



CFRS
CITY OF FRESNO RETIREMENT SYSTEMS

➤ CFRS POLICIES AND PROCEDURES SPECIAL POWER OF ATTORNEY





INTRODUCTION

This booklet was designed to assist you in understanding what a power of attorney is and the importance of having a City Of Fresno Retirement Systems' Special Power of Attorney on file with the City of Fresno Retirement Systems (CFRS).

A CFRS' Special Power of Attorney allows you to designate a representative or agent to conduct your retirement affairs, such as address changes, federal or state tax withholding elections, lost or stolen retirement checks, endorsing checks, beneficiary designations, or retirement benefit elections should you become unable to act on your own behalf. This representative or agent is known as your attorney-in-fact.

However, you must complete a CFRS' power of attorney form while you are able to understand the powers you are granting. If you become incapacitated before completing a CFRS power of attorney, we may find it necessary to withhold your retirement allowance until a court appoints a conservator to handle your affairs. Since appointment of a conservator can be both expensive and time consuming, we encourage you to safeguard against this possibility by completing the CFRS Special Power of Attorney form sooner rather than later.



SPECIAL POWER OF ATTORNEY

Power of attorney forms are not all the same.

- A general power of attorney permits your attorney-in-fact to act on your behalf in all of your personal affairs.
- A special power of attorney grants only the powers that are specifically stated in the power of attorney document.

Both a general power of attorney and a special power of attorney may contain a “Durability Clause,” which is a provision permitting your designated attorney-in-fact to act on your behalf in the event you are unable to handle your affairs.

City Of Fresno Retirement Systems’ Special Power of Attorney

The CFRS Special Power of Attorney is a specialized power of attorney that is specifically designed for CFRS retirement issues. The main advantage in using our special power of attorney form is that it contains a durability clause that specifically shows your intent to have your attorney-in-fact conduct business with us even if you become incapacitated.

CFRS permits your attorney-in-fact to be given the specific authority to select a payment option on your behalf. If you do not give the specific authority to select a payment option, then your attorney-in-fact will not be able to do so.

CFRS permits your attorney-in-fact to designate a beneficiary of your retirement benefits if you so specify. If this specific authority is not granted, your attorney-in-fact cannot designate a beneficiary or change the beneficiary that you designated. If you grant your attorney-in-fact authority to designate a beneficiary, you must specify whether or not your attorney-in fact may designate himself or herself. Your attorney-in-fact will not be permitted to designate himself or herself as a beneficiary unless you specifically authorize it on this Power of Attorney form.

If you have not named a beneficiary or become incapacitated before you retire without a power of attorney on file, your retirement benefits will be distributed pursuant to the Municipal Code.

While we prefer that CFRS members use the CFRS Special Power of Attorney form because it contains the durability clause, CFRS will also accept other power of attorney forms that grant the attorney-in-fact authority to conduct business with us. However, should your power of attorney form not contain a durability clause, CFRS will not be able to honor it if you become incapacitated.

Another type of special power of attorney with which you may be familiar is a special power of attorney for health care. CFRS cannot accept this type of special power of attorney for retirement issues. In addition, you cannot use the CFRS Special Power of Attorney to appoint an executor of your estate before your death. The CFRS Special Power of Attorney only deals with retirement matters administered by CFRS. Because of the broad power granted by the CFRS Special Power of Attorney, we recommend that you consult with an attorney before signing this document.



HANDLING YOUR RETIREMENT AFFAIRS

Handling Retirement Affairs With a Power of Attorney

With a CFRS Special Power of Attorney form on file, your attorney-in-fact can begin to take care of your retirement affairs immediately. You may also continue to act on your own behalf. Your attorney-in-fact is able to act in matters concerning your retirement even if you are not incapacitated unless you specify that the power of attorney will not take effect until you become incapacitated or until some future date or event occurs.

If you choose not to file your Power of Attorney with the Retirement Office be sure that your power of attorney form is easily accessible so that your attorney-in-fact can send it to us when the need arises to transact retirement business. Planning ahead can prevent anguish for you and your family.

Changing Your Power of Attorney

If you change your mind about your power of attorney, you must:

- Complete a new power of attorney form with the changes you desire and deliver to the Retirement Office; and
- Inform those who have a copy of the old power of attorney that it is no longer valid and ask that copies of the old form be returned to you so you can destroy them; and
- Give copies of the new form to those people who may need to carry out your wishes.

Terminating Your Power of Attorney

You must submit a notice in writing to CFRS to revoke or terminate your power of attorney. You can then submit a new power of attorney if you wish. If you still have questions about your power of attorney after reading this material, you should consult an attorney of your choice at your own expense.



CHECKLIST FOR YOUR SPECIAL POWER OF ATTORNEY FORM

Complete each section on the following pages in full, making sure that you have entered all the required information. Additionally, you will be asked to attest to the following statements before you submit the forms to CFRS.

- I am of sound mind and acting of my own free will.
- I understand that the individual(s) I have selected as my attorney(s)-in-fact is authorized to make retirement-related decisions for me, is at least 18 years old and may be related to me by blood, marriage, or domestic partnership legally recognized by the State of California.
- I realize that my attorney-in-fact has the power and authority to transact all designated matters relating to the City of Fresno Retirement Systems.
- I have talked with the individual(s) I have selected as my attorney(s)-in-fact and they have agreed to participate.
- Two Retirement staff members, neither of whom are the attorney-in-fact, have verified my identification and have witnessed my signature designating an attorney-in-fact, or a notary public has acknowledged my signature designating an attorney-in-fact.
- My attorney(s)-in-fact has read the notice about their legal responsibilities and has signed the last page of the form.
- I have given a copy of the completed power of attorney to my attorney-in-fact and other family members who may need it.
- I have decided how long I wish my power of attorney to last and have filled in the appropriate blank(s).
- If I have designated more than one attorney-in-fact, I have indicated that my attorneys-in-fact are to act jointly, separately, or alternately.
- I understand that I may authorize my attorney-in-fact to select any payment option available under the retirement plan even though the selected option may reduce the monthly allowance that would otherwise be paid to me during my lifetime.
- I understand that I may authorize my attorney-in-fact to designate or change my beneficiary.
- I understand that I may authorize my attorney-in-fact to designate him or herself as my beneficiary.
- I have signed and dated the CFRS Special Power of Attorney form, and my attorney-in-fact has signed the notice acknowledging their legal responsibilities.



SPECIAL POWER OF ATTORNEY FORM

Put your name and Social Security number at the top of every page.

Name of Principal (First Name, Middle Initial, Last Name) Social Security Number

Section 2 Creation of Durable Power of Attorney for Retirement-Related Business

When completing this form, please be sure to print the requested information.

Name of Principal (First Name, Middle Initial, Last Name) Social Security Number Address County

For the purpose of this form, a principal is defined as a person who empowers another to act as a representative on their behalf.

City State ZIP Daytime Phone

By this document, I intend to create a durable power of attorney by appointing the person(s) 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 financial benefits under the CFRS.

Section 3 Designation of Attorney-In-Fact

You have the option of designating more than one attorney-in-fact.

If you appoint more than one attorney-in-fact, and you want each attorney-in-fact to be able to act alone, check the appropriate box at the end of this section. If you do not check a box, or if you check "jointly," then all of your attorneys-in-fact must act or sign together. Granting joint authority to two or more attorneys-in-fact is exercisable only by their unanimous action. If you choose to have your attorneys-in-fact act jointly, and one is unavailable because of absence, illness, or other temporary incapacity, the other attorney(s)-in-fact may exercise their authority under the power of attorney.

1

Name of attorney-in-fact Address County City State ZIP Daytime Phone

2

Name of attorney-in-fact Address County City State ZIP Daytime Phone

3

Name of attorney-in-fact Address County City State ZIP Daytime Phone

I have designated more than one attorney-in-fact. They are to act (mark one box only): [] Jointly [] Separately [] Alternately, in the numerical order specified above. If you mark "Alternately," you must place the attorneys-in-fact in the order in which they are to act.



SPECIAL POWER OF ATTORNEY FORM

Put your name and Social Security number at the top of every page.

Name of Principal (First Name, Middle Initial, Last Name) Social Security Number

Section 6 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:

- The legal duty to act solely in the interest of the principal and to avoid conflicts of interest. 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 authorized 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 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 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 Fresno Municipal Code section 3-309 (for the Fire and Police Retirement System) and 3-509 (for the Employees Retirement System).

Print Name of Agent

Signature of Agent Date (mm/dd/yyyy)

Print Name of Agent

Signature of Agent Date (mm/dd/yyyy)

Print Name of Agent

Signature of Agent Date (mm/dd/yyyy)

Section 7 Principal's Acknowledgement & Execution

To be completed and signed by the Principal in the presence of two Retirement staff members who are not named as Attorneys-in-Fact or a Notary Public.

I am of sound mind and either understand my elections or have talked with an attorney. I am executing this legal document under my own free will.

Date Executed (mm/dd/yyyy) City State

Signature of Principal County

Name of Principal (printed) Social Security Number



SPECIAL POWER OF ATTORNEY FORM

Put your name and Social Security number at the top of every page.

Name of Principal (First Name, Middle Initial, Last Name) Social Security Number

Section 8 Witness Information

To be completed by two Retirement staff members who are not named as attorneys-in-fact.

My signature certifies that the Principal's identification has been verified and that the Principal signed and dated this affidavit in my presence.

Signature of Witness 1 Name of Witness 1 (printed)

Address Date

City State ZIP

This section does not need to be completed if you have completed Section 9.

Signature of Witness 2 Name of Witness 2 (printed)

Address Date

City State ZIP

Section 9 Notary Public Acknowledgement

To be completed by a Notary Public.

Notary

State County

This section does not need to be completed if you have completed Section 8. CFRS images these documents. Please be advised embossed seals may not appear when this document is reviewed. An inked stamp is preferred.

On _____ before me _____, personally
Date (mm/dd/yyyy) Printed Name of Notary Public
appeared _____, who proved to me on the basis of
Name of Principal

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 of Notary Public Notary Seal

Print Name

Mail to:

Benefits Manager
City of Fresno Retirement Systems
2828 Fresno Street, Suite 201
Fresno, CA 93721