorney. This (Warning) statement is required by California Probate Code, Section 4128, and must be included in all preprinted durable power of attorney forms even though the ACERA *Special / Limited Power of Attorney* does not authorize your agent (attorney in fact) to do many of things mentioned in the following (Warning) statement. Also, if you are concerned with the (Warning) statement or the extent of the authority being granted by the ACERA *Special / Limited Power of Attorney* form, we again urge you to consult with your own independent attorney.

## **(Warning): Notice to Principal (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 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.

**Notice to Person Accepting the Appointment of 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 California 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. Lastly, the principal's benefit shall not be subject to execution, process, or assignment under the County Employees' Retirement Law of the California Government Code Section 31452, et seq.

ACERA may act under this power of attorney on receipt of an original or a copy. Revocation of this power of attorney will not be effective as to ACERA until ACERA receives legally sufficient written notice of the revocation. I agree to indemnify ACERA for any claims that arise against ACERA because of reliance on this power of attorney before receipt of written notice of a revocation.

Printed Name(s) of **Agent** (person(s) accepting appointment under the Power of Attorney):

\_\_\_\_\_ Date: \_\_\_\_\_

**Acknowledgment of Appointment:**

Signature of **Agent(s)** (person(s) accepting appointment under Power of Attorney): \_\_\_\_\_

\_\_\_\_\_ Date: \_\_\_\_\_

**To be Completed by Principal (Person Executing Durable Power of Attorney):**

**SPECIAL/LIMITED POWER OF ATTORNEY**

I, \_\_\_\_\_, a member or beneficiary of the Alameda County Employees' Retirement Association (ACERA), appoint \_\_\_\_\_ as my agent (attorney-in-fact) to act for me in any lawful way with respect to transactions concerning my interest in any and all benefits payable by ACERA.

**(Optional)** In case my agent provides a written notarized statement that he or she cannot or is unwilling or unable to act, I appoint \_\_\_\_\_ as alternate agent.

Check (1) or (2) (and (a) or (b)):

- (1) This power of attorney is effective immediately.
- (2) This power of attorney is effective only if and when (check (a) or (b)):
  - (a) I become incapacitated. I define incapacitated to mean: \_\_\_\_\_  
\_\_\_\_\_
  - (b) (Indicate date or event): \_\_\_\_\_  
\_\_\_\_\_

Check (1) or (2):

- (1) This power of attorney will continue to be effective even though I become incapacitated.
- (2) This power of attorney will terminate if I become incapacitated.

Check all that apply:

- (1) This power of attorney **will** authorize my agent to designate or change the designation of beneficiaries to receive any property, benefit, or contract right under ACERA on my death.
- (2) This power of attorney **will not** authorize my agent to designate or change the designation of beneficiaries to receive any property, benefit, or contract right under ACERA on my death.
- (3) This power of attorney **will** authorize my agent to appoint himself or herself as beneficiary.
- (4) This power of attorney **will not** authorize my agent to appoint himself or herself as beneficiary.

Any Special Instructions from Principal to Agent or “Not Applicable”: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**Principal’s** (Person Executing Power of Attorney) address is: \_\_\_\_\_

\_\_\_\_\_

**Principal’s** Social Security number is: \_\_\_\_\_

**Agent’s** (Person Accepting Appointment) address is: \_\_\_\_\_

\_\_\_\_\_

**Alternate agent’s** address is: \_\_\_\_\_

\_\_\_\_\_

By executing this power of attorney, I hereby revoke all provisions of other Powers of Attorney documents that \_\_\_\_\_ (the **Principal**) has executed and submitted to ACERA regarding all matters specifically included in this Special/Limited Power of Attorney which is executed on \_\_\_\_\_ (Date).

Signature of **Principal** (Person Executing Power of Attorney):

\_\_\_\_\_  
Signature

Date: \_\_\_\_\_

Printed Name of **Principal**: \_\_\_\_\_

(California All-Purpose Acknowledgement attached.)

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, \_\_\_\_\_,  
Date Name and Title of the Officer  
personally appeared \_\_\_\_\_  
Name(s) of Signer(s)

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

Place Notary Seal Above

Optional  
Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

**Description of Attached Document**

Title of Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer(s) Name:  
 Corporate Officer — Title(s): \_\_\_\_\_  
 Partner —  Limited  General  
 Individual  Attorney in Fact  
 Trustee  Guardian or Conservator  
 Other: \_\_\_\_\_  
Signer Is Representing: \_\_\_\_\_

Signer(s) Name:  
 Corporate Officer — Title(s): \_\_\_\_\_  
 Partner —  Limited  General  
 Individual  Attorney in Fact  
 Trustee  Guardian or Conservator  
 Other: \_\_\_\_\_  
Signer Is Representing: \_\_\_\_\_