

Power of Attorney

Fact sheet for active, deferred and retired members



There are varying types of power of attorney (POA), some limited and some broad in scope.

A power of attorney (POA) is a legal document that allows you to delegate legal authority to another person to conduct your affairs on your behalf. When implemented, the person you grant the authority to is called your “agent” or “attorney-in-fact.” As the person granting the POA, you are called the “principal.” There are varying types of POA, some limited and some broad in scope. This fact sheet provides information about the types of powers of attorney and the requirements your POA must meet for SDCERA to be able to act on it.

Types of Power of Attorney (POA)

General POA

A general POA allows your agent to make decisions on your behalf based on the scope of duties designated in the document. This type of POA terminates when you, as the principal, become incapacitated.

Durable POA

A durable POA contains a provision permitting your designated agent to act on your behalf, at any time, even if you become incapacitated.

Incapacity is a medical determination verified by letters from physicians indicating your incapacity to manage your financial resources or meet essential requirements for your physical well-being.

Durable Springing POA

A durable springing POA allows your agent to act on your behalf only if you are deemed incapacitated.

SDCERA would require verification of incapacity before taking action on a durable springing POA.

Special Durable POA

Similar to a durable POA, this document permits your designated agent to act on your behalf, at any time, even if you become incapacitated; however, it limits your agent’s authority to those powers that are specifically described.

SDCERA provides a *Special Durable Power of Attorney* form, available at www.sdccera.org or from SDCERA, that grants your agent authority to act only on matters relating to SDCERA.

Key requirements for submitting your POA to SDCERA

SDCERA prefers you to use the SDCERA *Special Durable Power of Attorney* form because it meets all our requirements. However, you may provide your own POA document that grants your agent authority to conduct business with SDCERA if it complies with the law and SDCERA's requirements. If you provide your own POA, you should keep in mind the limitations that may apply to different types of POA. The SDCERA *Special Durable Power of Attorney* form is designed to give you the opportunity to address issues that may arise with your retirement benefits.

In order for a POA to be accepted by SDCERA, two key requirements must be met:

1

Submit an original or certified copy of the POA

Provide the original POA document when possible. SDCERA can accept photocopies of a POA, but the copy must be properly certified as a true and correct copy (an exact duplicate of the original) and have the original signature of the certifier. A certifier can be a notary public, a practicing attorney, or another official authorized to make certifications. The certificate must make clear that the certifying person has examined the original power of attorney and copy, and that the copy is a true and correct copy (exact duplicate) of the original. If you bring your original POA to SDCERA, our staff members can make a certified copy of it and return the original to you.

2

Provide signature verification

SDCERA requires a signature verification of your agent. A photocopy of your agent's state or federal photo identification with signature, such as a driver's license or passport, is acceptable.

For more information about powers of attorney, please contact an attorney or consult California Probate Code sections 4000 through 4545, which contain the state's Power of Attorney Law.

Naming your agent

Whether you use SDCERA's *Special Durable Power of Attorney* form or another POA, choose your agent carefully. The person you name as the agent of your POA can be any person over the age of 18 that you designate to act on your behalf. If you do not use SDCERA's POA form, be sure your POA grants your agent authority to act on retirement matters, such as filing applications, making address changes, making tax withholding decisions and endorsing benefit checks. The POA may grant the authority for the agent to make benefit elections and to designate beneficiaries.

You are able to name your spouse, registered domestic partner or someone related to you by blood or marriage/partnership as your agent. However, he or she cannot name himself or herself as your beneficiary unless he or she has already been named as a beneficiary prior to becoming your agent. If you name your spouse or registered domestic partner as your agent, his or her authority automatically terminates upon dissolution of the marriage or partnership unless you renew his or her authority.

Terminating or changing your power of attorney

If you change your mind about your power of attorney, submit written notification to SDCERA that you wish to revoke your power of attorney. You can then submit a new power of attorney form if you wish. Be sure to inform those that have a copy of the old POA that it is no longer valid. You may want to ask for old forms to be returned to you so you can destroy them.

This material is available in alternative formats upon request. Please contact 619.515.6800.

This fact sheet provides disclosure of certain terms and conditions of SDCERA membership and benefits available to members. It is designed to give you this information as simply and accurately as possible as of the date of issuance of this fact sheet. SDCERA is governed by the County Employees Retirement Law of 1937 (Government Code Section 31450 et seq.) and by the California Public Employees' Pension Reform Act of 2013 (Government Code Section 7522 et seq.) as they have been adopted and implemented by the San Diego County Board of Supervisors and the SDCERA Board of Retirement. If there is any inconsistency between this fact sheet and the governing law, the law will govern. Decisions relating to the plan will be made after reference to the statutes and any resolutions, regulations and policies governing administration of SDCERA as they exist at the same time of the decisions.

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