



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

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Docket No. 7799-22
Ref: Signature Date

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Dear █,

This is in reference to your application for correction of your spouse's naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your spouse's naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

A three-member panel of the Board, sitting in executive session, considered your application on 22 February 2023. The names and votes of the members of the panel will be furnished upon request. 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, relevant portions of your spouse's naval record and applicable statutes, regulations, and policies.

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You requested to change your spouse's record to reflect Survivor Benefit Plan (SBP) Spouse and Child coverage. The Board, in its review of your spouse's entire record and your application, carefully weighed all potentially mitigating factors, to include your assertions. However, the Board concluded that in accordance with Department of Defense Financial Management Regulation 7000.14-R, SBP elections must be made prior to retired pay becoming payable and the election to participate in or decline SBP is irrevocable. Additionally, after 1 March 1986, spousal concurrence is required when the member declines coverage or provides the spouse with less than the maximum SBP coverage available, to include electing child-only coverage. A member with an eligible spouse on the date of retirement who declines coverage is prohibited from electing the SBP except during an open enrollment period. There are no regular recurring open enrollment periods as they occur only when there are major changes to the SBP program and must be specifically prescribed by law; the last SBP open enrollment was authorized

1 October 2005 through 30 September 2006.

A review of your spouse's record indicates you initially signed NAVCOMPT Form 2272, Navy Retired/Retainer Pay Data Form on 23 January 1985 concurring with your spouse's election to elect SBP Child only coverage for your disabled child at the full gross pay level of coverage; your spouse and witness signed on 11 February 1985. On 25 March 1985, your husband's retirement date was changed from 1 April 1985 to 1 September 1986. Because of the change to the retirement date, your husband was required to make an updated SBP election. On 2 July 1986, you both signed NAVCOMPT Form 2272, Navy Retired/Retainer Data Form electing SBP Child only coverage for your disabled child and both signatures was witnessed the next day. Thereafter, your spouse transferred to the Retired Reserve effective 1 September 1986. The Board could not find nor did you provide evidence of your spouse changing his election during the open enrollment periods. The Board also noted retirees receive a monthly Retiree Account Statement that outlines pay descriptions to include SBP coverage information; therefore, your spouse would have been aware of his election of SBP Child only coverage. Unfortunately, the election to participate in SBP Child only coverage made by you and your spouse renders you ineligible for SBP annuity.

You are entitled to have the Board reconsider its decision upon submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or 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,

3/1/2023

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Deputy Director
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