



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE RD
ARLINGTON, VA 22204

██████████
Docket No. 9495-25
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO ██████████, USN RET,
XXX-XX-██████████

Ref: (a) Title 10 U.S.C. § 1552
(b) DoD 7000.14-R FMR Volume 7B, Chapter 43

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 her naval record be corrected to reflect declined participation in the Survivor Benefit Plan (SBP).

2. The Board, consisting of ██████████, ██████████, and ██████████ reviewed Petitioner's allegations of error and injustice on 9 April 2026 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 15 April 1985, Petitioner entered active duty.
- b. On 13 June 1988, Petitioner married first spouse, ██████████. On 30 January 1989, Petitioner's first child, ██████████ was born.
- c. On 22 April 1994, Petitioner divorced first spouse, ██████████. Final Judgement of Dissolution of Marriage did not order SBP Former Spouse coverage.
- d. On 24 March 1995, Petitioner married current spouse, ██████████, active duty member. On 2 August 2002, Petitioner's second child, ██████████, was born.

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e. In accordance with reference (b), Spousal Concurrence. Written spousal concurrence is required when the member elects to decline coverage or provide the spouse with less than the maximum SBP coverage available, include electing child-only coverage, and when a member eligible for RCSBP declines coverage or elects coverage that provides less than a maximum immediate spouse annuity. The signature of the spouse must be notarized. The requirement to have the spouse's signature notarized is not to suggest that the spouse has received additional counseling regarding the option being selected. It simply provides certification that the spouse signed the form and acknowledges the election made on the form.

If all requirements for an election needing the spouse's concurrence have not been satisfied prior to retirement, full spouse costs and coverage will be implemented, regardless of any request by the member to do otherwise. In such cases, when the member has requested any form of child coverage, full spouse and child coverage will be implemented. Any change in SBP election subsequent to retirement will be done through an administrative correction of records as permitted by law. The requirements for spousal concurrence do not affect any obligation or right of the member to provide coverage for a former spouse. If former spouse coverage is elected or deemed, the spouse's concurrence is not required; however, the spouse will be notified of that election.

Discontinuance of SBP Participation on Second Anniversary. 7.1.1. An SBP participant may choose to voluntarily discontinue SBP participation during a 1-year period which begins on the second anniversary of the date of commencement of retired pay. The date of commencement of retired pay is defined as the date that the retiree becomes entitled to retired pay. A recall to active duty following retirement will not alter this date.

Regular Recurring Open Season for Enrollment and Discontinuation. There are no regular recurring open season periods. Open seasons must be specifically prescribed by law. The most recent SBP open season, which was authorized by section 643 of PL 117-263, began December 23, 2022, and ends January 1, 2024, allows eligible members to participate or discontinue participation. For this open season, an "eligible member" is a retired member or former member who, on December 22, 2022, is entitled to retired pay, or would be entitled to retired pay but for the member or former member is under the eligibility age to receive retired pay. In the absence of such a legislatively prescribed period, members may only enroll or disenroll as specified in this chapter.

f. 31 July 2004, Petitioner's spouse retired from the U.S. Navy.

g. Petitioner's Data for Payment of Retired Personnel (DD Form 2656) listed the following: Section IX Survivor Benefit Plan (SBP) Election. Block 26 (Beneficiary Category). Block 26g "I elect not to participate in SBP, and I do have eligible dependents under the plan." Section XI SBP Spouse Concurrence (Required when member is married and elect's children only coverage does not elect full spouse coverage or declines coverage. The spouse MUST NOT SIGN this statement before the member makes the SBP election and signs the form.) Block 30 (Spouse). Block 30b (Date Signed) 7 December 2004. Section XII Certification. Block 32 (Member). Block 32b (Date Signed) 21 January 2005.

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h. On 27 April 2005, Petitioner's third child, [REDACTED] was born.

i. Petitioner transferred to Fleet Reserve with an honorable character of service and was issued a Certificate of Release or Discharge from Active Duty (DD Form 214) for the period of 14 April 1989 to 30 April 2005 upon having sufficient service for retirement.

j. On 22 June 2015, Commander, Navy Personnel Command (PERS-91) notified Petitioner that "Under 10 U.S.C. section 6331, upon your completion of 30 years of active/inactive duty service or otherwise meeting eligibility requirements, the Secretary of the Navy authorized your transfer to the Retired List of the Regular Navy/Navy Reserve. Per MILPERSMAN 1820-010, we transferred you to the Retired List effective 01 October 2014."

k. On 27 August 2025, petitioner submitted an explanation to this Board stating, "On January 21, 2005, I signed my SBP Election Form indicating a clear decision NOT TO PARTICIPATE in the program. My husband, who had retired a few months earlier, had elected the same-not to participate-on his SBP form as well. At that time, we had jointly agreed to secure alternative insurance coverage...When I signed my form, I was on bed rest in Hawaii due to a high-risk pregnancy. My husband and our young children were already in Georgia preparing for our transition. The administrative office mailed my SBP paperwork to my spouse for signature, along with other end-of-service documents, to ensure everything was returned in time for my terminal leave to begin...Shortly after both of our retirements, we noticed SBP deductions being taken from our retired pay. We immediately questioned this and were told that the SBP, once enrolled, could not be canceled. Despite our repeated explanations that we had never elected to participate, we received no resolution-only a blanket response that we were both 'enrolled.'

Nearly 20 years later, during the most recent SBP Opt-Out window, we once again contacted DFAS to contest our enrollment. A representative finally took the time to thoroughly review our case. She confirmed that both my spouse and I had elected not to participate. As a result, my husband was refunded all SBP payments that had been erroneously deducted. However, in my case, the representative stated that although I had also elected not to participate, my form was deemed 'invalid' because my spouse signed it before I did-an issue that was never communicated to us at any point..."

l. On 18 October 2025, Defense Finance and Accounting Service (DFAS) HUNT system listed 2023 Open Season Election. Current Election – declined on 18 August 2023, children excluded. Petitioner's current cost is \$0.00.

m. On 11 March 2026, Petitioner, and her spouse signed an SBP Affidavit indicating that they desired Petitioner's SBP election to be changed to reflect that she declined SBP coverage. Petitioner indicated that she "received sufficient SBP information/counseling and completed the DD Form 2656, however, it is not on file at the Defense Finance and Accounting Service-Cleveland or was received and is invalid."

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CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting the following corrective action. The Board concluded Petitioner provided sufficient evidence to reflect her and spouse's desire to decline SBP coverage prior to transferring to the Fleet Reserve. Petitioner's SBP form was deemed invalid due to her spouse signing the form prior to Petitioner. Petitioner's spouse signed the form on 7 December 2004 while in Georgia and she signed the form on 21 January 2005, several weeks later, in Hawaii. The Board agreed that this was sufficient evidence to confirm Petitioner's claim that the administrative office mailed the form to her spouse to sign in order to receive them in a timely manner before Petitioner's retirement date. The Board determined that Petitioner was not counseled properly about the signature requirements by her administrative office. Furthermore, the proper procedures were not followed by her administrative office, which led to the error with spouse's signature and subsequent automatic enrollment in SBP. Therefore, although the proper administrative requirements were not completed, the Board determined that under this very specific circumstance, relief is warranted.

RECOMMENDATION

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

Petitioner elected to decline participation in SBP with proper spousal concurrence prior to transferring to the Fleet Reserve effective 1 May 2005.

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

4/17/2026

