

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]  
[REDACTED]

BOARD DATE: 25 June 2024

DOCKET NUMBER: AR20230010872

APPLICANT REQUESTS: in effect, to be enrolled in the Blended Retirement System (BRS) as of 27 January 2018 and receive all benefits associated with BRS (Thrift Savings Plan (TSP) match and Continuation Pay (CP)).

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

- DD Form 149 (Application for Correction of Military Record)
- TSP Quarterly Statement, 1 January - 31 March 2022
- Leave and Earnings Statement (LES), 1-28 February 2023
- LES, 1-31 March 2023
- Email Communication, 25 July - 17 August 2023

FACTS:

1. The applicant states:

a. Her LES statement for March 2023 was switched from Choice to BRS. Further investigation from the Texas (TX) Active Guard/Reserve (AGR) services reported that their MILPAY information from the Defense Finance and Accounting Service (DFAS) also reported admission into the BRS program on 27 January 2018 via the MyPay Link. This contradicts other correspondence with the TX AGR, who back in 2021, said she was Choice, which means she was not eligible for the BRS extension bonus or TSP matching contributions of up to 5 percent. A phone call to TSP on 16 August 2023 confirmed they too had her as Choice and not BRS. LES statements have all read Choice up until March 2023.

b. She is requesting a retirement option be picked and stuck with. She is happy with either one; however, if her records stay with the "irreversible" BRS, she requests a refund of all monies contributed. She lost out on the BRS extension and lost out on matching contributions with TSP. LES records will indicate that she has continuously contributed 5 percent – 7 percent throughout the years.

c. She submitted for BRS as an E-4 M-day Soldier who did not have much to gain with investment options as compared to an AGR servicemember. Upon getting AGR status she went to "clean" and organize the finances and that is when she was initially told she was NOT in the BRS system. She rolled with it because she was an idiot and thought maybe it was for the better since she got AGR. But now, five years later, the story has changed, again.

2. A review of the applicant's official records show the following:

a. She enlisted in the Texas Army National Guard (TXARNG) on 18 October 2013.

b. On 4 May 2019, DA Form 4836 (Oath of Extension of Enlistment or Reenlistment) shows she extended her TXARNG enlistment for a period of 3 years, which changed her Expiration Term of Service (ETS) to 17 October 2022. Her Basic Pay Entry Date is shown as 18 October 2013.

c. On 31 May 2019, the Texas Military Forces ARNG published Orders Number 151-1600, which ordered the applicant to Full-Time National Guard duty in an AGR status for 3 years with a report date of 31 May 2019. The orders show her Pay Entry Base Date (PEBD) as 18 October 2013.

d. On 22 September 2021, the TXARNG published Order Number 0001412125.00, which promoted the applicant to the rank/grade of staff sergeant (SSG)/E-6, effective 17 February 2021.

e. Her record contains additional DA Forms 4836 showing she extended her TXARNG enlistment on –

- 31 March 2022, for a period of 7 months and 13 days, which changed her ETS to 30 May 2023
- 11 May 2022, for a period of 1 year, which changed her ETS to 30 May 2024

f. On 1 June 2023, TXARNG, published Orders Number 166-1601, which assigned the applicant to her AGR unit in Corpus Christi, TX, with a report date of 1 September 2023. Her active duty commitment period was from 1 September 2023 to 31 May 2024. The orders show her PEBD as 18 October 2013.

g. National Guard Bureau (NGB) Form 23A (ARNG Current Annual Statement) prepared on 18 October 2023 shows the applicant's total points earned towards retirement as 2205 Active Duty, 2538 Total Career Points, 2463 Total Points for Retired Pay, and 10 Years Creditable Service for Retired Pay.

h. On 18 October 2023, the applicant completed and digitally signed a request for CP BRS. It was endorsed by the approval authority on 25 October 2023 and endorsed by the certifying official on 26 October 2023. The request for CP BRS shows, in pertinent part, the applicant acknowledged that she understood she would be receiving CP, as part of the BRS, for her continued service in the U.S. ARNG. She agreed to accept CP in accordance with BRS CP - Calendar Year 2023 (CY23).

(1) She agreed to accept CP as an Active Component member, which was her monthly basic pay at 12 years of service multiplied by 2.5 for an Additional Obligated Service (AOS) of 4 years from the date in block 8 (block 7 if digitally signed).

(2) The incentive program was a voluntary retention program; she would not be voluntarily released from her current duty status before fulfilling the term of AOS agreed to above.

(3) The effective date of her entitlement, once approved by the appropriate authority, to CP and AOS start date was the digitally signed date of 25 October 2023.

(4) She requested her CP to be paid in one single, lump-sum payment.

i. On 11 April 2024, the applicant responded to an email from the Case Management Division requesting she provide clarification in reference to the specific relief she was asking for and stated, she was asking for help with correcting her BRS account. She did elect for BRS on 27 January 2018; however, it was not applied to any of her records until March 2023. That is approximately five years of unmatched contributions with TSP. By no fault of her own. She is seeking assistance to get those funds matched and placed into her TSP.

j. On 12 April 2024, the Texas Military Department, TXARNG, published Orders Number 107-1603, which ordered the applicant to Full-Time National Guard duty in an AGR status for an active duty commitment from 31 May 2024 to 31 May 2027 with a report date of 31 May 2024. The orders show her PEBD as 18 October 2013.

k. The applicant's 12 years of service based on her PEBD will be on 18 October 2025.

3. In support of her case the applicant provides:

a. TSP Quarterly Statement for the period of 1 January - 31 March 2022, showing her active duty retirement coverage and value of her TSP account.

b. LES for the period covered 1-28 February 2023, showing, in relevant part, her retirement plan as "Choice", and her TSP contributions into the Roth plan at 7 percent. Agency contributions shows "00."

c. LES for the period covered 1-31 March 2023, showing, in relevant part, her retirement plan as Blended, and her TSP contributions into the Roth plan at 7 percent. Agency contributions shows "00."

d. Email Communication from 25 July - 17 August 2023 between her and the Human Resource Specialist, AGR Services Pay Noncommissioned Officer, which states, in pertinent part, DFAS informed AGR services that she opted into BRS through the link in MyPay BRS on 27 January 2018 and enrollment was irreversible. There would be no further action needed with AGR Services. She was told to keep working the ABCMR case, and to keep AGR services updated.

4. On 12 June 2024, the NGB, Chief, Special Actions Branch, provided an advisory opinion for this case and recommended approval. The advisory official states:

a. The applicant opted into BRS as an E-4 traditional guardsman on 27 January 2018 but was told she was ineligible. Her LES has stated she was in the traditional retirement system up until March 2023 when it began saying Blended. Her TSP statement does not indicate she is in BRS, and she was denied CP BRS because she was not enrolled in the BRS system in CY23. The applicant is requesting all documents to match either retirement plan but if BRS is the one she is enrolled in she would like the benefits associated to include TSP up to 5 percent matching and CP BRS from 27 January 2018 to present.

b. After review of the applicant's submission and coordination with National Guard Bureau Retirements Branch she enrolled in BRS using the MYPAY link on 27 January 2018 and this was confirmed by DFAS. The applicant has not received CP BRS and according to the LESs submitted has not earned the matching TSP contributions since enrollment.

c. It is the recommendation of this office [NGB] that the applicant's request be approved. She opted into BRS as confirmed by DFAS on 27 January 2018 and is entitled to all benefits of the program. The benefits should be CP and TSP matching contributions in accordance with Army Regulation (AR) 600-8-7 (Retirement Services Program). This advisory opinion was coordinated with the NGB Retirements Branch.

5. On 17 June 2024, the applicant was provided a copy of the NGB advisory opinion for comments and/or rebuttal. 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 warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The applicant requests to be enrolled in BRS as of 27 January 2018 and receive all benefits associated with BRS (TSP match and continuation pay). \

a. The evidence shows the applicant enlisted in the ARNG on 18 October 2013. The BRS applies to all servicemembers with a DIEMS (date initially entered military service) on or after 1 January 2018 and certain eligible Soldiers who chose to opt-in. Those with a DIEMS prior to 1 January 2018 who had less than 12 years of active service or less than 4,320 retirement points for Reserve Component Soldiers as of 31 December 2017 had a choice to either remain grandfathered in the High-3 Plan or opt into the BRS.

b. According to the NGB, the applicant opted into BRS as an E-4 traditional guardsman on 27 January 2018 but was told she was ineligible. Her LES stated she was in the traditional retirement system up until March 2023 when it began saying BRS. Her TSP statement does not indicate she is in BRS, and she was denied BRS CP because she was not enrolled in the BRS system in CY23. She requests her documents to match either retirement plan but if BRS is the one she is enrolled in she would like the benefits associated to include TSP.

c. The Board reviewed and agreed with the NGB advisory official's finding that the applicant enrolled in BRS using the MyPay link on 27 January 2018 and this was confirmed by DFAS. She has not received BRS CP and according to the LES she submitted, she has not earned the matching TSP contributions since enrollment. Therefore, the Board determined an injustice occurred and agreed that her request should be approved. She opted into BRS as confirmed by DFAS on 27 January 2018 and is entitled to all benefits of the program.

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 and Army National Guard records of the individual concerned be corrected by:

- showing the applicant timely submitted his Request for Continuation Pay – Blended Retirement System (CP – BRS) on 27 January 2018
- showing the appropriate office timely received and processed her approved request for CP BRS
- paying the applicant based on the appropriate pay grade in January 2018 from the 2018 pay scale, less applicable federal and state taxes (DFAS determines the exact amount), provided all other criteria is met

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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. AR 600-8-7 (Retirement Services Program) prescribes the policies for the Retirement Services and Survivor Benefit Plan functions of military human resources management (see AR 600–8). In pertinent part:

a. Paragraph 6-5a (Blended Retirement System (BRS)) states, the BRS, under Title 10, U.S. Code, section 1409, applies to all Servicemembers with a Date of Initial Entry to Military Service (DIEMS) on or after 1 January 2018 and certain eligible Soldiers who chose to opt-in. Those with a DIEMS prior to 1 January 2018 who had less than 12 years of active service or less than 4,320 retirement points for Reserve Component Soldiers as of 31 December 2017 had a choice to either remain grandfathered in the High-3 Plan or opt into the BRS. The percentage multiplier for Soldiers under the BRS is 2 percent, multiplied by the average of the highest 36 months of basic pay. The average of the highest 36 months of basic pay will typically be the Soldier's last 3 years of basic pay.

b. The BRS consists of four main components, a defined benefit, a defined contribution, Continuation Pay (CP), and a lump sum option.

(1) Defined benefit. The defined benefit under BRS is retired pay based on the Soldier's length of service at the time of retirement. Retired pay under BRS is calculated as indicated in paragraph 6–5a.

(2) Defined Contributions. The defined contribution under BRS, is accomplished through automatic agency contributions and matching contributions through the TSP. For additional information, the prescribing regulation for TSP is AR 637–1.

(3) CP. CP under BRS is a one-time mid-career bonus payment in exchange for an agreement to perform AOS. For additional information, the prescribing regulation for CP is AR 637–1.

(4) Lump sum option. Under BRS Soldiers have three payment options upon retirement. They may retire and receive full monthly retired pay, or they may also choose to receive a lump sum payment. The lump sum option allows Servicemembers to choose to elect 25 percent or 50 percent lump sum payment at retirement in exchange for reduced monthly retired pay until the Servicemember reaches full Social Security retirement age, which for most is 67 years old.

2. AR 637-1 (Army Compensation and Entitlements Policy) provides Department of the Army policies for entitlements and collections of pay and allowances for active duty Soldiers. It is used in conjunction with the Department of Defense (DoD) Financial Management Regulation (FMR), Volume 7A. In pertinent part:

## a. Paragraph 18-18 (Agency Contributions for BRS Opt-In Soldiers) states:

## (1) Agency automatic (1 percent) contributions –

(a) Start date. Commencing with the pay period that follows a Soldier's BRS opt-in, the agency will automatically contribute to that Soldier's TSP account at no cost to the Soldier and without relation to the amount the Soldier contributes, an amount equal to:

- One percent of basic pay earned by that Soldier during that pay period for active service; or
- One percent of inactive duty pay earned by that Soldier during that pay period for IDT.

(b) End date. The agency (1 percent) contribution will continue for each pay period in which a Soldier receives either basic pay or inactive duty pay, or both, through the end of the pay period during which the Soldier attains 26 years of service, as calculated from the PEBD.

## (2) Agency matching contributions –

(a) Start date. Commencing with the pay period that follows a Soldier's BRS opt-in election the agency will contribute an amount that matches the Soldier's individual contribution to TSP (up to 4 percent) in accordance with DoD FMR, Volume 7A chapter 51, table 51–3.

(b) End date. No matching agency contributions will be made to a Soldier's TSP account after the pay period during which the Soldier attains 26 years of service, as calculated from the PEBD.

## b. Paragraph 18–26 (Continuation Pay), states in pertinent part:

(1) CP application points, rates, and years of required commitment may vary from year to year or from one military occupational specialty to another, and application criteria will be published annually by the Deputy Assistant Secretary of the Army for Military Personnel and Quality of Life. CP is not automatic, and Soldiers must apply before the established deadline or they will forfeit their eligibility to receive CP.

(2) Soldiers must meet the following criteria to qualify for CP: (1) Must be enrolled in BRS. (2) Must be within 180 days of the established application year point (between 8 and 12 years of service) as determined from their PEBD. (3) Must have an approved application no later than the anniversary date of the established application year point as determined from their PEBD.



(3) Commanders or designated representatives will — (a) Verify Soldiers requesting CP elected BRS. (b) Assist Soldiers in completing the CP contract and acquiring the appropriate approval prior to Soldier's 8th to 12th year of service as computed from the PEBD (based on year's criteria). Current law does not allow for the acceptance of a CP contract beyond the 12th year of service. (c) Identify and ensure Soldiers eligible for CP submit their requests within the established timelines.

(4) Soldiers enrolled in BRS will — (a) Use the approved (CP (BRS)) request as published by Deputy Chief of Staff, G-1 plans and resources to apply for CP. (b) Submit the completed contract to their respective S1 for approval and processing to Finance Officers (FO)/Army Military Pay Officers (AMPO).

(5) Personnel office/S1 will — (1) Include the unit identification code in block 3 of the CP contract. Also, complete item 4 of the CP contract with a 9-digit control number prior to forwarding to the FO/AMPO (CP1801001 is an example of such a number). First two characters (CP) represents continuation pay. The next two numbers represent the fiscal year the CP contract is approved. The fourth and fifth numbers represents the month and the last three numbers depicts the cumulative number(s) of CP contracts processed by the assigned unit for a particular month. (2) Forward the CP contract to the FO/AMPO within 7 duty days in accordance with established procedures to finance for payment. (3) Process the CP contract for filing in Interactive Personnel Electronic Records Management System under the service and finance folders.

//NOTHING FOLLOWS//