



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

MEH:ecb
Docket No: 2981-01
17 July 2001

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 17 July 2001. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by NPC memorandum dated 4 June 2001, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. Also noted was the fact you did not provide written concurrence with your request from your spouse. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY

NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

4 Jun 01

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: Assistant for BCNR Matters (PERS-OOZCB)

Subj: COMMENTS AND RECOMMENDATION ICO CAPT [REDACTED]

Ref: (a) BCNR memo of 3 May 01
(b) The National Defense Authorization Act of FY-98
(c) Assistant Secretary of Defense memo dtd 6 May 98

1. Per reference (a), recommend BCNR not correct CAPT [REDACTED] record to reflect that he terminated enrollment in the Survivor Benefit Plan (SBP) spouse coverage category.

2. The recommendation is based on the following:

[REDACTED] transferred to the Reserve Retired List (without pay) on 1 October 1991. He elected immediate spouse category coverage on 19 September 1979. [REDACTED] became eligible for retired pay on 13 June 1997.

b. Per reference (b), [REDACTED] had the one-time opportunity to discontinue participation in the SBP between 13 July 1999 and 13 June 2000. This provision of the law became effective 17 May 1998. He did not exercise his option of terminate participation during that timeframe.

3. The provisions of reference (c), provided implementing administrative guidance to the services regarding reference (b). The services were directed to publish in their newsletters an announcement that the one-year termination period began 17 May 1998, and to describe the appropriate procedures for requesting termination. He also required the Director, Defense Finance and Accounting Service (DFAS) to ensure that all retirees were informed of their eligibility to discontinue SBP by publishing a notice on, or with, the December 1998 Retiree Account Statement (RAS). We made the required announcement in "Shift Colors" in the Spring, Summer/Fall, and Winter 1998 editions.

Subj: COMMENTS AND RECOMMENDATION ICO [REDACTED]

981-01

Additionally, we regularly publish our 800 number if a member has questions not specifically addressed, or if they do not feel an issue has fully explained on a particular topic.



BASIL COLEMAN
Head, Retired Admin Section
Casualty and Retired
Activities Division (PERS-62)



FORCE MANAGEMENT
POLICY

ASSISTANT SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-4000

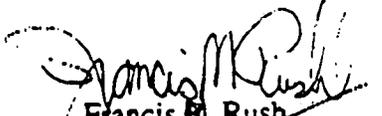


MAY 6 1998

**MEMORANDUM FOR DEPUTY ASSISTANT SECRETARY OF THE ARMY (MILITARY
PERSONNEL MANAGEMENT AND EQUAL OPPORTUNITY
POLICY)
DEPUTY ASSISTANT SECRETARY OF THE NAVY
(MANPOWER)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE (FORCE
MANAGEMENT AND PERSONNEL)
DIRECTOR, DEFENSE FINANCE AND ACCOUNTING SERVICE**

**SUBJECT: Implementing Guidance for Section 641, National Defense Authorization Act for
Fiscal Year 1998, Public Law 105-85, November 18, 1997, to Allow Termination
of Participation in the Uniformed Services Survivor Benefit Plan (SBP)**

This memorandum provides uniform guidance to implement Section 641, Public Law 105-85, which enacted certain new provisions of the Uniformed Services Survivor Benefit Plan (SBP). Specifically, the law provides for a one-year period, beginning two years after the commencement of retired pay, during which SBP participants may choose to discontinue participation in the plan. Additionally, those members who have been receiving retired pay for more than two years have a one-time, one year opportunity to discontinue. The attached policies and procedures are effective May 17, 1998. Service policies and procedures shall be modified accordingly.


Francis R. Rush
Acting Assistant Secretary

Attachments:
As stated

- cc: Deputy Assistant Secretary of Defense for Reserve Affairs (Manpower and Personnel)
- Deputy Chief of Staff for Personnel, United States Army
- Deputy Chief of Naval Operations, Manpower and Personnel, United States Navy
- Deputy Chief of Staff for Personnel, United States Air Force
- Deputy Chief of Staff for Manpower and Reserve Affairs, United States Marine Corps
- Director, Office of Personnel Management, Public Health Service
- Director, National Oceanic and Atmospheric Administration Corps, Operations-NC
- Commandant, United States Coast Guard
- DoD Chief Actuary
- Deputy General Counsel (Fiscal)



Policies and Procedures Applicable to Persons Requesting to Discontinue Participation in the Uniformed Services Survivor Benefit Plan (SBP)

Provision of Law: Section 641, P.L. 105-85 provides for a one-year period, beginning on the second anniversary of the date of commencement of retired pay, during which SBP participants may choose to voluntarily discontinue their participation in SBP. The law also provides a one-year termination period beginning May 17, 1998, for participants who have been retired more than two years. No request to discontinue participation under this law shall become effective before May 17, 1998, regardless of the date such request was received.

Eligible Participants: A member participating in SBP, whether an active-duty or reserve retiree, may submit a request to voluntarily discontinue participation in SBP during the one year period beginning on the second anniversary of the date of commencement of retired pay. Those members whose second anniversary occurred prior to May 17, 1998, have until May 16, 1999 to submit a request to discontinue. For the purposes of this policy, the date of commencement of retired pay is defined as the date the retiree became entitled to receive retired pay. Subsequent recall to active duty following retirement does not alter this date.

Notice to Eligible Participants: Each service should publish in their retiree newsletter an announcement that the one year period commences May 17, 1998 and describe the appropriate administrative procedures for requesting termination. The Director, Defense Finance and Accounting Service (DFAS) shall ensure that all retirees are informed of their eligibility to discontinue SBP by publishing a notice on or with the December 1998 Retiree Account Statement.

Notice to Affected Beneficiary: Spouses and former spouses that concur in the request for termination shall be considered notified in accordance with the provisions of 10 USC 1448a. DFAS shall ensure that natural persons and former spouses not required to concur in the request for termination are notified of the termination of SBP coverage by sending a letter to such beneficiaries at the address in the retired member's file.

Procedures Applicable: An SBP participant who is eligible to discontinue such participation (as determined above) shall make a written request to DFAS Cleveland Center, using DD Form 2656-2. A request for information, or a request for termination that is not on DD Form 2656-2 is not a request to discontinue. The Services shall work closely with Service Reserve Personnel Centers to ensure the wide availability of DD Form 2656-2 and the attached information sheet. The information sheet shall be used by retirement counselors to counsel eligible participants and assist in the completion of DD Form 2656-2.

Termination of Coverage: A member's participation shall terminate on the first day of the month following the month in which the request was received by DFAS. Any premium deducted for periods on or after such effective date shall be refunded and the member notified of the final action concerning termination of coverage.

**Termination of Participation in SBP
April 27, 1998**



Shift Colors

The Newsletter for Navy Retirees

Volume 43 Issue #2

Bureau of Naval Personnel

Spring 1998

MEMORIAL DAY MESSAGE

Since 1869, the nation has consecrated this holiday to the memory of Americans who have died in war. Since then, many more American men and women have nobly fought and died, proving that our ideals and way of life will continue to be challenged and will be won anew only at extreme cost.

equal and free. Others praise our government institutions, economic might, or preeminent military strength. All of these make America an envied model, but they are more the result than the cause of greatness.



Memorial Day provides an opportunity for all Americans to reflect on a true source of our greatness: a national spirit that imbues so many with the will to give what Lincoln called "The last full measure of devotion" to defend a cause that is larger than self.

On behalf of the Joint Chiefs of Staff and the men and women of the world's finest armed forces, I encourage all Americans to set aside part of today to renew the memory of those who have made the ultimate sacrifice. May this day of remembrance stir both our national pride and conscience, and cause us to cherish those principles for which so many gave their lives.

People throughout the world cite many reasons for American's greatness. First among these is our founding axiom that all men are created

*Henry H. Shelton, Chairman
Joint Chiefs of Staff*



NEW FORMS & NEW PROCEDURES**SBP DISCONTINUATION FORM****FORGOTTEN WIDOW'S ANNUITY FORM**

Two programs are being implemented that directly affect the retired community: the Survivor Benefit Plan (SBP) open season for discontinuation and the Annuity for Certain Military Surviving Spouses (Forgotten Widows).

The SBP discontinuation form offers a list of advantages and disadvantages to the program - it may prove helpful to review them carefully and discuss them with your spouse.

Many retirees are under the misconception that they will receive a refund if they discontinue - **NO REFUNDS ARE AWARDED.** It is based on the same premise as automobile insurance: if you decide that you want to cancel your policy because you haven't had an accident and don't foresee one in the future, that doesn't entitle you to a refund.

FINAL NOTE: SBP participation provides excellent protection for your survivors in the event of your death. Do not give up this benefit without discussion and careful consideration of the consequences.

The annuity application for the Forgotten Widows also offers step-by-step instructions and lists a point of contact for each service, in the event that further assistance is required.

The applications for both programs appear on pages 5 through 8. Please **READ ALL PERTINENT INFORMATION BEFORE MAKING YOUR DECISIONS.**

Submitted by Dennis Mills,
SBP Program Manager

Message Continued from page 3

ning for their financial future. At every fleet call I attend, Sailors express a strong desire for a long-term, tax-deferred savings proposal. Not only do they strongly desire this initiative, but they urgently need it as well. In an environment where there is a perception of benefit erosion, approval of this simple, inexpensive, and modest proposal would send a very strong message to our Sailors that leadership understands their concerns and is willing to help.

Finally, we have included recommendations from this year's conference in this issue of *Shift Colors* to give you timely feedback about the issues the Council is working for retirees. We will continue to publish the Retiree Council's membership annually in *Shift Colors*, and you are encouraged to contact them, your local Retired Activities Office, or the Bureau of Naval Personnel's Retired Activities Branch with your ideas and concerns. Most of the Bureau of Naval Personnel (including the Retired Activities Branch and *Shift Colors*) is relocating to Memphis, TN this summer and the new addresses and phone numbers will be listed in the next edition of *Shift Colors*. We have taken advantage of the relocation to upgrade our infrastructure to better serve our active duty and retired population. As always, thanks again for all you have done for our Navy team and our great country.



D. T. OLIVER
Vice Admiral, U.S. Navy



Shift Colors

The Newsletter for Navy Retirees

Volume 43 Issue #3/4

The Bureau of Naval Personnel

Summer/Fall 1998

SECNAV'S RETIREE COUNCIL SEEKS TO FILL VACANCIES

The Secretary of the Navy Retiree Council (RC) held its annual meeting April 6-10 in Washington, D.C., chaired by VADM James Dorsey, Jr., USN (Ret.) and the former Sergeant Major of the Marine Corps, Harold G. Overstreet, USMC (Ret.). The issues and recommendations resulting from the 1998 meeting were published in the Spring 1998 edition of Shift Colors.

The RC was established in 1968 to act as an advisor to SECNAV on matters relating to the retired community. Those matters include, but are not limited to, medical care, the Survivor Benefit Plan, Cost of Living Allowances, and transition assistance.

At the conclusion of this year's meeting, six Navy retirees completed their terms on the Council. We sincerely appreciate the service and expertise each of the following departing members brought to the various meetings:

CAPT Bruce K. Lloyd, MC, USN (Ret.)
CAPT John J. McDonald, USN (Ret.)
CDR Alan W. Jacka, USN (Ret.)
CDR Patrick J. Kusiak, USN (Ret.)

NCC James M. Lauder milk, USN (Ret.)
HMCS Betty Lejeune, USN (Ret.)

The departure of these members has created openings for four regular Navy officers and two enlisted retirees. Two of these positions are designated for representatives from Europe and the Philippines, but all other positions are unrestricted. If you

would like an opportunity to serve the retired community, consider applying for one of the vacant positions. Each opening will need to be filled for the 1999 session.

RC members should be available to assist their area Retired Activities Offices (RAOs) throughout the year. They should also gather input and concerns from their respective retired community for discussion at the Council meetings. The Council tries to maintain a broad cross-representation of retirees. Volunteer service in a RAO is an excellent credential: however, retirees with specific background and experience in the field of



Continued on page 16

Continued from page 3

RC is a valuable and useful group that advises the Secretary on issues that relate to the retired community. The Council members bring input from you, the retirees, to regular Council meetings for discussion and make recommendations to SECNAV. I can't think of a more important way that you can make an impact on your future, and I sincerely urge anyone who is interested to apply.

W. R. SCHMIDT
Rear Admiral, U.S. Navy

New programs and new policies directly affect Retired Community

- (1) The Survivor Benefit Plan (SBP) open season for discontinuation; and
- (2) The Annuity for Certain Military Surviving Spouses [*For widow/widowers of retired active duty servicemember who died prior to March 1, 1974; and widow/widowers of reserve service member who died between Sept. 21, 1972 and Oct. 1, 1978.*]

Both of these programs and their applications were included in the last issue of Shift Colors. However, the material is so important and so time sensitive, we are including them in this issue as well.

The **SBP Discontinuation** form offers a list of advantages and disadvantages of the program - it may prove helpful to review them carefully and discuss them with your spouse.

Many retirees are under the misconception that they will receive a refund if they discontinue - **NO REFUNDS ARE AWARDED**. It is based on the same premise as automobile insurance. If you decide that you want to cancel your policy, you are well within your right to do so. However, the fact that you haven't had an accident or filed a claim with your insurance company does not entitle you to a refund of premiums paid.

FINAL NOTE: The disenrollment period for retirees who have been in receipt of retired pay for more than two years is from May 17, 1998 to May 16, 1999. SBP participation provides excellent protection for your survivors in the event of your death. Do not give up this benefit without discussion and careful consideration of the consequences.

The application for **The Annuity for Certain Military Surviving Spouses** (Forgotten Widows) offers step-by-step instructions and lists a point of contact for each branch of service, if further assistance is required. The application for the Annuity for Certain Military Surviving Spouses should be mailed to the following address:

DEPARTMENT OF NAVY
RETIRED ACTIVITIES BRANCH PERS 622
5720 INTERGRITY DRIVE
MILLINGTON TN 38055-6220

The applications for both programs appear on pages 5 through 8. **PLEASE READ ALL INFORMATION BEFORE MAKING A DECISION.**



Memorial continued from page 6



He's called the Lone Sailor, yet he is hardly ever alone, standing there on the broad granite plaza which forms the amphitheater of the Navy Memorial.

(Continued from page 4)

to accomplish the task of informing America's youth with a stimulating view of naval history, the video will be made available for broadcasting, training, and distribution.

The final goal of the video is to strengthen appreciation for the Navy's contribution to the country, and a better understanding of America as a maritime nation.

Contributed by Dr. Alice McGill, Bureau of Naval Personnel, and the Navy League of the United States

panding the Log rolls and photographs. Those who work here come on a part-time basis, but their sense of identity with the Navy or the other sea services runs deep. This kind of person comes to further the cause, and to have fun interacting with ex-Navy personnel and participating in Navy Foundation activities. If you are retired or are a spouse of a retired, active duty or reserve member, and if you have the same identity with our country's Naval heritage, you may be interested in joining the team here as a volunteer - possibly as a part-time paid employee. The work

requires some aptitude for working with computers, but relax - we also train! Remember, because the Navy Foundation is private, there is always opportunity to get involved either in the operations here if you live in the DC area, or by Internet if you are a "web surfer."

If you are interested in assisting at the U.S. Navy Memorial, call at (202) 737-2300 ext 716. The staff looks forward to seeing you soon!

Submitted by Bob Berry, Dir., Constituent Services, U.S. Navy Memorial Foundation



SBP UPDATE

The National Defense Authorization Act for Fiscal Year 1998 was signed by the President on November 18, 1997. One of its provisions allows current Survivor Benefit Plan (SBP) participants with more than two years in the program, an opportunity to discontinue their enrollment in the plan. This opportunity is offered for a one-year timeframe only.

The effective date of the provision is May 17, 1998. Addition-

ally, the new provision will allow future SBP participants an opportunity to terminate SBP participation within their second and third year SBP anniversary dates (after May 17, 1998).

The coverages a participant will be able to terminate are: for spouse, for spouse and child(ren), and for child(ren) of a former spouse (voluntary elections only).

The terms of discontinuation in the plan will remain as they are stipulated in the current SBP laws. For example: The retiree must obtain spouse/former spouse concurrence to discontinue SBP.

More details on the one-year open season to discontinue participation in SBP will appear in the Spring edition of "Shift Colors".

Submitted by Dennis Mills, SBP Program Director