

STATE of
CONNECTICUT



RETIREMENT SERVICES
DIVISION



RETIREMENT SERVICES DIVISION
OFFICE of the STATE COMPTROLLER
165 Capitol Ave.
Hartford, CT 06106

RETIREMENT SERVICES DIVISION MEMORANDUM 2020-03

April 30, 2020

ATTENTION: State Agency Retirement Subject Matter Experts

SUBJECT: TEMPORARY RULES FOR LIMITED DURABLE POWERS OF ATTORNEY (CO-1049)

I. Introduction

Form CO-1049, the Limited Durable Power of Attorney (LDPOA), enables each member of the State Employees Retirement System (SERS) to authorize another person (an “attorney-in-fact”) to make retirement decisions and execute retirement documents in the member’s place, and on the member’s behalf. Having an LDPOA on file can be essential to protect the rights of members, their families, and other loved ones, if a member becomes incapacitated by illness or injury.

The recent public health emergency involving the novel coronavirus is a reminder of the importance of the LDPOA. Unfortunately, the emergency has also made it more difficult for some SERS members to complete the form properly. A duly-executed CO-1049 must be signed in the presence of two witnesses and a notary; it must contain the signature, name, and address of each witness, as well as the notary’s attestation; and it must include the social security number of both the member and the member’s designated attorney-in-fact. The social distancing rules that are currently in place in Connecticut and many other jurisdictions make it harder for members to satisfy all these requirements.

Some measures have already been taken to alleviate this problem. For example, Governor Lamont’s Executive Order 7Q creates procedures by which a notary or Commissioner may notarize a document without being physically present at its signing. But some members may find it impossible to comply even with these emergency procedures.

For these reasons, and pursuant to a Memorandum of Understanding, dated April 29, 2020, between the State and SEBAC, the Retirement Services Division will **temporarily** accept LDPOAs that satisfy a **modified set of requirements**.

LDPOAs that satisfy these temporary requirements will be retained and honored by the Retirement Services Division, but only until the end of the current emergency. **At that time, forms that fail**

to comply with the original rules will not be given effect. Consequently, any employee who is able to do so should still be encouraged to satisfy those original requirements.

II. Temporary Rules

For the limited period of time that is indicated below, the Retirement Services Division will accept, maintain, and honor LDPOAs on [FORM CO-1049](#), if the documents comply with these rules:

- The member must sign the form, either physically or electronically.
- The form must contain at least the last four digits of the Social Security Numbers of both the member and the designated attorney-in-fact.
- If the member's signature is not notarized (either physically or electronically, in compliance with E.O. 7Q), then the CO-1049 must be accompanied by a copy of the member's driver's license or other government-issued identification.
- If the member has physically executed the CO-1049, then the member must submit the original document.
- If the member has not physically executed the CO-1049, then the form may be submitted by email.
- In every case, the member must supply his or her own, working email address, either by including it on the form or by providing it in a covering letter or email.

III. Time Limit for Temporary Rules

The foregoing rules are *temporary*: The Retirement Services Division **will not** accept or comply with an LDPOA, even if it satisfies these requirements, after the *earlier* of (a) 60 days following the repeal of Executive Order 7Q, or (b) 60 days following the end of the current public health emergency.

IV. Where to Submit the LDPOA

While these temporary rules are in effect, **members may submit their LDPOAs directly to the Retirement Services Division**. Members may send original forms by U.S. mail, to: Retirement Services Division, 165 Capitol Avenue, Hartford, CT 06106, Attn: Donald Wilkerson. Alternatively, members may submit electronic forms to the Retirement Services Division by email, at rsd-poa-documents@ct.gov.

Please be aware, however, that submission of these forms directly to the Retirement Services Division could cause confusion or delay at a later time—for example, if a member's family has to work with an HR Office that is unaware of the form that was previously submitted to the Division. For this reason, **we strongly recommend that copies of any documents submitted directly to this office should also be submitted to the member's agency.**

V. Employees Should Still Comply With Original Rules, if Possible

When the current emergency ends, the difficulties of properly executing an LDPOA will end along with it. But the importance to employees of having a valid power of attorney on file will not have changed. Members will still be subject to accident and disease, and some of them will become incapacitated before they can carry out important actions affecting their retirement benefits. After the emergency, the members' chosen attorneys-in-fact will be unable to rely on incomplete LDPOAs to execute those actions.

For this reason, **you should encourage all employees who are able to do so to comply with the requirements that appear on the CO-1049 form. You should also emphasize to *all* members that incomplete forms will have to be replaced by properly-executed copies when the current emergency is over.**

As always, we thank you for your co-operation in these difficult times.

If you have any questions concerning these new measures, or if there are special circumstances under which your agency cannot comply with them, please contact Donald Wilkerson, at (860) 702-3642, or at Donald.Wilkerson@ct.gov.

Very truly yours,

BY:

A handwritten signature in black ink, appearing to read "John W. Herrington". The signature is fluid and cursive, with a long horizontal stroke at the end.

John W. Herrington, Director
Retirement Services Division

LIMITED DURABLE POWER OF ATTORNEY (LDPOA) - PRE-RETIREMENT

PART I - GENERAL INFORMATION AND INSTRUCTIONS - PLEASE READ CAREFULLY

Connecticut statutes allow an entity to establish its own criteria as to what it will accept with regard to a Limited Durable Power of Attorney (LDPOA). In order to safeguard the interests of members of the State Employees' Retirement System (SERS) a member wishing to designate someone as his or her Attorney-In-Fact must use this form to do so. This LDPOA authorizes your Attorney-In-Fact to perform on your behalf any transactions with SERS that you could request yourself. This form is intended for use with SERS only. Every LDPOA is subject to review and approval by the Retirement Services Division (RSD). **This two page document must be signed, dated, witnessed and notarized where indicated.**

1. This LDPOA gives the person you designate the power to make any and all decisions for your SERS related matters on your behalf. The RSD is providing this instrument to its SERS members as a matter of courtesy. Due to the significance of this document RSD *strongly recommends* that you seek legal advice before signing this document.
2. This LDPOA remains in effect until the earliest of the following occurs: (a) your death; (b) your Attorney-In-Fact relinquishes his/her duties or a court acting on your behalf terminates such authority; (c) you revoke this LDPOA by written notification to RSD. This LDPOA may not be amended.
3. If your Attorney-In-Fact is your spouse, RSD shall presume and deem this LDPOA revoked if either you or your spouse files for divorce unless you specifically write and notify us otherwise.
4. This LDPOA will continue in full force and effect despite any incapacity or disability you may suffer after execution. However, it is limited to pre-retirement transactions. If you wish it to continue post-retirement, you must execute another LDPOA for post-retirement transactions.
5. With the exception of a spouse, the Attorney-In-Fact listed on the LDPOA cannot also be your contingent annuitant or beneficiary unless you have specifically noted this on the form provided.

PART II - MEMBERS (PRINCIPAL) INFORMATION (Type or Clearly Print This Information)

| | | | | |
|--|------------|------|--------------|-------------|
| MEMBER'S NAME (Last) | First Name | M.I. | EMPLOYEE NO. | SOC SEC NO. |
| MEMBER'S ADDRESS (Street, No., Name) (City, State, Zip Code) | | | | |

PART III - DESIGNATION OF ATTORNEY- IN-FACT (AGENT) (Type or Clearly Print This Information)

The individual you wish to designate as your Attorney-In-Fact (Agent)

| | | | |
|---|------------|------|--------------|
| NAME (Last) | First Name | M.I. | SOC SEC NO. |
| ADDRESS (Street, No., Name) (City, State, Zip Code) | | | RELATIONSHIP |

PART IV - AGREEMENT AND ACKNOWLEDGEMENT

I have read or have had explained to me the information contained on this page, page one of this two page LDPOA form, and I understand its contents. I understand that I am also referred to as the Principal in and throughout this document.

Name of Member (Principal)

Date

Directions: *If you have not yet retired:* Fill in and execute both pages of this LDPOA form and submit to your employing agency.

LIMITED DURABLE POWER OF ATTORNEY (LDPOA) - PRE-RETIREMENT

I hereby give _____ (name of Attorney-In-Fact) who was designated as my Attorney-In-Fact on the first page of this two page form, the full power and authority represent me in the following pre-retirement plan transactions on my behalf with SERS to the extent that I could do myself as a member of SERS. My Attorney-In-Fact shall be authorized to do the following with regard to my SERS pension benefits (initial all that you **DO** authorize):

- _____ Talk to my employing Agency and Retirement Services Division staff about my benefit to learn and/or receive the information necessary for retirement.
- _____ Select payment election options in accordance with the SERS statutes.
- _____ Execute SERS retirement related forms, instruments and applications as appropriate.
- _____ Designate beneficiaries and survivor annuitants in accordance with SERS statutes and procedures.
- _____ Receive pre-retirement counseling on my behalf.
- _____ To make any and all designations concerning the method of payment of these sums, including the designation of the address or bank account to which the benefits are sent or deposited.

I understand that SERS does not permit a non-spouse Attorney-In-Fact acting on behalf of a member to name themselves as a beneficiary or contingent annuitant unless I specifically allow my Attorney-In-Fact to do so. By placing my initials (not just a check mark) on the line next to the following statement, I agree and hold that:

- _____ To the extent that I could do so myself under SERS, and while it may be construed as self-dealing, my non-spouse Attorney-In-Fact _____ (name) may name himself or herself as beneficiary or as a contingent annuitant with regard to any SERS related retirement benefit.

By signing this form, I am granting _____ (name of Attorney-In-Fact) the full power and authority to act on my behalf with regard to the SERS transactions I have marked above. I understand the legal impact in executing this LDPOA and hereby agree to hold the State of Connecticut and its employees harmless for any alleged misuse, mismanagement or malfeasance by the Attorney-In-Fact exercising any and/or all powers granted under this LDPOA. Furthermore, no State employee who relies in good faith upon the authority granted hereunder shall incur any liability to me, my estate, my heirs, successors or assigns.

IN WITNESS WHEREOF, I have signed this Power of Attorney on _____, 20 ____

Signature of Member (Principal)

Address (Street/Town/State) Where Signed

Statement of Witnesses: I declare that the Principal has identified himself or herself to me, that the Principal signed or acknowledged this LDPOA in my presence, that I believe the Principal to be of sound mind, that the Principal has affirmed that the Principal is aware of the nature of the document and is signing it voluntarily and free from duress.

1. Witness Signature: _____

2. Witness Signature: _____

Date signed: _____

Date signed: _____

Address: _____

Address: _____

Acknowledgement: On this day before me, a Notary Public or Commissioner of the Superior Court, authorized to administer oaths in the State that the Member resides, personally appeared _____ (Member/Principal) who is personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed as the Principal within this instrument, executed this document in my presence, and personally acknowledged to me that he/she executed this LDPOA for the purposes herein stated.

Signed and sworn before me this _____ day of _____, 20 ____

Signature of Notary Public or Commissioner of the Superior Court: _____