

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 20 November 2025

DOCKET NUMBER: AR20240010842

APPLICANT REQUESTS: in effect, correction of her records to show she declined to participate in the Survivor Benefit Plan (SBP) with spousal concurrence in connection with her permanent disability retirement.

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record under the Provisions of Title 10, U.S. Code, Section 1552) via online application
- DD Form 2656 (Data for Payment of Retired Personnel), 28 February 2024
- DD Form 2656-2 (SBP Termination Request), 6 May 2025

FACTS:

1. The applicant elected not to participate in SBP and was automatically enrolled because the copy of the DD Form 2656 did not have her husband's concurrence and signature.
2. A review of her records contains her marriage certificate that shows she and L____ L____ married on 13 January 2006.
3. Following enlisted service in the Regular Army, she enlisted in the United States Army Reserve (USAR) on 29 February 2012 in the rank/grade of staff sergeant/E-6.
4. She was promoted to the rank/grade of master sergeant/E-8 effective 1 March 2023.
5. The U.S. Army Human Resources Command memorandum (Notification of Eligibility for Retired Pay at Non-Regular Retirement (20-Year Letter)), 11 April 2023, notified her that she completed the required qualifying years of Reserve service for retired pay upon application at age 60 in accordance with statutory guidance.
6. Her records do not contain any SBP documentation.
7. Her DA Form 199 (Informal Physical Evaluation Board (PEB) Proceedings), 29 January 2024, shows a PEB convened at Joint Base San Antonio, TX, on

25 January 2024 to determine her medical fitness for continued service in the Army. The PEB determined she was physically unfit and recommended a disability rating of 70 percent and her placement on the Permanent Disability Retired List. She concurred and waived a formal hearing of her case on 25 January 2024.

8. She retired on 11 May 2024 in the rank/grade of master sergeant/E-8 by reason of permanent disability-combat related. Her DD Form 214 (Certificate of Release or Discharge from Active Duty) shows she completed 3 years, 6 months, and 13 days of net active service during this period.

9. She provides:

a. DD Form 2656, 28 February 2024, showing in:

(1) Part I (Retired Pay Information), Section I (Pay Identification), block 4 (Retirement/Transfer Date), 12 May 2004;

(2) Part III (SBP), Section IX (Dependency Information), block 31 (Spouse), she listed L____ R. L____ with a marriage date of 15 January 2006 and two dependent children;

(3) Part III, Section X (SBP Election), block 36 (SBP Beneficiary Categories), she placed an "X" in the box by the statement: "I elect not to participate in SBP";

(4) Part IV (Certification), Section XI (Certification), block 41 (Member), she signed the form on 28 February 2024 and her signature was witnessed on the same date; and

(5) Part V (Spouse SBP Concurrence) (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 43c MUST NOT be before the date of the member's signature in Block 41c, or on or after the date of retirement listed in Part I, Section I, Block 4. The spouse's signature MUST be notarized.), Section XII (SBP Spouse Concurrence), block 43 (Spouse), her spouse (L____ R. L____) signed the form with this signature on 3 September 2024 before a notary public; and

b. DD Form 2656-2, 6 May 2025, showing she requested, along with her husband's (L____ L____) concurrence, termination of her SBP coverage. She and her husband signed the form on 6 May 2025 and their signatures were witnessed by a notary on the same date in the State of Delaware.

10. The email correspondence from Defense Finance and Accounting Service (DFAS) Customer Service, 20 August 2025, notes the applicant currently has "Spouse Only" coverage effective 12 May 2024. The DFAS database contains the applicant's original DD Form 2656, 28 February 2024 that shows the exact information as shown above except Part V (Spouse SBP Concurrence), Section XII (SBP Spouse Concurrence) is blank and not signed by her spouse.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was/was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered.
2. The Board carefully reviewed the applicant's request for correction of her records to reflect her election to decline participation in the Survivor Benefit Plan (SBP) with spousal concurrence in connection with her permanent disability retirement. The applicant's DD Form 2656, dated 28 February 2024, clearly indicates her intent to decline SBP coverage. However, due to the absence of her spouse's signature, she was automatically enrolled in SBP coverage as required by regulation. The applicant subsequently submitted a DD Form 2656-2 on 6 May 2025, with her spouse's concurrence, requesting termination of SBP coverage. DFAS correspondence confirmed her current SBP coverage as "Spouse Only," effective 12 May 2024, due to the missing spousal signature on the original DD Form 2656.
3. The Board noted the applicant's long and honorable service, including her promotion to master sergeant/E-8 and her permanent disability retirement due to combat-related injuries. The Board also considered the applicant's efforts to correct her SBP election, including her submission of the required spousal concurrence and her request for termination of SBP coverage. The Board determined that the applicant's original intent to decline SBP coverage was clear and supported by her documentation, and the automatic enrollment was a result of administrative oversight rather than the applicant's failure to comply with requirements.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is 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:

- Correct the applicant's records to reflect her election to decline participation in SBP, effective 28 February 2024, with spousal concurrence.
- Update the applicant's records to remove the automatic enrollment in SBP coverage and any associated premiums retroactively to 12 May 2024.
- Ensure DFAS processes the necessary adjustments to refund any overpaid SBP premiums resulting from the automatic enrollment.

//SIGNED//

X

CHAIRPERSON

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. Elections are made by category, not by name. 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. Title 10, U.S. Code, section 1448, required 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.
3. 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.
4. Public Law 96-402, enacted 9 October 1990, provided that any person who has elected to participate in the SBP and who is suffering from a service-connected disability rated by the Department of Veterans Affairs as totally disabling, and has suffered from such disability while so rated for a continuous period of 10 or more years (or, if so rated for a lesser period, has suffered from such disability while so rated for a continuous period of not less than 5 years from the date of such person's last discharge or release from active duty), may discontinue participation in the SBP by submitting a request to discontinue participation in the Plan to the Secretary concerned. Any such person's participation in the Plan shall be discontinued effective the first day of the first month following the month in which a request is received by the Secretary concerned.
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 for disenrollment. 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. 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.

7. In accordance with the DFAS website, retirees discontinuing (withdrawing from) SBP coverage due to a qualifying VA disability who meet one of the following criteria are eligible to discontinue participation in the SBP:

a. the retiree has had a service-connected disability rated by the VA as totally disabling for a continuous period of 10 or more years; or

b. the retiree has had a total disability rating from the VA for at least 5 continuous years immediately following the last date of discharge or release from active duty.

//NOTHING FOLLOWS//