

IN THE CASE OF: [REDACTED]

BOARD DATE: 28 February 2024

DOCKET NUMBER: AR20230005785

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

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

- DD Form 149 (Application for Correction of Military Record)
- Leave and Earnings Statement (LES), 30 April 2023
- Request for CP (BRS), 10 May 2023
- Email communication

FACTS:

1. The applicant states in pertinent part that the memorandum pertaining to CP did not clearly communicate the eligibility requirements pertaining to 12 years of service. He contests that the policy was released on 1 January 2023, three days prior to his completion of 12 years of service (4 January 2023) and was not disseminated to the unit level until 9 May 2023. He further notes that this late delivery of information negatively impacted other Soldiers.

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

a. On 4 January 2011, the applicant enlisted in the Regular Army for 5 years and 16 weeks.

b. On 16 November 2015, the applicant reenlisted for 3 years.

c. On 4 January 2018, the applicant reenlisted for 3 years.

d. On 13 November 2019, the applicant reenlisted for 3 years.

e. On 4 January 2023, the applicant completed 12 years of service.

f. On 19 October 2023, the applicant reenlisted indefinitely.

3. The applicant provides the following a:

a. LES ending on 30 April 2023, reflective of the applicant's pay and entitlements for the month of April 2023. Review of this document provides validation of the applicant's 12 years of service with a Pay Entry Basic Date (PEBD) of 4 January 2011 and enrollment in the BRS.

b. Request for CP (BRS) dated 10 May 2023, reflective of the applicant's request for BRS CP at a rate of 2.5 times his monthly basic pay to be paid in a single, lump sum. The applicant agreed to 4 years of additional obligated service in the Regular Army. The applicant's PEBD reflects 4 January 2011, and the document is endorsed by the certifying and approval authority.

c. Email communication reflective of confirmation of the applicant's enrollment in the BRS effective 25 December 2018.

4. On 15 November 2023, the Department of the Army, Office of the Deputy Chief of Staff, G-1, Program Analyst, Compensation and Entitlements Division, provided an advisory opinion recommending approval of the applicant's request noting that he would have otherwise submitted the CP application prior to his 12th year of service had the unit notified him in a timely manner. The applicant did submit a completed request for CP signed effective 10 May 2023; however, the end point prior to 12 years of service for pay was 4 January 2023. If the board grants administrative relief, the payment would be based on the pay grade of E-7 with 12 years of service for pay purposes from the 2023 pay scale ( $\$4,900.50 \times 2.5 \text{ multiplier} = \$12,251.25$ ), less applicable federal and state tax amounts.

5. On 17 November 2023, the applicant was provided with a copy of the advisory opinion and afforded 30 days to provide comments. As of 12 February 2024, the applicant had not responded.

**BOARD DISCUSSION:**

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation. Upon review of the applicant's petition, available military records and, the Department of the Army, Office of the Deputy Chief of Staff, G-1, Program Analyst, Compensation and Entitlements Division, the Board concurred with the advising official recommending approval of the applicant's request noting that he would have otherwise submitted the CP application prior to his 12th year of service had the unit notified him in

a timely manner. The Board agreed there is sufficient evidence showing the applicant submit a completed request for Continuation Pay signed with an effective date of 10 May 2023; however, the end point prior to 12 years of service for pay was 4 January 2023. Based on the advising official recommendation, the Board granted relief for an exception to policy pertaining to the "maximum 12- years' Time In-Service (TIS) opt-in restriction" for entitlement to Continuation Pay (CP) under the Blended Retirement System (BRS).

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

█	█	█	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined that the evidence presented was sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected to show approval of an exception to policy pertaining to the "maximum 12- years' Time In-Service (TIS) opt-in restriction" for entitlement to Continuation Pay (CP) under the Blended Retirement System (BRS).

2/29/2024

X █

CHAIRPERSON  
Signed by: SCHINDLER.KERRY.JOHN.1099712119

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.

REFERENCE:

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//