

FMP
695-3176

December 18, 1968
NUMBER 1332.17

2



ASD(M&RA)

Department of Defense Directive

SUBJECT: Retired Serviceman's Family Protection Plan

- References:
- (a) DoD Directive 1332.17, subject as above, April 3, 1962
 - (b) Executive Order 10499, November 4, 1953, (18 FR 7003)

Enclosed for information and guidance are Regulations for the Retired Serviceman's Family Protection Plan implementing Public Law 90-485, August 13, 1968.

Referenced Directive is hereby superseded and cancelled.

Two copies of implementing regulations shall be forwarded to the Assistant Secretary of Defense (Manpower and Reserve Affairs) within sixty days.

Paul H. Nitze
Deputy Secretary of Defense

Enclosure - 1
Regulations

DISTRIBUTION STATEMENT A
Approved for public release
Distribution unlimited

DTIC
SELECTE
OCT 04 1993
S B D

AD-A270 325

93 10 1 09 7

93-22965



32195

Regulations for the
RETIRED SERVICEMAN'S FAMILY PROTECTION PLAN

* * *

(TITLE 10, UNITED STATES CODE, CHAPTER 73)

* * *

As approved by
THE SECRETARY OF DEFENSE

* * *

BY THE SECRETARY OF DEFENSE

EFFECTIVE
December 18, 1968

Approved For	
By	<input checked="" type="checkbox"/>
MA	<input type="checkbox"/>
Available for Release	<input type="checkbox"/>
Dist	Special
A-1	

TABLE OF CONTENTS

	<u>PAGE</u>
CHAPTER 1 - <u>GENERAL INFORMATION</u>	1
101 - Purpose	
102 - Definitions	
CHAPTER 2 - <u>ELECTION OF OPTIONS</u>	4
201 - Options	
202 - Limitation on Number of Annuities	
203 - Election of Options	
204 - Change or Revocation of Election	
205 - Election Form	
206 - Information Regarding Elections	
CHAPTER 3 - <u>DESIGNATION OF BENEFICIARIES</u>	9
301 - Designation	
302 - Substantiating Evidence Regarding Dependency and Age of Dependents	
303 - Condition Affecting Entitlement of Widow or Widower	
CHAPTER 4 - <u>REDUCTION OF RETIRED PAY</u>	10
401 - Computation of Reduction	
402 - Effective Date of Reduction	
403 - Payment of Nonwithheld Reduction of Retired Pay	
404 - Ages to Be Used	
405 - Action Upon Removal From Temporary Disability Retired List	
406 - Withdrawal and Reduction of Percentage or Amount of Participation	
CHAPTER 5 - <u>ANNUITY</u>	13
501 - General Information	
502 - Effective Date of Annuity	
503 - Claims for Annuity Payments	
504 - Payment to Children	
505 - Establishing Eligibility of Annuitants	

PAGE

- 506 - Recovery of Erroneous Annuity Payments
- 507 - Restriction on Participation
- 508 - Certain 100% Disability Retirements

CHAPTER 6 - MISCELLANEOUS

17

- 601 - Annual Report
- 602 - Organization
- 603 - Correction of Administrative Deficiencies
- 604 - Transition and Protective Clauses

CHAPTER 1

GENERAL INFORMATION

101. Purpose

The purpose of the Retired Serviceman's Family Protection Plan is to permit each member of the uniformed services to elect to receive a reduced amount of any retired pay which may be awarded him as a result of service in his uniformed service in order to provide an annuity payable after his death (while entitled to retired pay) to his widow, child, or children, subject to certain limitations specified in the law and elaborated in these Regulations.

102. Definitions

a. The terms "Plan" or "RSFPP" as hereinafter used mean the Retired Serviceman's Family Protection Plan (formerly called the Uniformed Services Contingency Option Act).

b. The term "uniformed services" means the Army, Navy, Air Force, Marine Corps, Coast Guard, Commissioned Corps of Environmental Science Services Administration, and Commissioned Corps of Public Health Service.

c. The term "member" means a commissioned officer, commissioned warrant officer, warrant officer, nurse, flight officer, or a person in an enlisted grade (including an aviation cadet) of any of the uniformed services, and a person in any of these categories who is entitled to or is in receipt of retired pay, except persons excluded in Title 10, United States Code, Section 1431(a), as amended.

d. The term "widow" includes "widower" and refers to the lawful spouse of the member on the date of retirement with pay.

e. The term "child" means, in all cases, a member's child, who is living on the date of retirement of the member with pay and who meets the following requirements:

- (1) A legitimate child under 18 years of age and unmarried.
- (2) A stepchild, under 18 years of age and unmarried, who is in fact dependent on the member for support (see f. and g. below).
- (3) A legally adopted child, under 18 years of age and unmarried.

(4) A child, as defined above, who is 18 or more years of age and unmarried, and who is incapable of self-support because of being mentally defective or physically incapacitated if that condition existed prior to reaching age 18.

(5) A child as defined above, who is at least 18, but under 23 years of age and unmarried, who is pursuing a full-time course of study or training in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution. (Applicable only in the case of members who retired on or after 1 November 1968.)

(6) A child loses his eligibility for an annuity under these Regulations if he is adopted by a third person before the parent-member's death. His eligibility is not affected if he is adopted by a third person after the parent-member's death (36 Comp. Gen. 325).

f. The term "stepchild" means a child of a member's spouse by a former marriage. The stepchild relationship terminates upon the divorce of the parent spouse, but not upon the death of the parent spouse.

g. The term "in fact dependent" means that the stepchild must be dependent on the member for over half of his or her support.

h. The term "retirement" means retirement with eligibility to receive retired pay.

i. The term "retired pay" includes retired, retirement, equivalent and retainer pay awarded as a result of service in the uniformed services.

j. The term "reduced retired pay" means the retired pay remaining after the cost of participation in RSFPP has been subtracted.

k. The term "department concerned" means (1) the Department of the Army with respect to the Army, (2) the Department of the Navy with respect to the Navy and Marine Corps, (3) the Department of the Air Force with respect to the Air Force, (4) the Department of Transportation with respect to the Coast Guard, (5) the Department of Commerce with respect to the Environmental Science Services Administration, and (6) the Department of Health, Education, and Welfare with respect to the Public Health Service.

l. The term "dependent" means the prospective annuitants described in Subsection 102d and e., above.

m. The term "Board of Actuaries" means the Government Actuary in the Department of the Treasury, the Chief Actuary of the Social Security Administration, and a member of the Society of Actuaries appointed by the President to advise the Secretary of Defense on the administration of the Plan.

n. The term "Joint Board" means representatives of the uniformed services appointed under the provisions of Section 602 of these Regulations.

o. The term "years of service" means years of service creditable in the computation of basic pay.

p. The term "election" means the choice of options made by the member under the RSFPP. This term includes a modification of a previous election or an election submitted after a revocation of a previous option(s) elected.

q. The term "elections in effect" means valid elections existing on the day of retirement.

r. A recognized educational institution is defined as a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution which meets one or more of the following criteria:

(1) It is operated or directly supported by the United States, or a State, or local governmental agency.

(2) It is accredited by a nationally recognized or State recognized accrediting agency.

(3) It is approved as an educational institution by a State or local governmental agency.

(4) Its credits are accepted for transfer (or for admission) by three or more accredited schools on the same basis as credits from an accredited school.

CHAPTER 2

ELECTION OF OPTIONS

201. Options

As provided in Section 203 of these regulations, a member may elect one or more of the following annuities. The amount must be specified at time of election, and may not be for more than 50 per centum nor less than 12 1/2 per centum of his retired pay, in no case may less than a \$25 monthly annuity be elected. If the election is made in terms of dollars, the amount may be more than 50 per centum of the retired pay that he would receive if he were to retire at the time of election; however, if such elected amount exceeds 50 per centum of his retired pay when he does retire, it shall be reduced to an amount equal to such 50 per centum. Also, if the dollar amount elected is less than 12 1/2 per centum of his retired pay when he does retire, it shall be increased to an amount equal to such 12 1/2 per centum.

a. Option 1 is an annuity payable to or on behalf of his widow, the annuity to terminate upon her death or remarriage.

b. Option 2 is an annuity payable to or on behalf of his surviving child or children as defined in Section 102 of these regulations, the annuity to terminate when there ceases to be at least one such surviving child eligible to receive the annuity. Each payment under such annuity shall be paid in equal shares to or on behalf of the surviving children remaining eligible at the time the payment is due. A member who had this option in effect on the date of retirement, and who retired on or after 1 November 1968 may apply to the Secretary concerned to have a child (other than a child described in Subsection 102e(4)) who is at least 18 but less than 23 years of age considered not to be an eligible beneficiary under this Subsection or Section 202. Normally such applications will be approved.

c. Option 3 is an annuity to or on behalf of his widow and surviving child or children. Such annuity shall be paid to the widow until death or remarriage, and thereafter each payment under such annuity shall be paid in equal shares to or on behalf of the surviving children remaining eligible at the time the payment is due. A member may provide for allocating, during the period of the surviving spouse's eligibility, a part of the annuity under this Section for payment to those of his surviving children who are not children of that spouse. The sum allotted will not exceed the equitable share for which such children would be eligible after the death of the widow.

d. When no eligible beneficiary remains to benefit from the option elected, the member's retired pay will be restored (except as provided in Section 604, for certain members retired before 13 August 1968). All elections on file on 13 August 1968 for members not entitled to receive retired pay will be considered to include the restoration feature with attendant cost factors being applied at time of retirement. For the purpose of this Subsection a child (other than a child described in Subsection 102e(4)) who is at least 18 but less than 23 years of age, and is not pursuing a course of study as defined in Subsection 102e(5), shall be considered an eligible beneficiary unless an approved application by the member pursuant to Subsection 201b that such a child is not to be considered an eligible beneficiary is in effect (for members who retire on or after 1 November 1968).

202. Limitation on Number of Annuities

When a member desires to provide both the annuity provided by Option 1 and Option 2, he may elect amounts that, in total, meet the limitations specified in Section 201 of the Regulations. The cost of each annuity, and the amount of each annuity shall be determined separately. A member may not elect the combination of Options 1 and 3 or Options 2 and 3 in any case. The combined amount of the annuities may not be more than 50 per centum nor less than 12 1/2 per centum of his retired pay. In no case may less than a \$25 per month annuity be provided.

203. Election of Options

a. A member who has completed less than 19 years of service as defined in Subsection 102o may elect to receive a reduced amount of retired pay in order to provide one or more of the annuities as specified in Sections 201 and 202 payable after his death while entitled to retired pay to or on behalf of his surviving widow, child, or children. To be effective, the election by such a member must be dated, signed, witnessed, and delivered to appropriate service officials, or postmarked, not later than midnight on the day in which he completes 19 years of service. Such an election will become effective immediately upon subsequent retirement. The latest election, change, or revocation on file made in accordance with this Subsection, if otherwise valid, will be the effective election, unless superseded by a change as provided in Subsection b. below.

b. Except as provided in c. below, a member who fails or declines to make an election before completion of 19 years of service may make an election after that time. However, unless the election is made at least two years prior to the date the member becomes entitled to receive retired pay, it will not be effective. The same applies to subsequent changes or revocations made prior to retirement.

c. If an election, revocation, or change was made prior to 13 August 1968, the 19 year and 2 year provisions are automatically in effect on 13 August 1968 for members who were not entitled to retired pay on such date, unless the member applies under Subsection 604d to remain under the provisions of the law prior to 13 August 1968. In this case the "18 years of service" and "3 years prior to receipt of retired pay" rules will apply.

d. A member retired for physical disability on or after 1 November 1968 who is awarded retired pay prior to the completion of 19 years of service may make an election which is subject to the restrictions set forth in Section 507. The election by such member shall be made at the time of retirement if not made earlier. Elections made under this Subsection prior to 1 November 1968 must be made by the member retiring for physical disability prior to completing 18 years.

e. If, because of military operations, a member is assigned to an isolated station, or is missing, interned in a neutral country, captured by a hostile force, or beleaguered or besieged, and for that reason is unable to make an election before completing 19 years of service, he may make the election within one year after he ceases to be assigned to that station or returns to the jurisdiction of his service as the case may be, and such election shall become effective immediately upon subsequent retirement.

f. A member to whom retired pay is granted retroactively, and who is otherwise eligible to make an election, may make the election within 90 days after receiving notice that such pay has been granted him.

g. Whenever a member is determined to be mentally incompetent by medical officers of the uniformed services or of the Veterans Administration, or is adjudged mentally incompetent by a court of competent jurisdiction and because of such mental incompetency is incapable of making any election within the time limitations prescribed by the Plan, the Secretary of the Department concerned may make the appropriate election on behalf of such member upon request of the spouse, or if there be no spouse, by or on behalf of the child or children of such member. If such member is subsequently determined to be mentally competent by the Veterans Administration or a court of competent jurisdiction, he may, within 180 days after such determination or judgment, change or revoke the election made on his behalf. In such a case, the change or revocation will be effective on the date of the member's request for such change or revocation. Deductions previously made shall not be refunded.

h. All elections on file on 13 August 1968 for members not entitled to receive retired pay shall be subject to the provisions of this Section unless the member makes the application specified in Subsection 604d.

i. A person who was a former member of the armed forces on 1 November 1953, and who is granted retired pay after that date, may, at the time he is granted that pay, make an election as provided in Section 201.

204. Change or Revocation of Election

a. A change of election is a change in the amount of the annuity or annuities under any option, or a change in any option or options selected. A revocation is a cancellation of a previous election and constitutes a withdrawal from coverage under the Plan.

b. A member may change or revoke his election as often as he desires prior to the completion of 19 years of service. Such a change or revocation must be dated, signed, witnessed, and delivered to appropriate service officials, or postmarked not later than midnight on the day in which the member completes 19 years of service. The latest election, change, or revocation which is submitted in accordance with this Subsection will be effective at retirement.

c. A member who desires to make an election or change or revoke his election after he has completed 19 years of service may do so prior to his retirement. However, such an election, change or revocation will be effective only if at least two years elapse between the date of the election, change or revocation and the date of eligibility to receive retired pay.

d. A revocation will not prohibit the filing of a new election at a later date which will become valid under applicable validation provisions.

e. A member may, on or after 1 November 1968, at any time prior to his retirement, change or revoke his election (provided the change does not increase the amount of the annuity elected) to reflect a change in the marital or dependency status of the member or his family caused by death, divorce, annulment, remarriage, or acquisition of a child, if such change or revocation is made within two years of such change in status.

f. Notification of a change in family status is not a change of election.

g. All changes and revocations on file on 13 August 1968 for members not entitled to retired pay shall be subject to the provisions of this Section unless the member makes the application specified in Sub-section 604d of these Regulations.

205. Election Form

The form for making election after 31 October 1968 is prescribed as Attachment 1, Election of Options, Retired Serviceman's Family Protection Plan, DD Form 1688. It will be submitted as directed herein. All copies will be signed, and any otherwise complete, signed copy, when properly submitted, may be used to substantiate the fact of election, modification, revocation, or change in family status.

206. Information Regarding Elections

a. All members of the Reserve component who will have accumulated sufficient service to be eligible for retired pay at age 60, will be counseled on the Plan before reaching their 57th birth dates in order to insure that valid elections can be made prior to their 58th birth dates. An election, modification, or revocation submitted subsequent to attaining age 58 will be valid only if it is made and submitted at least two years prior to the first date for which retired pay is granted.

b. It is the responsibility of the department concerned to provide election forms and to promulgate information concerning the benefits of the Plan to all members so as to allow a timely election.

c. Members retiring for physical disability prior to the completion of 19 years of service will, prior to retirement, be counseled and furnished information concerning the operation of the Plan.

CHAPTER 3

DESIGNATION OF BENEFICIARIES

301. Designation

a. All legal beneficiaries described in Section 102 must be named at the date of retirement pursuant to the option elected. Although a member without dependents may make an election, it will not be effective unless he has eligible dependents at the time of his retirement.

b. When a change in family status occurs prior to retirement which would effect a change as provided in Subsection 204e above, a new DD Form 1688, Election of Options, Retired Serviceman's Family Protection Plan, should be filed to evidence such change.

302. Substantiating Evidence Regarding Dependency and Age of Dependents

At the time of submitting the election, or prior to retirement, the member must indicate his wife's and youngest child birth date as applicable to the option elected. At or before the time of his retirement, he must submit proof of final dissolution of prior marriages, if any, both for himself and his spouse. The age of the dependents must be substantiated by a birth certificate or other competent evidence. The birth date of a member must be verified by his service record. All required substantiating evidence must be at the disbursing office which would normally pay the member retired pay or retainer pay immediately following retirement so as to permit the establishment of accurate pay accounts and to prevent the creation of indebtednesses or overpayments.

303. Condition Affecting Entitlement of Widow or Widower

A member may have a different lawful spouse at the time of retirement from the lawful spouse he had at the time of election. The lawful spouse at the time of retirement is the spouse eligible for an annuity at the time of member's death. Divorce of the member will remove the former spouse as a prospective annuitant.

CHAPTER 4

REDUCTION OF RETIRED PAY

401. Computation of Reduction

a. The reduction to be made in the retired pay of a member who has made an election shall be computed by the uniformed service concerned in each individual case, based upon tables of factors prepared by the Board of Actuaries. The computation shall be based upon the applicable table in effect on the date of retirement.

b. An adjustment may be made in the reduction of retired pay upon the finding of an administrative error or a mistake of fact (see Section 603).

c. If a member elects to be covered by option 3, and on the date he is awarded retired pay has no children eligible to receive the annuity, or has only a child or children aged 18-22 (other than a child described in Subsection 102e(4)) and elects, at retirement, that such child or children shall not be considered to be eligible beneficiaries, he shall have his costs computed as though he had elected option 1. If he elects option 3, and on the date he is awarded retired pay has no wife eligible for the annuity, he shall have his costs computed as though he had elected option 2.

d. If a member elects option 3, and after he becomes entitled to retired pay, there is no eligible spouse because of death or divorce, upon the retired member's application, no deductions from his retired pay shall be made after the last day of the month in which there ceases to be an eligible spouse. Children otherwise eligible will continue to be eligible for the annuity in event of the member's death. No amounts by which the member's retired pay is reduced before that date may be refunded to or credited on behalf of that person.

e. The amount of reduction in retired pay and the annuity payable established for each individual at the time of his retirement shall remain unaltered except as provided in Subsections 203g, 401b, 401d and 406, regardless of future pay increases or decreases.

402. Effective Date of Reduction

The effective date of reduction in retired pay will be the effective date of retirement with pay. The reduction in retired pay will be

terminated on the date the member ceases to be entitled to retired pay or on the first day of the month following that in which there is no eligible beneficiary (for exception to this rule see Section 604).

403. Payment of Nonwithheld Reduction of Retired Pay

a. A member of a uniformed service who is entitled to retired pay and has made an election shall, during any period in which he is not receiving retired pay (including periods of active duty), deposit the amount which would have been withheld from his retired pay had he been receiving that pay.

b. Such deposit will be payable to the Treasurer of the United States and shall be forwarded monthly to the disbursing office which would normally pay the member his retired pay.

c. The disbursing office will in all cases inform the member of the amount to be deposited and when such deposits are to be made.

d. In the event deposits are not made within 30 days of the due date, the disbursing office will inform the member concerned that he is delinquent from such due date and thereafter his designated beneficiaries will not be eligible for the annuity provided under the Plan until the arrears have been paid. The notification of delinquency will advise the member that 15 additional days have been granted to him in which to remit his deposit, and that if the arrears are not deposited within that period, the member will be charged interest to include the first day of delinquency. In no case will the expiration date of the 15 days exceed a date later than 45 days from the date the deposit was due. The interest will be computed monthly and the rate will be that used in computing the cost tables in effect on the date of the member's retirement. If such member later becomes in receipt of retired pay, any arrears with compound interest will be withheld.

404. Ages To Be Used

Ages to be used for calculating reductions of retired pay will be the ages of the member and his eligible dependents on their nearest birth dates as of the date of the member's retirement.

405. Action Upon Removal From Temporary Disability Retired List

a. Any member on the temporary disability retired list established pursuant to title 10, United States Code, Chapter 61, who has

elected to receive reduced retired pay in order to provide one or more of the annuities specified in the Plan, and who is subsequently removed from the list due to any reason other than permanent retirement, shall have refunded to him a sum which represents the difference between the amount by which his retired pay has been reduced and the cost of an amount of term insurance which is equal to the protection provided his dependents during the period he was on the temporary disability retired list.

b. If the member concerned is returned to active duty, his election as previously made will continue or he may change or revoke the election as provided in Section 204 of these Regulations.

c. Time creditable for the purpose of the two year interval required to make a change, revocation or new election valid includes service before, during, and after temporary disability retirement. (See Sections 203 and 204 and Comptroller General Decision B-144158, 23 December 1960). Active duty after removal from a temporary disability retired list is a necessity in such a case.

406. Withdrawal and Reduction of Percentage or Amount of Participation

A retired member who is participating in the Plan may revoke his election and withdraw from participation, or he may reduce the amount of the survivor annuity; however, an approved withdrawal or reduction will not be effective earlier than the first day of the seventh month beginning after the date his application is received by the Finance Center controlling his pay record. (For special rules covering participating members retired before 13 August 1968 without option 4, see Section 604.) No application for reduction will be approved which requests a change in options. A request to reduce an annuity or to withdraw from the Plan is irrevocable, and a retired member who withdraws may never again participate in the Plan. Approval of a request for a reduction will not be made when such reduction results in an annuity of less than 12 1/2 per centum of the member's retired pay or less than a \$25 monthly annuity. The new cost, after such reduction in survivor annuity, will be computed from the applicable cost table at the time of retirement. No amounts by which a member's retired pay is reduced may be refunded to, or credited on behalf of, the member by virtue of an application made by him under this section.

CHAPTER 5

ANNUITY

501. General Information

Except as provided in Subsection 506a of these Regulations, no annuity payable under the Plan shall be assignable, or subject to execution, levy, attachment, garnishment, or other legal process. Annuities payable under this Plan shall be in addition to any pensions or other payments to which the beneficiaries may now or hereafter be entitled under other provisions of law (except as provided in Section 507), and may not be considered as income under any law administered by the Veterans Administration, except for the purpose of Title 38, United States Code, Section 415(g) and Chapter 15.

502. Effective Date of Annuity

All annuities payable under this Plan except those payable to beneficiaries described in Subsection 102e(5) shall accrue from the first day of the month in which the retired member dies and shall be due and payable not later than the 15th day of each month following that month and in equal monthly installments thereafter, except that no annuity shall accrue or be paid for the month in which entitlement to that annuity terminates.

503. Claims for Annuity Payments

Upon official notification of the death of a retired member who has elected under the Plan, the department concerned shall forward to the eligible surviving beneficiaries the necessary information and forms (DD Form 768, Application for Annuity Under Retired Serviceman's Family Protection Plan (Attachment 2)) for making application for annuity payments. Such information shall include the place to which the application should be forwarded and to which questions regarding annuity payments should be addressed.

504. Payment to Children

a. Annuities for a child or children will be paid to the child's guardian, or if there is no guardian, to the person(s) who has care, custody, and control of the child or children.

b. Annuities payable to or on behalf of an eligible child as defined in Subparagraph 102e(5) of these Regulations accrue as of the first day of the month in which -

(1) the member (upon whose retired pay the annuity is based) dies if the eligible child's eighteenth birthday occurs in the same or a preceding month, or

(2) the eighteenth birthday of an eligible child occurs if the member (upon whose retired pay the annuity is based) died in a preceding month, or

(3) a child first becomes (or again becomes) eligible, if that eligible child's eighteenth birthday and the death of the member (upon whose retired pay the annuity is based) both occurred in a preceding month or months. An eligible child under this Subparagraph might become ineligible at age eighteen and again become eligible by furnishing proof of pursuit of a full time course of study or training as enumerated in Subparagraph 102e(5) of these Regulations.

505. Establishing Eligibility of Annuitants

a. Eligibility for the annuity will be established by such evidence as may be required by the department concerned.

b. If a child as defined in Subsection 102e(4) is a designated annuitant, the department concerned shall require proof that the incapacity for self-support existed prior to the child's reaching age 18. Proof that continued incapacitation exists will be required every two years after the child passes the age of 18 years, except in a case where medical prognosis indicates recovery is impossible.

c. If a child as defined in Subsection 102e(5) of these Regulations is a designated annuitant, as specified in Subsection 504b, above, the department concerned shall require proof from the institution at least semiannually that the child is pursuing a full time course of training as prescribed. For the purpose of proving eligibility, a child is considered to be pursuing a full time course of study or training during an interval between school periods that does not exceed one hundred and fifty days if he has demonstrated to the satisfaction of the department concerned that he has a bona fide intention of commencing, resuming, or continuing to pursue a full time course of study or training in a recognized educational institution immediately after that interval.

506. Recovery of Erroneous Annuity Payments

a. The Secretary of the Department concerned is empowered to use any means provided by law to recover amounts of annuities erroneously paid to any individual under the Plan. He may authorize such recovery by adjustment in subsequent payments to which the individual is entitled.

b. There need be no recovery when in the judgment of the Secretary of the Department concerned and the Comptroller General of the United States, the individual to whom the erroneous payment was made is without fault and recovery would be contrary to the purpose of the Plan or would be against equity and good conscience.

507. Restriction on Participation

a. If a person who has made an election under the Plan retires with a physical disability before the completion of 19 years of service and then dies in retirement, his widow and eligible children can receive monthly survivor annuities only if they are not eligible for Dependency and Indemnity Compensation payments from the Veterans Administration. If either the widow or children are eligible for dependency and indemnity compensation payments, then payment of annuities under the Plan may not be made to any member of the family. If the retired member's death was not service connected and his widow or children are not eligible for payments from the Veterans Administration, they may receive the provided annuity payments under the Plan.

b. If the beneficiaries on whose behalf the election was made are restricted as in Subsection 507a., above, from receiving annuities, the amounts withheld from the elector's retired pay as a result of the election will be refunded to the beneficiaries, less the amount of any annuity paid, and without interest.

c. Upon notification of the death of the member in such a case, the department concerned will take the following actions:

(1) Notify the Central Office of the Veterans Administration of the death of the member and request that the department concerned be advised if an award is made under Chapter 11 or 13, Title 38, United States Code.

(2) Request the Central Office of the Veterans Administration to forward to the eligible widow and/or children an application

form for survivor benefits under Chapter 11 or 13, Title 38, United States Code, with instructions for completion and submission.

508. Certain 100% Disability Retirements

An election filed on or after 13 August 1968 is not effective if the member dies within 30 days following retirement from a disability of 100 per centum (under the standard schedule of rating disabilities in use by the Veterans Administration) for which he was retired under Chapter 61, Title 10, United States Code, unless -

- a. Such disability was the result of injury or disease received in line of duty as a direct result of armed conflict, or
- b. His widow or children are not entitled to dependency and indemnity compensation under Chapter 13, Title 38, United States Code.

CHAPTER 6

MISCELLANEOUS

601. Annual Report

Information and data for the preparation of the annual report of the Board of Actuaries will be compiled by the Department of the Air Force after promulgation of appropriate instructions to each of the uniformed services. These instructions will be in consonance with Executive Order 10499 directing the Secretary of Defense to administer the provisions of the law.

602. Organization

a. The Joint Board for the Retired Serviceman's Family Protection Plan shall consist of a principal and alternate member for each of the uniformed services appointed by the Department Secretary concerned. Alternate members will be authorized to act in the absence of the principal. The Board shall meet on call of the Chairman. A quorum shall consist of representatives of at least four of the participating services.

b. The Board shall establish procedures for the orderly conduct of business to be approved by the Assistant Secretary of Defense (Manpower and Reserve Affairs).

c. The duties of the Board will include but not be limited to the following:

(1) Making recommendations to the Secretary of Defense for:

(a) changes to the Executive Order delegating to him functions conferred on the President by law,

(b) changes to these regulations,

(c) changes to the law, and

(d) measures to insure uniform operating policies.

(2) Promulgating tables of annuity costs as prescribed by the Board of Actuaries.

(3) Promulgating cost of term insurance as required in Section 405.

d. The Chairmanship of the Joint Board will be designated by the Assistant Secretary of Defense (Manpower and Reserve Affairs).

603. Correction of Administrative Deficiencies

a. The Secretary of the Department concerned may correct any election or any change or revocation of an election when he considers it necessary to correct an administrative error. Information on such corrections shall be compiled by each department for inclusion in the report prescribed by Section 601.

b. Except when procured by fraud, a correction under this Section is final and conclusive on all officers of the United States.

c. Information on all corrections to elections under this Plan which are made under Title 10, Section 1552, United States Code, shall be compiled and this information forwarded to the Board of Actuaries for an actuarial analysis.

604. Transition and Protective Clauses

a. A retired member who is participating in the Plan without inclusion of former option 4, which provided for restoration of retired pay when no eligible beneficiary remained in his election, may before 1 September 1969, elect to have that option included in his election. The election to include such option 4 becomes effective on the first day of the month following the month in which that election was made. The retired member must on or before the effective date agree to pay to the Treasury both the total additional amount to cover the option had it been effective when he retired, and the interest which would have accrued on the additional amount up to the effective date of the new option 4. No such additional amount (except interest) shall accrue for months after the first month for which the individual had no eligible beneficiary. However, if undue hardship or financial burden would result, payments may be made in from two to twelve monthly installments when the monthly amount involved is \$25 or less, or in from two to thirty-six installments when the monthly amounts involved exceed \$25. No amounts by which a member's retired pay was reduced may be refunded to, or credited on behalf of, the retired member by virtue of an application made by him under this Section. A retired member who does not make the additional election provided

under this Section within the time limits will not be allowed to reduce an annuity or withdraw from participation in the Plan as provided by Section 406.

b. Members who have elected and are not yet retired will automatically participate under the provisions of Section 201 of this Regulation.

c. Elections in effect on 13 August 1968 will remain under the cost tables applicable on the date of the member's retirement.

d. Any member who has filed an election, modification, or revocation prior to 13 August 1968 may before 1 September 1969 submit a written application to the Secretary concerned requesting that such election, modification, or revocation remain under the time-of-election provisions of the law applicable on the date it was filed.

Attachments 2
DD Form 1688
DD Form 768

ELECTION OF OPTIONS RETIRED SERVICEMAN'S FAMILY PROTECTION PLAN			
1. LAST NAME - FIRST NAME - MIDDLE NAME		2. SERVICE NUMBER(S)	3. SOCIAL SECURITY NUMBER
4. DATE OF BIRTH			
5. REASON FOR SUBMISSION (Check appropriate block)			
<input type="checkbox"/> FIRST ELECTION		<input type="checkbox"/> REVOCATION OF PREVIOUS ELECTION	
<input type="checkbox"/> MODIFICATION OF PREVIOUS ELECTION		<input type="checkbox"/> CHANGE IN FAMILY STATUS *	
6. BPED (Base Pay Entry Date)	7. RANK	8. STATUS (Check appropriate box)	
		<input type="checkbox"/> ACTIVE DUTY	
		<input type="checkbox"/> NOT ON ACTIVE DUTY	
OPTIONS			
ANNUITY PAYABLE TO OR ON BEHALF OF MY: <i>(NOTE: Entry should be made in only one column, and also on only one line, except that entries can be made on both lines 9 and 10)</i>		MONTHLY ANNUITY **	
		PERCENT OF RETIREMENT PAY	DOLLAR AMOUNT
9. WIDOW - OPTION 1			
10. CHILD OR CHILDREN - OPTION 2			
11. WIDOW AND/OR CHILD OR CHILDREN - OPTION 3			
12. DATE OF BIRTH OF SPOUSE		13. DATE OF BIRTH OF YOUNGEST CHILD (If Item 10 or Item 11 selected)	
14. DATE OF ELECTION	15. SIGNATURE OF APPLICANT		16. SIGNATURE OF WITNESS
PERSONNEL OFFICE DATA <i>(This Section to be Completed by the Applicant's Personnel Office)</i>			
17. RECEIVED AT (Organization)		18. INSTALLATION	
19. DATE OF RECEIPT	20. POSTMARK DATE <i>(If appropriate)</i>	21. SERVICE FOR COMPUTATION OF BASIC PAY COMPLETED BY MEMBER AS OF DATE OF RECEIPT	
		YRS	MOS
		DAYS	
22. TYPED NAME AND GRADE OF PERSONNEL OFFICIAL		23. SIGNATURE OF PERSONNEL OFFICIAL	
* FURNISH DETAILS (See appropriate regulation). USE ADDITIONAL SHEETS IF NECESSARY.			
** NOT MORE THAN 50% NOR LESS THAN 12 1/2% OF RETIRED PAY AND IN NO CASE LESS THAN \$25.00 PER MONTH.			
FOR PLANNING PURPOSES ONLY - Computation of Costs by personnel clerk as of date of election - subject to changes resulting from pay increases, promotions, advancements of ages of applicant and beneficiaries, and changes in cost tables.			

15. IF A GUARDIAN HAS BEEN APPOINTED BY THE COURT FOR ANY OF THE SURVIVORS ABOVE, GIVE NAME AND ADDRESS AND ATTACH COPY OF COURT ORDER		16. IF A GUARDIAN HAS NOT BEEN APPOINTED WILL ONE BE APPOINTED? <input type="checkbox"/> YES <input type="checkbox"/> NO
NAME OF GUARDIAN	ADDRESS	
I HEREBY CERTIFY THAT ALL STATEMENTS MADE IN THIS APPLICATION ARE TRUE TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, THAT NO EVIDENCE NECESSARY TO A SETTLEMENT OF THIS CLAIM IS SUPPRESSED OR WITHHELD, AND THAT ANY CHANGE IN STATUS OF ANY OF THE SURVIVORS NAMED ABOVE WILL BE REPORTED IMMEDIATELY.		
ADDRESS OF APPLICANT	SIGNATURE OF APPLICANT	DATE
	RELATIONSHIP OF APPLICANT TO DECEASED	
WITNESSES (See paragraph 4 below)		
ADDRESS	SIGNATURE	
ADDRESS	SIGNATURE	
WARNING: Any false statement in this application or misrepresentation relative thereto is a violation of the law punishable by a fine of not more than \$10,000 or imprisonment of not more than 10 years or both. (52 STAT. 197; U.S.C. 18:80.)		
INFORMATION FOR THE APPLICANT		
1. COMPLETION OF APPLICATION – In order to determine all possible benefits, it is important that all questions on this application be answered. Omissions or incomplete answers may delay settlement or result in failure to receive full benefits. If the answer to any questions is "No" or "None," so state. 2. IF ASSISTANCE IS NEEDED – If you need assistance in completing this application, contact the nearest military post, camp, or station, your local Red Cross Chapter, any Veterans organization, or write to the address below. 3. EVIDENCE REQUIRED – If it becomes necessary to submit additional evidence you will be so advised. 4. SIGNATURE OF APPLICANT – If this application is completed and signed by a person other than an annuitant on behalf of the annuitant show the capacity in which you sign. For example: "Legal Guardian."	When a signature is accomplished by the mark "X" or another person signs for the annuitant because of the mere physical inability to write on the part of the annuitant, such signatures must be witnessed by two disinterested parties. 5. PUBLIC LAW 87-397 – Approved 6 October 1961 requires that the Social Security number of the annuitant be shown on U.S. Treasury Form 1099 which is furnished at the end of each calendar year. By separate instruction, you have been, or will be, informed whether a number is required for the widow only, youngest child only, or for both. If a Social Security number has not been assigned, contact the local Social Security or Internal Revenue Service Office to apply for an identifying number. However, do not postpone mailing the annuity application pending receipt of a number; an identifying number is not required to establish annuity payments and may be furnished later. If widow's number is required and such number is available when completing this application, enter the number in the space provided.	
6. MAIL TO:		
Commanding Officer U. S. Navy Finance Center (X) Cleveland, Ohio 44114		

FMTF
695-3176

DEPARTMENT OF DEFENSE DIRECTIVES SYSTEM TRANSMITTAL

NUMBER	DATE	DISTRIBUTION
1332.17 - Ch 1	March 11, 1969	1300 series

ATTACHMENTS

Pages 5 and 6 of Enclosure 1 to DoD Directive 1332.17, Dec 18, 68.

INSTRUCTIONS FOR RECIPIENTS

The following page and pen changes to DoD Directive 1332.17, "Retired Serviceman's Family Protection Plan," dated December 18, 1968, have been authorized:

PAGE CHANGES TO ENCLOSURE 1

Remove: Pages 5 and 6

Insert: Attached replacement pages.

Changes appear on both pages and are indicated by marginal asterisks.

PEN CHANGES TO ENCLOSURE 1

1. Page 17, section 601. - Change line 2 to read:
"the Board of Actuaries will be compiled by the Office of the Secretary of Defense"
Changed portion is underscored.
2. Attachment 2 (DD Form 768), block 14, lines 1 and 2 - Change "18" to "23".

The revised DD Form 768 is being printed. Existing forms with this pen change incorporated may be used until the supply is exhausted.

EFFECTIVE DATE AND IMPLEMENTATION

This change is effective immediately. Two (2) copies of revised implementing documents shall be forwarded to the Assistant Secretary of Defense (Manpower and Reserve Affairs) within sixty (60) days.

Maurice W. Roche

MAURICE W. ROCHE

Director, Correspondence and Directives Division
OASD(Administration)

WHEN PRESCRIBED ACTION HAS BEEN TAKEN, THIS TRANSMITTAL SHOULD BE FILED WITH THE BASIC DOCUMENT

SD FORM 106-1
1 MAR 62

PREVIOUS EDITIONS ARE OBSOLETE

d. When no eligible beneficiary remains to benefit from the option elected, the member's retired pay will be restored (except as provided in Section 604, for certain members retired before 13 August 1968). All elections on file on 13 August 1968 for members not entitled to receive retired pay will be considered to include the restoration feature with attendant cost factors being applied at time of retirement. For the purpose of this Subsection a child (other than a child described in Subsection 102e(4)) who is at least 18 but less than 23 years of age, and is not pursuing a course of study as defined in Subsection 102e(5), shall be considered an eligible beneficiary unless an approved application by the member pursuant to Subsection 201b that such a child is not to be considered an eligible beneficiary is in effect (for members who retire on or after 1 November 1968).

202. Limitation on Number of Annuities

When a member desires to provide both the annuity provided by Option 1 and Option 2, he may elect amounts that, in total, meet the limitations specified in Section 201 of the Regulations. The cost of each annuity, and the amount of each annuity shall be determined separately. A member may not elect the combination of Options 1 and 3 or Options 2 and 3 in any case. The combined amount of the annuities may not be more than 50 per centum nor less than 12 1/2 per centum of his retired pay. * In no case may less than a \$25 per month combined annuity be provided. *

203. Election of Options

a. A member who has completed less than 19 years of service as defined in Subsection 102o may elect to receive a reduced amount of retired pay in order to provide one or more of the annuities as specified in Sections 201 and 202 payable after his death while entitled to retired pay to or on behalf of his surviving widow, child, or children. To be effective, the election by such a member must be dated, signed, witnessed, and delivered to appropriate service officials, or postmarked not later than midnight on the day in which he completes 19 years of service. Such an election will become effective immediately upon subsequent retirement. The latest election, change, or revocation made in accordance with this subsection will, if otherwise valid, be the effective election, unless superseded by a change as provided in 203. b. below. *

b. Except as provided in c. below, a member who fails or declines to make an election before completion of 19 years of service may make an election after that time. However, unless the election is made at least two years prior to the date the member becomes entitled to receive retired pay, it will not be effective. The same applies to subsequent changes or revocations made prior to retirement.

c. If an election, revocation, or change was made prior to 13 August 1968, the 19 year and 2 year provisions are automatically in effect on 13 August 1968 for members who were not entitled to retired pay on such date, unless the member applies under Subsection 604d to remain under the provisions of the law prior to 13 August 1968. In this case the "18 years of service" and "3 years prior to receipt of retired pay" rules will apply.

* d. A member retired for physical disability on or after 1 November 1968 who is awarded retired pay prior to completion of 19 years of service may make an election which is subject to the restrictions set forth in Section 507. The election by such member shall be made before the first day for which he is entitled to retired pay. Elections made under this subsection prior to 1 November 1968 must be made by the member retiring for physical disability prior to completing 18 years. *

e. If, because of military operations, a member is assigned to an isolated station, or is missing, interned in a neutral country, captured by a hostile force, or beleaguered or besieged, and for that reason is unable to make an election before completing 19 years of service, he may make the election within one year after he ceases to be assigned to that station or returns to the jurisdiction of his service as the case may be, and such election shall become effective immediately upon subsequent retirement.

f. A member to whom retired pay is granted retroactively, and who is otherwise eligible to make an election, may make the election within 90 days after receiving notice that such pay has been granted him.

g. Whenever a member is determined to be mentally incompetent by medical officers of the uniformed services or of the Veterans Administration, or is adjudged mentally incompetent by a court of competent jurisdiction and because of such mental incompetency is incapable of making any election within the time limitations prescribed by the Plan, the Secretary of the Department concerned may make the appropriate election on behalf of such member upon request of the spouse, or if there be no spouse, by or on behalf of the child or children of such member. If such member is subsequently determined to be mentally competent by the Veterans Administration or a court of competent jurisdiction, he may, within 180 days after such determination or judgment, change or revoke the election made on his behalf. In such a case, the change or revocation will be effective on the date of the member's request for such change or revocation. Deductions previously made shall not be refunded.

FIMP
695-7176

DEPARTMENT OF DEFENSE DIRECTIVES SYSTEM TRANSMITTAL

NUMBER 1332.17 - Ch2	DATE September 3, 1971	DISTRIBUTION 1300 series
-------------------------	---------------------------	-----------------------------

ATTACHMENTS
None

INSTRUCTIONS FOR RECIPIENTS

The following pen change to Department of Defense Directive 1332.17, "Retired Serviceman's Family Protection Plan," dated December 18, 1968, has been authorized:

PEN CHANGE TO ENCLOSURE 1

Page 6, Top of page - Delete: Subsection 203c in its entirety.



MAURICE W. ROCHE
Director, Correspondence and Directives Division
OASD(Administration)

WHEN PRESCRIBED ACTION HAS BEEN TAKEN, THIS TRANSMITTAL SHOULD BE FILED WITH THE BASIC DOCUMENT

FMT P
695-3167

DEPARTMENT OF DEFENSE DIRECTIVES SYSTEM TRANSMITTAL

NUMBER	DATE	DISTRIBUTION
1332.17 - Ch 3	January 21, 1975	1300 series

ATTACHMENTS

Pages 11&12 to enclosure 1 to DoD Directive 1332.17, 12/18/68

INSTRUCTIONS FOR RECIPIENTS

The following page changes to DoD Directive 1332.17, "Retired Serviceman's Family Protection Plan," dated December 18, 1968, have been authorized:

PAGE CHANGES TO ENCLOSURE 1

Remove: Pages 11&12

Insert: Attached replacement pages

Changes appear on page 11 and are indicated by marginal asterisks.

EFFECTIVE DATE AND IMPLEMENTATION

The above change is effective March 1, 1975. Two copies of revised implementing regulations shall be forwarded to the Assistant Secretary of Defense (Manpower and Reserve Affairs) within 30 days.

Maurice W. Roche
 MAURICE W. ROCHE, Director
 Correspondence and Directives
 OASD(Comptroller)

WHEN PRESCRIBED ACTION HAS BEEN TAKEN, THIS TRANSMITTAL SHOULD BE FILED WITH THE BASIC DOCUMENT

terminated on the date the member ceases to be entitled to retired pay or on the first day of the month following that in which there is no eligible beneficiary (for exception to this rule see Section 604).

403. Payment of Nonwithheld Reduction of Retired Pay

a. A member of a uniformed service who is entitled to retired pay and has made an election shall, during any period in which he is not receiving retired pay (including periods of active duty), deposit the amount which would have been withheld from his retired pay had he been receiving that pay.

b. Such deposit will be payable to the Treasurer of the United States and shall be forwarded monthly to the disbursing office which would normally pay the member his retired pay.

c. The disbursing office will in all cases inform the member of the amount to be deposited and when such deposits are to be made.

d. In the event deposits are not made within 30 days of the due date, the disbursing office will inform the member concerned that he is delinquent from such due date and thereafter his designated beneficiaries will not be eligible for the annuity provided under the Plan until the arrears have been paid. The notification of delinquency will advise the member that 15 additional days have been granted to him in which to remit his deposit, and that if the arrears are not deposited within that period, the member will be charged interest to include the first day of delinquency. In no case will the expiration date of the 15 days exceed a date later than * 45 days from the date the deposit was due. The interest will be computed * monthly at the annual rate of 6%. If such member later becomes in receipt * of retired pay, any arrears with compound interest will be withheld.

404. Ages To Be Used

Ages to be used for calculating reductions of retired pay will be the ages of the member and his eligible dependents on their nearest birth dates as of the date of the member's retirement.

405. Action Upon Removal From Temporary Disability Retired List

a. Any member on the temporary disability retired list established pursuant to title 10, United States Code, Chapter 61, who has

elected to receive reduced retired pay in order to provide one or more of the annuities specified in the Plan, and who is subsequently removed from the list due to any reason other than permanent retirement, shall have refunded to him a sum which represents the difference between the amount by which his retired pay has been reduced and the cost of an amount of term insurance which is equal to the protection provided his dependents during the period he was on the temporary disability retired list.

b. If the member concerned is returned to active duty, his election as previously made will continue or he may change or revoke the election as provided in Section 204 of these Regulations.

c. Time creditable for the purpose of the two year interval required to make a change, revocation or new election valid includes service before, during, and after temporary disability retirement. (See Sections 203 and 204 and Comptroller General Decision B-144158, 23 December 1960). Active duty after removal from a temporary disability retired list is a necessity in such a case.

406. Withdrawal and Reduction of Percentage or Amount of Participation

A retired member who is participating in the Plan may revoke his election and withdraw from participation, or he may reduce the amount of the survivor annuity; however, an approved withdrawal or reduction will not be effective earlier than the first day of the seventh month beginning after the date his application is received by the Finance Center controlling his pay record. (For special rules covering participating members retired before 13 August 1968 without option 4, see Section 604.) No application for reduction will be approved which requests a change in options. A request to reduce an annuity or to withdraw from the Plan is irrevocable, and a retired member who withdraws may never again participate in the Plan. Approval of a request for a reduction will not be made when such reduction results in an annuity of less than 12 1/2 per centum of the member's retired pay or less than a \$25 monthly annuity. The new cost, after such reduction in survivor annuity, will be computed from the applicable cost table at the time of retirement. No amounts by which a member's retired pay is reduced may be refunded to, or credited on behalf of, the member by virtue of an application made by him under this section.