

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: ██████████

BOARD DATE: 12 March 2024

DOCKET NUMBER: AR20230006148

APPLICANT REQUESTS: retroactive entitlement to Continuation Pay (CP) Blended Retirement System (BRS).

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

- DD Form 149 (Application for Correction of Military Record)
- Email correspondence, 1 October 2022
- Email correspondence, 21 October 2022
- Memorandum, Subject: Request for Exception to Policy (ETP) for BRS, 19 December 2022
- BRS Packet
- Email correspondence, 15 May 2023

FACTS:

1. The applicant states, in pertinent part, he was entitled to CP BRS which to this date has not been processed or received due to a system error within the military pay and notification system. After reaching out to the U.S. Army Reserve (USAR), G-1, he received an email response, dated 15 May 2023, stating "Per Headquarters Department of the Army, G-1, we cannot process an ETP to the CP BRS law. However, the Soldier may submit a case through the Army Board of Correction of Military Records (ABCMR) to correct the injustice and request payment. Please ask the Soldier to explain that the error was due to a system error that has been fixed, and he is entitled to the CP BRS."

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

a. On 13 December 2006, he enlisted in the Reserve as a Cadet in the Widener University Reserve Officers' Training Corps (ROTC).

b. On 13 May 2010, the Army ROTC Battalion, Widener University (ROTC) issued a Memorandum for Appointment as a Reserve Commissioned Officer of the Army. The accepted a Reserve commission and executed an oath of office.

c. The applicant's records contain a DA Form 5016 (Retirement Accounting Statement) which shows his Pay Entry Basic Date (PEBD) as 14 May 2010.

d. The applicant completed 12 years of service on 14 May 2022. He continues service with the USAR.

3. The applicant provides the following:

a. Email correspondence, dated 1 October 2022, providing a greeting and entitlement to CP BRS.

b. Email correspondence dated 21 October 2022 providing him instructions on submitting an ETP for BRS to the U.S. Army Reserve Command (USARC).

c. Memorandum for Request for Exception to Policy for Blended Retirement System, dated 19 December 2022, wherein his senior commander requested an ETP for the applicant to be eligible to receive CP BRS based on the applicant first being notified of his eligibility on 26 September 2022.

d. CP BRS Packet which included the following documents:

- USAR Form 26-R (Pay Document Transmittal Letter) requesting processing of his CP BRS packet.
- USAR Form 22-R (Adjustment Certification Worksheet) requesting processing of his CP BRS packet.
- Personnel Action Packet Checklist showing the required forms to be completed for his CP BRS application.
- DD Form 577 (Appointment-Termination Record - Authorized Signature) showing Sergeant R- D- as authorized certifying officer for CP BRS requests.
- Leave and Earning Statement, dated 7 December 2022 showing he completed 12 years of service at the time.
- DA Form 4856 (Developmental Counseling Form) showing he was counseled on his eligibility for CP BRS.
- DA Form 71 (Oath of Office – Military Personnel)

e. Email correspondence, dated 15 May 2023 notifying him that he would have to apply to the ABCMR for payment of his CP BRS.

4. On 6 October 2023, the Office of the Deputy Chief of Staff, G-1, Program Analyst, Compensation and Entitlements Division, provided an advisory opinion recommending disapproval of the applicant's request stating, in effect, after careful review, our office does not support the applicant's request due to non-receipt of a signed and certified calendar year 2022 Continuation Pay application.

5. On 13 October 2023, the applicant was provided with a copy of the advisory opinion to provide a response. On 20 October 2023, he provided a rebuttal submitting the following documents:

a. Email correspondence from USAR noting that he was entitled to the CP BRS and that the error that occurred was a system error that is now fixed.

b. His Request for CP BRS which shows he was requesting 4 times his monthly basic pay in return for 4 years of additional obligated service in the USARA to be paid in a lump sum. The certifying official endorsed the form on 19 December 2022 and the approval authority endorsed the form on 1 May 2023. The form contains the control number CP22030XX.

#### BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The applicant contends he was entitled to CP BRS which has not been processed or received due to a system error within the military pay and notification system. According to his records, he completed 12 years of service on 14 May 2022. He submitted a completed request for CP effective 1 May 2023, clearly after his 12th year. The Board agreed with the advisory official's determination that the applicant's request did not include a properly completed form indicating the authorized multiplier and compliance with the additional service obligation (ADSO) requirement for CY22. Nevertheless, the Board noted that after receiving the advisory opinion, the applicant provided the necessary CP form reflective of the multiplier, ADSO, and the commander's and certifying officials signature indicating the CP application has been verified as proper and approved for payment. The Board determined relief is warranted.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is 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 by:

- Showing the applicant timely submitted his Request for Continuation Pay – Blended Retirement System before reaching his 12th year of service
- Showing the appropriate office timely received and processed his approved request for CP BRS
- Paying the applicant based on the appropriate pay grade with 12 years for pay purpose from the 2022 pay scale, less applicable federal and state taxes (DFAS determines the exact amount)

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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:

1. Title 37 United States Code, section 356 (CP) states:

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 Reserve 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.

2. Memorandum, Subject: Blended Retirement System Continuation Pay Calendar Year 2022 states members are entitled to CP BRS who are between 10 and no more than 12 years of service, as computed from the Soldier's PEBD. For Army Reserve and Army National Guard serving in the Selected Reserve, CP is 4 times the active duty monthly basic pay.

//NOTHING FOLLOWS//