

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: ██████████

BOARD DATE: 9 January 2024

DOCKET NUMBER: AR20230003949

APPLICANT REQUESTS: an exception to policy pertaining to the "maximum 12- years' Time In-Service (TIS) opt-in restriction" for entitlement to the Blended Retirement System (BRS) Continuation Pay (CP).

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

- DD Form 149 (Application for Correction of Military Record)
- Guard Annex (Enlistment/Reenlistment Agreement Army National Guard (ARNG) Service Requirements and Methods of Fulfillment), 9 July 2010
- Email communication
- Memorandum – Subject: BRS CP Calendar Year 2022 (CY22)
- Request for CP (BRS), 30 November 2022

FACTS:

1. The applicant states in pertinent part, that in 2017 he was enrolled in the BRS. He contests that during this transition, the NYARNG provided a small train up on the BRS and CP. He notes that as soon as he was made aware of CP (1 November 2022) he applied for it. At that time, he had completed 12 years and 4 months TIS. He further provides that upon initiation of the BRS, the program was being mismanaged at the State level primarily because the Soldiers working there were enrolled in the legacy retirement system and unfamiliar with the BRS. He previously served as a personnel specialist at different levels of command and has attended yearly financial workshops, premobilization events etc. He argues that BRS CP was never discussed in these platforms and in fact, his initial notification was provided by way of family programs rather than formal military channels. Had the BRS CP memorandum been properly distributed by State, he would have been able to apply for CP within the TIS requirements.

2. A review of the applicant's available service records provides the following:

a. On 9 July 2010, the applicant enlisted in the ARNG for 8 years, and on 6 October 2013, the applicant was honorably released from the ARNG as an enlisted Soldier to be appointed as a commissioned officer.

b. On 7 October 2013, the applicant was appointed a Reserve commission within the ARNG to serve as an Armor Officer.

c. On 30 October 2019, the National Guard Bureau (NGB) issued Special Orders Number 309 AR announcing Federal recognition of the applicant's promotion to the rank/grade of captain (CPT)/O-3, effective 19 September 2019.

d. On 21 October 2020, the NGB issued Special Orders Number 318 announcing Federal recognition of the applicant's branch transfer from the Armor Corps to the Adjutant General Corps, effective 7 October 2020.

e. The applicant completed 12 years of service on 9 July 2022.

3. The applicant provides the following a:

a. Guard Annex dated 9 July 2010, reflective of the applicant's service obligations associated with his initial enlistment.

b. Email communication reflective of varying communications provided by members of the ARNG dating back to November 2022, concerning the BRS CP. On or about 14 December 2022, the applicant was advised that he was not eligible for BRS CP because he exceeded the maximum 12 years TIS requirement. The applicant was further advised to seek relief through this Board. A copy of this documentation is further provided in its entirety within the supporting documents for the Board's review.

c. Memorandum – Subject: BRS CP CY22 reflective of the eligibility, amounts, and additional service obligation associated with the BRS-CP in calendar year 2022.

d. Request for CP (BRS) dated 30 November 2022, reflective of the applicant's request for BRS CP at a rate of 4 times his monthly basic pay. The applicant agreed to 4 years of additional obligated service. This form is not signed by the certifying or approving official and does not contain a control number.

4. A review of the applicant's available Officer Record Brief reflects a Pay Entry Basic Date (PEBD) and Date of Initial Entry to Military Service (DIEMS) of 9 July 2010.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The evidence shows the applicant completed 12 years of service based on his PEBD on 9 July 2022. He provides a Request for CP (BRS) dated 30 November 2022, after the 12-

year mark, reflective of his request for BRS CP at a rate of 4 times his monthly basic pay and agreement to serve 4 years of additional obligated service in the ARNG. This document is not endorsed by the certifying official or the approval authority. The Board agreed that the applicant's submission is not only untimely but also the form he submitted is not signed by the certifying and approving official. Based on the evidence, the Board determined relief is not warranted. However, the applicant is advised that if he can provide the correct form with the correct signatures and control number, he may resubmit his application to this Board for consideration.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
■	■	■	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned.

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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:

Title 37, United States Code, section 356 (Continuation Pay) provides:

a. The Secretary concerned shall pay CP under subsection (a) to a full TSP member when the member has completed not less than 8 and not more than 12 years of service in a uniformed service. Enters into an agreement with the Secretary to serve for not less than three additional years of obligated service. A full TSP member may elect to receive CP in a lump sum or in a series of not more than four payments.

b. Payment Amount—the Secretary concerned shall determine the payment amount under this section as a multiple of a full TSP member's monthly basic pay. The multiple for a full TSP member who is a member of a Reserve Component, if the member is performing AGR duty (as defined in Title 10, USC, section 101(d)(6)), shall not be less than 2.5 times the member's monthly basic pay. The multiple for a full TSP member who is a member of a Reserve Component not performing AGR duty (as so defined) shall not be less than 0.5 times the monthly basic pay to which the member would be entitled if the member were a member of a Regular Component. The maximum amount the Secretary concerned may pay a member under this section is—

- in the case of a member of a Regular Component—the monthly basic pay of the member at 12 years of service multiplied by 2.5
- in the case of a member of a Reserve Component—the amount of monthly basic pay to which the member would be entitled at 12 years of service if the member were a member of a Regular Component multiplied by 0.5

//NOTHING FOLLOWS//