



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

[REDACTED]  
Docket No. 9952-24  
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED]  
[REDACTED]

Ref: (a) Title 10 U.S.C. § 1552  
(b) DoD 7000.14-R FMR Volume 7B

Encl: (1) DD Form 149 w/attachments  
(2) Advisory opinion by Director, Navy Casualty memo 1750, PERS-00C/568, 18 Oct 24  
(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 her naval record be corrected to show that Petitioner declined participation in Survivor Benefits Plan (SBP).
2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 20 March 2025 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. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:
  - a. On 26 April 1997, Petitioner got married [REDACTED]
  - b. Reference (b) 90-Day Period. Any member who is notified of his or her completion of the years of service required for retired pay eligibility for non-regular retirement may elect to participate in RCSBP before the end of the 90-day period. A member who is married or has a dependent child, and who receives notice of eligibility for retired pay, after January 1, 2001, is automatically an immediate participant in RCSBP unless the member elects (with spousal concurrence, if required) not to participate or to defer the decision or delay coverage before the end of the 90-day period. Reserve Component Premium. When a Reserve member participates in the RCSBP after first becoming eligible based on 20 qualifying years of satisfactory service, coverage for the member's survivors commences but premiums are not paid until the member first becomes actually entitled to retired pay (usually age 60). Note: See also Chapter 1, subparagraphs 3.8.6.1 through 3.8.6.5 which reduces the eligibility age below 60 years of age for a reservist to receive retirement pay. At that time, reductions in the member's retired pay are made that are specifically related only to the RCSBP coverage that was already provided while the member awaited the requisite age of entitlement to

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retired pay. These reductions are the Reserve Component Premium. They are made after the member begins receiving retired pay for the RCSBP coverage that was provided before the member received retired pay. They are distinct from the Standard Premium (in paragraph 2.12) which are reductions made for the SBP coverage that is provided after the member becomes entitled to retired pay. They are also distinct from the Survivor's Annuity Premium Deduction.

c. On 4 October 2006, Commander, Navy Personnel Command notified Petitioner that “[p]er references (a) [10 U.S.C. 10154] and (b) [10 U.S.C. 12774(a)], the Secretary of the Navy approved your request and authorized your transfer to Retired Reserve status effective 1 October 2006.

Upon your submission of application per the guidelines of references (c) [BUPERSINST 1001.39D], you will be eligible under reference (d) [10 U.S.C. 1223] for retired pay benefits at age 60.”

d. On 15 January 2007, Commanding Officer, Navy Reserve Personnel Center notified Petitioner that “[y]ou have completed all requirements to receive retired pay at age 60 under the provision of references (a) [10 U.S.C. 1223] and (b) [BUPERSINST 1001.39E]. Eligibility may not be denied or revoked unless it resulted directly from fraud or misrepresentation on your part. The number of years of creditable service and the amount of retired pay, however, may be adjusted for errors. Enclosure (1) [Statement of Service for Navy Reserve Retirement] is used to document your initial eligibility. An updated Statement of Service for Navy Reserve Retirement will be provided on your retirement or discharge.

You are now also entitled to participate in the RCSBP. Enclosure (2) [NRPC 1772/2] provides pertinent information and an election certificate. Your completed election certificate must be submitted to this command (N32), within 90 days of receipt of this letter. Your election is irrevocable except upon certain changes in dependent status.

If you are now, or become, entitled to retired pay from an Armed Force, or retainer pay as a member of the Fleet Reserve or Fleet Marine Corps Reserve, by any provision of Federal Law, you will not be entitled to retired pay under the provisions of reference (a) nor will you be eligible for RCSBP.”

e. On 6 February 2024, Petitioner signed a Data for Payment of Retired Personnel (DD Form 2656) listing the following: “Block 36g (SBP beneficiary Categories) I elect not to participate in SBP. The form was witnessed with SBP spouse concurrence and notarized.”

f. On 28 February 2024, Commander, Navy Personnel Command (PERS-9) notified Petitioner that “[p]er reference (a) [10 U.S.C. § 12731(a)] the Secretary of the Navy approved your application for retired pay for nonregular service. Your initial date of eligibility for retired pay is 28 August 2024. Per your request, your authorization to retired pay is effective 28 August 2024.

Per references (b) [10 U.S.C. § 12732] and (c) [10 U.S.C. § 12733], computation of your retired pay under reference (d) [10 U.S.C. § 12739] will be based on 20 years 3 months 18 days of qualifying service, 04554 retirement points and a pay entry base date of 13 June 1986.”

g. On 28 August 1924, Petitioner turned 60 years old.

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[REDACTED]

## CONCLUSION

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (2), the Board finds the existence of an injustice warranting the following corrective action. The Board concluded that Petitioner was not issued her NOE until after transferring to the retired reserve status and was not provided any information or documentation regarding default enrollment in the RC-SBP and SBP or the associated costs. Petitioner provided sufficient evidence to reflect her desire, with her spouse's concurrence, to decline participation in RCSBP. Therefore, the Board determined that under these circumstances, relief is warranted.

## RECOMMENDATION

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

Petitioner elected to decline participation in RCSBP with spousal concurrence within 90 days of being issued NOE to Receive Retired Pay at Age 60 and Participate in the RCSBP on 15 January 2007.

Petitioner elected to decline participation in SBP with spousal concurrence prior to transferring to the Retired Reserve with pay effective 28 August 2024.

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

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

3/31/2025

[REDACTED]