

- The documents were uploaded on 1 June 2019, the same date of the memorandum stating he was automatically enrolled
- He was told he would be able to change the selection, upon his retirement
- In December 2020, he inquired about the election and was told he could not change the election
- He did not have the opportunity to make an informed decision for retirement benefits

2. The applicant provides and his service record shows:

- On 24 May 1998, he took the oath of office as a Reserve Commissioned Officer
- On 5 June 2018, a notification of eligibility for retired pay for non-regular service was published; he had 90 days to make an RCSBP election; the signature on the memorandum is a wet signature
- On 5 June 2018, an ARNG Current Annual Statement was published showing he had 20 years qualifying service for retired pay
- On 1 June 2019, Joint Force Headquarters [REDACTED] sent him a document stating he was automatically enrolled in RCSBP for spouse and/or child(ren)
- iPERMS screenshot shows two documents uploaded on 1 June 2019
- Email correspondence regarding his RCSBP election with personal notes from the applicant
- On 3 June 2019, he received certified mail from [REDACTED] ARNG
- On 30 September 2020, he was honorably transferred to the U.S. Army Reserve Control Group (Individual Ready Reserve)
- On 23 June 2022, U.S. Army Human Resources Command notified him he was eligible for retired pay at Non-Regular Retirement; he had 90 days to make a RCSBP election
- On 2 July 2025, he completed an RCSBP Election Certificate (for the Board) electing to defer his election until his 60th birthday
- He includes Public Law 95-397, for the Board's review

3. On 17 June 2025, Defense Finance Accounting Service responded to a request for information stating the applicant is not in their retired pay systems and they have no documentation for him.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the applicant's military records, the Board found that relief was warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition, and executed a comprehensive review based on public law, policy, and regulation. Upon review of the applicant's petition and available military records, the Board concurred with the legal review that determined the applicant reached 20 years in

the ARNG but did not receive his Notification of Eligibility for Retired Pay until many months later. The Twenty-Year Letter was backdated, and he was notified that his 90-day window to make an RCSBP election had already elapsed and he had therefore been automatically enrolled in full RCSBP coverage. Because he did not have an opportunity to make an RCSBP election, the record should be amended to reflect that he chose Option B – Deferred Annuity. A DD Form 2656-5 completed accordingly and containing his spouse’s signature with notarization. Therefore, the Board determined that relief was appropriate.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

█	█	█	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined that the evidence presented was sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by showing the applicant deemed an election of Option B – Deferred Annuity RCSBP coverage at the time of his original election and the request was received and processed by the appropriate office in a timely manner.

8/15/2025

X █

CHAIRPERSON

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I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.

REFERENCES:

1. Public Law 92-425, enacted 21 September 1972, established the SBP. The SBP provided that military members on active duty could elect to have their retired pay reduced to provide for an annuity after death to surviving dependents. An election, once made, was irrevocable except in certain circumstances. The election must be made before the effective date of retirement or coverage defaults to automatic spouse coverage. Since its creation, it has been subjected to a number of substantial legislative changes.
2. Public Law 95-397, the RCSBP, enacted 30 September 1978, provided a way for those who qualified for Nonregular (Reserve) retirement but were not yet age 60 to provide an annuity for their survivors should they die before reaching age 60. Three options are available: (A) elect to decline enrollment and choose at age 60 whether to start SBP participation, (B) elect that a beneficiary receive an annuity if they die before age 60 but delay payment of it until the date of the member's 60th birthday, and (C) elect that a beneficiary receive an annuity immediately upon their death if before age 60. Once a member elected either Option B or C in any category of coverage, that election was irrevocable. Option B and C participants do not make a new Survivor Benefit Plan (SBP) election at age 60. They cannot cancel SBP participation or change options they had in the RCSBP; RCSBP coverage automatically converts to SBP coverage upon retirement.
3. Title 10, U.S. Code, section 1448, requires notice to a spouse if a member elected not to participate in the SBP. The statute also provided for automatic enrollment for spouse coverage at the full base amount unless a member affirmatively declined to participate in the SBP prior to receiving retired pay.
4. Public Law 99-145, enacted 8 November 1985 but effective 1 March 1986, required written concurrence by the spouse in a member's decision to decline the SBP or elect spouse coverage at less than the full base amount.
5. Public Law 105-85, enacted 18 November 1997, established the option to terminate SBP participation. Retirees have a 1-year period beginning on the second anniversary of the date on which their retired pay started to withdraw from the SBP. The spouse's concurrence is required. No premiums will be refunded to those who opt to disenroll. The effective date of termination is the first day of the first calendar month following the month in which the election is received by the Secretary concerned.
6. Public Law 106-398, enacted 30 October 2000, required written spousal consent for a Reserve service member to delay making an RCSBP election until age 60. The law is applicable to cases where 20-year letters have been issued after 1 January 2001. In

other words, failure to elect an option upon receipt of the 20-year letter results in the default election of Option C.

7. Department of Defense Instruction 1332.42 (Survivor Annuity Program Administration) states a member may elect to discontinue participation by submitting a DD Form 2656-2 (SBP Termination Request) during the period that is more than 2 years but less than 3 years after the first date of entitlement to receive retired pay. The member must submit the request no earlier than the 1st day of the 25th month, and no later than the last day of the 36th month from the date of entitlement to retired pay, with spousal concurrence if applicable. A member electing to terminate coverage is not eligible for continuation in the Program; however, the member has 30 days after submitting a request to discontinue participation to revoke the request.

//NOTHING FOLLOWS//