



**DEPARTMENT OF THE NAVY**  
BOARD FOR CORRECTION OF NAVAL RECORDS  
701 S. COURTHOUSE ROAD, SUITE 1001  
ARLINGTON, VA 22204-2490

3933-21

Ref: Signature Date

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED], USN RET  
[REDACTED]

Ref: (a) Title 10 U.S.C. § 1552  
(b) DODFMR, Vol 7B, Chp 43  
(c) DD Form 2656

Encl: (1) DD Form 149 w/attachments  
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that his naval record be corrected to reflect Survivor Benefit Plan (SBP) Children only coverage.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 1 December 2021 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, relevant portions of Petitioner's naval record, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, found that, before applying to this Board, he exhausted all administrative remedies available under existing law and regulations within the Department of the Navy. The Board made the following findings:

a. In accordance with reference (b), written spousal concurrence is required when the member elects to decline coverage or provide the spouse with less than the maximum SBP coverage available, to include electing child-only coverage. The signature of the spouse must be notarized. The requirement to have spouse's signature notarized provides certification that the spouse signed the form and acknowledged the election made on the form.

b. Reference (c), Part V – Spouse SBP Concurrence stipulates “Required ONLY when the member is married and elects either: (a) child only SBP coverage, (b) does not elect full spouse SBP coverage; or (c) declines SBP coverage. The date of the spouse's signature in Block 41c MUST NOT be before the date of the member's signature in Block 39c, or on or after the date of retirement listed in Part 1, Section I, Block 4. The spouse's signature MUST be notarized.”

c. Petitioner married [REDACTED] on 17 February 2001.

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d. Petitioner has four dependent children: [REDACTED] / [REDACTED] June [REDACTED] / [REDACTED] October [REDACTED], and twin sons [REDACTED] / [REDACTED] August [REDACTED].

e. On 22 April 2019, Defense Finance and Accounting Service (DFAS) received Petitioner's DD Form 2656, Data for Payment of Retired Personnel, electing SBP Children coverage based on the threshold amount in effect on the date of retirement. Block 39 was missing Petitioner's signature and date but Block 40 was witnessed/signed and dated 9 January 2019. Spouse signed Block 41 on 8 January 2019; however, the notary witness failed to provide the date.

f. Petitioner transferred to the Fleet Reserve effective 1 May 2019 and was automatically enrolled in SBP Spouse only coverage as a result of the abovementioned administrative errors.

g. On 22 July 2021, Petitioner and spouse signed SBP Affidavit before a notary witness electing SPB Children coverage based on the threshold amount in effect on the date of retirement.

## CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an error warranting the following corrective action. The Board concluded Petitioner provided sufficient evidence to reflect his and spouse's desire to elect SPB Children only coverage, based on the threshold amount in effect on the date of their retirement. Although the proper administrative requirements were not completed, the Board felt that under these circumstances, relief is warranted.

## RECOMMENDATION

That Petitioner's naval record be corrected, where appropriate, to show that:

Petitioner elected SBP Children only coverage with spouse concurrence naming [REDACTED], [REDACTED], [REDACTED] and [REDACTED] as the beneficiaries based on the threshold in effect on the date of retirement, prior to transferring to the Fleet Reserve effective 1 May 2019.

Note: Defense Finance and Accounting Service will complete an audit of Petitioner's pay records to determine the amount of premium refund.

A copy of this Report of Proceedings will be filed in Petitioner's naval record.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above-entitled matter.

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)), and having assured compliance with its provisions, it is hereby announced that the foregoing

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corrective action, taken under the authority of the reference, has been approved by the Board on behalf of the Secretary of the Navy.

1/14/2022

[REDACTED]

Deputy Director

[REDACTED]