

MILITARY PENSION DIVISION ORDER QUESTIONNAIRE

We will need the following to prepare a Military Pension Division Order in your case¹:

I. Documents to be provided:

A. **Active Duty** - Current Leave and Earnings Statement (LES) - generated twice a month to show pay, allowances, deductions, accrued leave, etc. (equivalent to a pay stub); go to pay center secure web portal to obtain a copy

B. **Guard/Reserve** - Retirement Points Accounting Statement (chronological statement of retirement points, such as ARPC Form 249 for Army Reserve or NGB Form 23 for National Guard) - issued at least once a year to each Guard/Reserve member; go to Guard/Reserve secure web portal to obtain a copy

C. Retirees

1. Retiree Account Statement (DFAS-CL Form 7220 for Army, Navy/Marine Corps, Air Force), or Payslip (for Coast Guard) – generated monthly to show retired pay, VA waiver, Survivor Benefit Plan premium and beneficiary, etc.;
2. Certificate of Release or Discharge (DD Form 214) or other separation papers;
3. Retirement orders (issued at retirement);
4. Combat-Related Special Compensation (CRSC) statement (if applicable);
5. Letter from DFAS at or before retired pay starts (showing amount and how calculated);
6. In VA disability cases, the findings and rating letter(s).

D. Survivor Benefit Plan (SBP) Election Form

1. For a Reserve/Guard member, this would have been completed at the 20-year mark (for DFAS - Form 2656-5, RCSBP Election Certificate).
2. For an active-duty servicemember, the election form would be completed as part of the retirement process (Form 2656, Data for Retired Personnel).
3. If the parties are already divorced, there may be a Form 2656-1 (SBP Election Statement for Former Spouse Coverage).

E. **General documents** – If applicable: court order, separation agreement or any other underlying settlement document that provides for pension division, and the divorce decree

The LES, Retiree Account Statement (RAS) and CRSC Statement can be accessed by the military member or retiree at the secure DFAS (Defense Finance and Accounting Service) website, <https://mypay.dfas.mil>. There are also secure portals for Coast Guard and the commissioned corps of the Public Health Service and NOAA.

¹ If you don't know all of the facts and answers for this questionnaire, then you should—

- a) Fill out all the data you can (e.g., your full name, your spouse's date of birth, the date of the marriage);
- b) Reply with as much information as you have on other questions (e.g., "I think that Ralph entered the Navy in 1992, but it might have been early 1993." -OR- "Roberta was either an E-5 or an E-6 when we got married."); and
- c) Indicate on the remaining ones that you don't know the answers, specifying what might be done to obtain the answer involved (e.g., "You'll have to ask my lawyer about what kind of pension division I should request - formula or percent. I don't know what to ask for." -OR- "You should get a copy of Edward's retirement orders. That will show when he retired.")

Questionnaire completed by: _____

(Print Name)

Date: _____

II. Basic Dates: Date of marriage: _____. If applicable, fill in dates of -

Separation: _____ Divorce: _____ Remarriage: _____

III. Basic Information:

A. Identifying information for *servicemember or retiree*: (LES, RAS, or retirement order may contain some of the military information)

1. Full name: _____
2. Date of birth: _____ Social Security #: _____
3. Current mailing address: _____
4. E-mail address: _____ Phone number: _____
5. Rank/Pay grade: _____ at separation _____ at divorce _____ currently (or at retirement)
6. Branch of service: _____
7. Date of entry into the service (Pay Entry Base Date): _____. If any breaks in service, please specify: _____.
8. If Guard/Reserve case, date of application for retired pay (date one stops drilling) _____
9. If already receiving retired pay, state gross amount and all deductions: _____

10. If retired from active duty, state date of retirement: _____

B. Identifying information for *spouse/former spouse* (non-servicemember):

1. Full name: _____
2. Date of birth: _____ Social Security #: _____
3. Current mailing address: _____
4. E-mail address: _____ Phone number: _____
5. Date of remarriage (if applicable): _____

F. **Blended Retirement System (BRS) Information** - SMs (servicemembers) who were eligible may have opted into the BRS during calendar year 2018. This can have significant impacts on retired pay and SBP amounts, and no consent of the spouse is required. Did SM opt in? Please provide information on lines below: _____

G. **Computational Information** – Please complete the following, which serves as the basis for the pension division order:

- FOR ACTIVE DUTY CASES -

A. Background information: ONE of the following must be used -- check (✓) one option on the line provided. If the distribution to spouse is set out in an order or agreement, a copy of that document must be attached.

1. _____ *Fixed dollar amount* (e.g., “\$400 a month to Mrs. Brown”)²
2. _____ *Percentage* (e.g., “44% of Mr. Brown’s retired pay”)
3. _____ *Formula clause* (e.g., “half of the marital fraction of Mr. Brown’s retired pay, defined as 140 months of marital pension service divided by X months of total pension service, this number to be computed by DFAS when he retires.” If member is still serving, then *formula clause* is usually used.
4. _____ *Hypothetical award* (e.g., “39% of the retired pay of a major with 24 years of creditable service and a retired pay base of \$5,200”). If member entered service after 9/7/1980, we must have the following information:
 - hypothetical retired pay base: \$_____ (a.k.a., the “High-3” pay)
 - hypothetical years of creditable service: _____ years
 - hypothetical date of retirement: ____/____/20_____

B. _____ *Frozen Benefit Rule information*. For divorces granted after 12/23/16 when member was not receiving retired pay on date of divorce, federal law requires that the following be included in the divorce decree or other court document dividing retired pay, *as of divorce date* -

- High-3 amount (monthly avg. of highest 36 months of pay): \$_____
- Total years of creditable service: _____ years

- FOR RESERVE OR GUARD CASES -

A. Background information: Check (✓) one of the following divisions.³

1. _____ *Fixed dollar amount* (See A.1. under Active Duty above)
2. _____ *Percentage*: State percent that should be used (not greater than half). Usually used when member is no longer performing Reserve/Guard service and has put in for retirement (or is already receiving retired pay), or when parties have agreed on use of a percentage.

² NOTE: The fixed dollar amount does not contain a COLA (cost-of-living adjustment).

³ Which division will it be, by Reserve points or years? There may be a big difference between the two dividing methods. Review the following example:

a: Major Bill Smith has 5 years of active duty and 15 years of service in the Army Reserve. He married when he left active duty.

b: To calculate the marital fraction using points, we start by counting the points he acquired during active duty by multiplying 5 times 364 to get 1820 points. Then we count his Reserve points: during his time in the Reserve, he acquired 60 points a year (for weekend drill, “summer camp” or annual training, and membership) for 15 years, or 900 points. Thus his total points at 20 years are 2720 (1820 + 900), of which 900 (or about 33%) are marital. This should mean that 33% of his retirement pay (assuming retirement and date of separation both occur at year 20) is marital.

c: If we apply the marital fraction using years to his retirement pay, however, then his pension is 15 (marital years)/20 (total years) or 75% marital.

3. _____ *Formula using points*: May be used in Guard/Reserve cases. Give the total points acquired during the marriage before date of separation, divorce, or other applicable date under state law. Retired pay center (DFAS or Coast Guard Pay & Personnel Center) will calculate the total points. Spouse usually gets half of this marital share (unless specified otherwise). If member is in Guard/Reserve, use of retirement points is required in a formula clause with X as the denominator. Reserve or National Guard spouses should get and review a copy of the servicemember's points statement. Number of marital⁴ points: _____. **(COMPLETE points statement must be attached if this option is chosen)**

4. _____ *Formula using time*: You may **not** use this if member is still serving and you are using a "formula clause" according to DFAS regulations. If parties agree on all numbers (months of marital pension service, total time of pension service) or if member is retired, then "months over months" can be converted into a fraction, then that can be multiplied times 50% and converted to a PERCENTAGE. Percentage for spouse/former spouse: _____%

5. _____ *Hypothetical award*: (e.g., "_____% of the military retired pay the member would have received had the member become eligible to receive military retired pay with a retired pay base of \$_____ and with _____ reserve retirement points on _____"). If member entered service after 9/7/1980, we must have the following information:
 - hypothetical retired pay base: \$_____ (a.k.a., "High-3" pay)
 - hypothetical retirement points: _____ points
 - hypothetical date of retirement: ___/___/20_____

If SM was already retired at date of classification/valuation under state law (e.g., date of filing, of divorce or of separation), attach the most recent retiree account statement (for Army, Navy/Marine Corps and Air Force, this is DFAS-CL FORM 7220); it is a Payslip for Coast Guard). Make sure that PAGE 2 is included (if applicable).

B. _____ *Frozen Benefit Rule information*. For divorces granted after 12/23/16 when member was not receiving retired pay on date of divorce, federal law requires that the following be included in the divorce decree or other court document dividing retired pay, *as of divorce date* -

- High-3 amount (monthly avg. of highest 36 months of pay): \$_____
- Total Guard/Reserve retirement points: _____ points

C. **Survivor Benefit Plan election**⁵: If a survivor annuity is to be provided to the former spouse, fill out the following information:

- Type of coverage:
 1. _____ Former spouse only coverage _____ Former spouse and child(ren) coverage
 2. _____ Child(ren) only coverage _____ Other coverage - specify type/beneficiary

- Base amount (the SBP benefit paid to the beneficiary is 55% of the base amount):
 1. _____ Full retired pay

⁴ "Marital" means between marriage and the date of separation, date of divorce, or other date specified by state law.

⁵ SBP entitlement is suspended if former spouse remarries before age 55. SBP entitlement will be reinstated if the former spouse's marriage is terminated by death, divorce, or annulment.

2. _____ Lesser amount (can be any amount \$300 per month or greater)⁶ if chosen at retirement and with spousal consent

Remember that, without SBP coverage, the pension stops when the retiree dies.

IF RESERVE OR GUARD: Reserve Component SBP (Survivor Benefit Plan) applies for members of the Reserves or National Guard. Check (✓) one of the following:

1. ___ SM has already retired, is receiving retired pay, and the SBP election chosen by SM was: (see next 2 items for available options) _____.

2. ___ SM has attained 20 years of creditable service, and decided to wait until eligibility for retired pay (usually age 60) to decide on SBP (“OPTION A” on current form).

3. ___ SM has attained 20 years of creditable service, chose to have coverage start at eligibility for retired pay (usually age 60) (i.e., if SM dies before then, payments begin at what would have been age 60 for the SM). (OPTION B).

4. ___ SM has attained 20 years of creditable service, has chosen to have coverage and payments start at death, even if before eligibility for retired pay (usually age 60) (OPTION C).

5. ___ SM has not attained 20 years of service yet, client would like decision to be (fill in blank):

6. ___ SM and spouse have decided to use life insurance instead of SBP, terms are as follows:

If SM has attained 20 years of Guard/Reserve service, attach copy of the completed SBP election form, DD Form 2656-5 or equivalent for Coast Guard/PHS/NOAA.

H. **Disability Issues and Offsets:** Does retiree receive (or is eligible to receive) any of the following -

- A. Military disability retired pay?
- B. Department of Veterans Affairs disability compensation?
- C. Combat-Related Special Compensation?

If YES regarding any of the above, provide details (including disability rating, monthly amount of pay/compensation) here:

I. **Thrift Savings Plan**⁷

- A. If the member participates, provide us with the most recent quarterly account statement.

⁶ Base amount is selected at retirement for active-duty personnel; lower amount requires spouse’s written consent. Once chosen, it generally cannot be changed.

⁷ The TSP is a contributory retirement plan, similar to a 401K plan.

B. If the TSP is to be divided:

1. State how -- fixed dollar amount, percentage, or formula? _____

2. Specify effective date of division (e.g., date of separation, date of divorce) _____

3. Are passive interest and earnings to be included after this date? YES NO
4. Will the non-employee spouse's share of the TSP be paid directly to the former spouse or rolled over into an eligible plan or IRA? ___Direct to spouse ___Roll-over (check one) If rolled over, give the financial institution's name and address, as well as the account number of the plan or IRA. Also, provide a contact name and phone number:

- POINTS TO REMEMBER -

To obtain garnishment of military retired pay as property division, the recipient spouse must:

- Have ten years of marriage concurrent with ten years of service.
- Submit a certified copy of the order to the retired pay center along with a certified copy of the divorce judgment.
- Submit a completed Application for Former Spouse Payments from Retired Pay (DD Form 2293 for DFAS).
- Serve the application and order certified or registered mail, return receipt requested on the designated agent listed on DD Form 2293.

To obtain SBP benefits, the former spouse **must** submit to the retired pay center a completed form DD 2656-10 (deemed election request), a certified copy of court order awarding SBP, and a certified copy of the divorce decree within one year of the date of the court order requiring the other party to elect coverage. The deadline for the member/retiree is different - it's one year from the date of the divorce. Retired pay center addresses are shown on DD 2656-10.

(9/13/18)

Questionnaire completed by: _____
(Print Name)

Date: _____