

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 23 April 2024

DOCKET NUMBER: AR20230008485

APPLICANT REQUESTS: correction of her record to show she is eligible to be paid 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)
- Request for CP (BRS) Form
- Twelve e-mail with applicant's unit
- Request for Exception to Policy (ETP) for Selected Reserve Incentive Program packet
- 349th Psychological Operations Company Memorandum, Subject: ETP for late enrollment into the BRS Program
- Thrift Savings Plan (TSP) Quarterly Account Statement TSP (Uniformed Services)
- Leave and Earnings Statement (LES)
- E-mail for the Office of the Chief of Army Reserve (OCAR) G-1

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code (USC), section 1552(b); however, the Army Board for Correction of Military Records (ABCMR) conducted a substantive review of this case and determined it is in the interest of justice to excuse the applicant's failure to timely file.

2. The applicant states in effect, she requests the correction of her record to show she is eligible to be paid CP BRS. The U.S. Army Human Resources Command, Retirement Service Section records apparently did not reflect she was enrolled in the BRS program prior to the 2018 deadline. Due to this error, when she applied for CP BRS in 2020 it was never processed. This error has been since corrected. She request an ETP to the policy that required her request be approved prior to the end of her 12-years of service.

3. A review of the applicant's service record shows:

- a. On 6 June 2007, the applicant enlisted in the U.S. Army Reserve.

b. On 13 June 2007, Orders issued by Military Entrance Processing Station, ordered the applicant to initial active duty for training, effective 10 January 2008.

c. The applicant was honorably released from active duty on 3 July 2008. Her DD Form 214 (Certificate of Release or Discharge from Active Duty) shows she completed 5 months and 24-days of active service.

d. On 30 August 2012, Orders issued by Headquarters (HQs), U.S. Army Civil Affairs and Psychological Operations Command (USACAPOC), ordered the applicant to active duty in support of Operation Enduring Freedom effective 2 September 2012.

e. The applicant's service record is void of her complete reenlistment contract; however, a single page of the contract shows she reenlisted on 24 February 2013.

f. The applicant was honorably released from active duty on 19 May 2013. Her DD Form 214 shows the applicant completed 8-months and 18-days of active service.

g. On 6 June 2017 the applicant obtained 10-years of service.

h. On 29 August 2018, the applicant reenlisted in the USAR for 3-years.

i. On 6 June 2019, the applicant obtained 12-years of service.

j. On 11 June 2019, Orders issued by USACAPOC, ordered the applicant to active duty in support of Operation Enduring Freedom – Horn of Africa, on 30 August 2019.

k. The applicant was honorably released from active duty on 16 August 2020. Her DD Form 214 shows the applicant completed 11-months and 17-days of active service.

l. On 19 September 2021, the applicant reenlisted in the USAR for an indefinite period.

m. On 9 February 2023, the applicant accepted appointment in the USAR as a Reserve commissioned officer in the rank of second lieutenant, effective 6 August 2022.

n. On 13 June 2023, Orders issued by the U.S. Army Human Resources Command, ordered the applicant to active duty for training to attend the Signal Basic Officer Leaders Course, effective 17 July 2023. She was honorably released from active duty on 8 November 2023. Her DD Form 214 shows she completed 3 months and 22 days of active service.

4. The applicant provides:

a. Request for CP (BRS) form which shows on 28 March 2020, the applicant requested to receive CP BRS at 4 times her base pay and agreed to the additional obligation of service of 4-years. The certifying official and the approving authority did not sign the request. The form is also void of a control number.

b. Email the applicant received on 27 March 2020 which stated she was identified as being eligible to receive CP BRS and was instructed to submit the required documents through her chain of command. The applicant submitted her documents for CP BRS to her unit on 28 March 2020.

c. The applicant sent an email to her unit on 24 May 2020 requesting the status on her request to be paid CP BRS. Her unit informed her that it was submitted to the Group S-1.

d. On 17 August 2020, the applicant's unit emailed the higher HQs for a status on the applicant's request for CP BRS.

e. On 5 October 2020, the applicant emailed her unit requesting a status of her request for CP BRS.

f. On 11 November 2020, the applicant emailed her unit inquiring on the status of her request for CP BRS CP. Her unit informed her a response was never received from the higher HQs and that she might have to resubmit her request. On 23 January 2021, the applicant e-mailed her unit again for a status of her CP BRS and her unit responded on 26 January 2021, asking her to provide her documents for the request. The applicant resubmitted her documents to her unit again on 29 January 2021.

g. On 3 February 2021, the applicant's request was submitted to the higher HQs for approval and processing. The request was submitted for processing on 16 February 2021.

f. On 28 February 2021, the applicant's unit requested that she provide proof of her enrollment in the BRS program, and the applicant provided her LES which indicated her enrollment in BRS retirement plan and Thrift Savings Plan (TSP) contributions.

g. On 22 March 2021, the applicant emailed her unit requesting the status of her request for CP BRS.

h. On 25 May 2021, the applicant again provided her documents for the requested CP BRS.

i. On 22 June 2021, the applicant's unit informed her the person she last spoke with regarding her CP BRS was on temporary duty and it was believed another Human Resources professional was taking over the action in his absence.

j. 349th Psychological Operations Company Memorandum dated 9 August 2021, Subject: ETP for late enrollment into the BRS Program stated the applicant started her enrollment into the BRS program about February 2020. At which time, she was in her eligibility window for enrollment. However, due to lost correspondence and a delay in the processing of her request she was now outside the eligibility window. Due to the unforeseen circumstances the applicant was authorized to enroll in the BRS program.

k. TSP Quarterly Account Statement (Uniformed Services) shows the applicant is contributing to TSP.

l. LES dated 17 May 2023 shows the applicant's pay date was 10 January 2008 and she obtained 15-years of service at the time. The block for her retirement plan is blank.

m. E-mail dated 25 May 2023 from the OCAR G-1 stated a ETP for BRS enrollment could not be processed in that office; however, she could submit a request for ETP to the Army Board for Corrections of Military Records.

5. On 29 November 2023, in the processing of this case, the Office of the Deputy Chief of Staff G-1, provided an advisory opinion regarding the applicant request for CP BRS. The advisory official stated that after review of the applicant's documents and service records there was not sufficient evidence to support her request. The applicant submitted her request for CP BRS, effective 28 March 2020; however, the last day of her eligibility was 6 June 2019. She did not provide verification of a signed agreement prior to her 12-years of service based on her pay entry basic date of 6 June 2007. Her enrollment in BRS was confirmed to be 18 June 2018.

6. On 4 December 2023, the Army Review Boards Agency, Case Management Division provided the applicant the advisory opinion for review and comment. She did not respond.

#### 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 applicant's pay entry basic date of 6 June 2007 and she reached her 12th year of service on 6 June 2019. The Board reviewed and agreed with the G-1 advisory officials' finding that the applicant submitted her request for CP BRS, effective 28 March 2020; however, based on her PEBD, the last day of her eligibility was 6 June 2019 since she

reached 12-years of service on that date. She did not provide verification of a signed agreement prior to her 12-years of service based on her pay entry basic date of 6 June 2007.

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:

1. Title 10, USC, section 1552(b), provides that applications for correction of military records must be filed within 3 years after discovery of the alleged error or injustice. This provision of law also allows the ABCMR to excuse an applicant's failure to timely file within the 3-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.

2. Public Law 114-92, National Defense Authorization Action (NDAA) for Fiscal Year (FY 2016, section 634 (CP for Full Thrift Savings Plan (TSP) Member with 12-Years of Service), (a) CP, the Secretary concerned shall make a payment of CP to each full TSP member of the uniformed services under the jurisdiction of the Secretary who:

- completes 12 years of service; and
- enters into an agreement with the Secretary to serve for an additional 4-years of obligated service

a. Amount, the amount of CP payable to a full TSP member under subsection (a) shall be the amount that is equal to 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; plus at the discretion of the Secretary concerned, the monthly basic pay of the member at 12-years of service multiplied by such number of months (not to exceed 13-months) as the Secretary concerned shall specify in the agreement of the member under subsection (a)

b. Timing of Payment, the Secretary concerned shall pay CP under subsection (a) to a full TSP member when the member completes 12 years of service. If the Secretary concerned also provides CP under subsection (c) to the member, that CP shall be provided when the member completes 12 years of service.

3. Title 37, United States Code (USC), 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 Active Guard/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.

c. 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.

4. Deputy Secretary of Defense Memorandum dated 27 January 2017, Subject: Implementation of the BRS, implements guidance for the BRS for the Uniformed Services, which was authorized in Public Law 114-92 section 631 through 635 of the National Defense Authorization Act (NDAA) for Fiscal Year 2016. Members of the Uniformed Service are covered under the provisions of the BRS who served in a Uniformed Service for fewer than 12-years as calculated from their PEBD.

5. Army Regulation 637-1 (Army Compensation and Entitlements Policy), provides Department of the Army (DA) policies for entitlements and collections of pay and allowances for active duty Soldiers. Paragraph 18-26 (Continuation Pay), the BRS provides for CP in exchange for additional service obligation by Soldiers when they reach between the 8 and 12-years point in their career. Soldiers will receive a minimum of 2.5 times base pay for Regular component and .5 times base pay for Reserve components if they commit to a minimum of 3-years of additional service.

//NOTHING FOLLOWS//