

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 5 June 2024

DOCKET NUMBER: AR20230011230

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

FACTS:

1. The applicant states in effect, she has been on active duty for 13-years and 8-months and as of 3 November 2021 she completed 12-years of service. She enrolled in BRS and at the time of her enrollment she received training which stated she was entitled to CP BRS after her 12th year mark in the Army with a 4-year commitment. She was told she would receive CP BRS but was not advised on the procedure to request it. She inquired with her battalion human resources professionals and the retention noncommissioned officer but they did not know what the bonus was. She went back to the training site on Joint Knowledge Online for more information where it stated that after the completion of 12-years of service, she was eligible for CP BRS, but it did not describe the steps required to request it. According to the training, she would be eligible to receive it up until 3 November 2022. She attached a screen shot of the training where it shows she would be eligible for CP BRS after completion of 12-years of service and the e-mail from her previous battalion human resources professionals (this was not included in the application). When she finally located the proper procedures for requesting CP BRS, the information was different from the training she received. When she attempted to request her CP BRS with her battalion, she was told she was not eligible because she was past her 12-years of service.

3. On 3 November 2009, the applicant enlisted in the Regular Army and had continuous service through reenlistments.

4. On 19 March 2015, the applicant was honorably released from active duty to accept a commission. DD Form 214 (Certificate of Release or Discharge from Active Duty) shows the applicant completed 5-years, 4-months, and 17-days of active service.

5. On 24 March 2015, Orders Number 15083-36, issued by Headquarters (HQs), U.S. Army Maneuver Center of Excellence, ordered the applicant to active duty in the rank/grade of second lieutenant effective 11 March 2015 as an obligated volunteer officer 3-year active duty commitment.
6. On 24 March 2015, Orders Number 15083-73, issued by HQs, U.S. Army Maneuver Center of Excellence, discharged the applicant from the Regular Army, effective 10 March 2015 to accept a commission.
7. On 27 March 2015, Orders Number 11-1-A-47, as a graduate of the Officer Candidate School, appointed the applicant as a Regular Army commissioned officer.
8. On 3 November 2021, the applicant completed 12-years of service.
9. The applicant provides the request for CP BRS form which shows her Pay Entry Base Date (PEBD) as 3 November 2009. She agreed to 4-years additional obligated service in the Regular Army to receive a lump-sum at the rate of 2.5 times her monthly basic pay in the rank/grade of captain (CPT)/O-3 with her years of service. The applicant signed the request for on 5 September 2023, and it was certified and approved on the same date.
10. On 29 November 2023, in the processing of this case, the Office of the Deputy Chief of Staff G1, provided an advisory opinion regarding the applicant's request for CP BRS. The advisory official recommended to deny the applicant's request as she submitted her request for CP BRS on 5 September 2023 because her last day of eligibility was 3 November 2021. She did not provide verification she signed her agreement prior to her 12-years of service based on her PEBD of 3 November 2009.
11. The Army Review Boards Agency, Case Management Division, provided the applicant the advisory opinion for review and comment. On 11 December 2023, the applicant responded by restating her opening comments to the Board. She also stated she was never notified by her chain of command of the proper procedure for requesting CP BRS. After inquiring for months, she was finally provided the proper guidance; however, it was after her last date of eligibility for CP BRS. She contacted the Office of the Deputy Chief of Staff G1, Mr. L-, who recommended she apply to the Army Board for Correction of Military Records. She believes she should receive CP BRS due to the lack of knowledge provided for the proper procedure for requesting CP BRS during her eligibility period and the discrepancy between the training which stated eligibility was after the completion of 12-years of service and the published guidance which stated eligibility was before the completion of 12-years of service. She requests the Board consider approving her request for CP BRS as she has served honorably for 14-years and is deserving of it and not completing the request on time was not her fault.

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 provides the request for CP BRS form which shows her PEBD as 3 November 2009. She signed an agreement agreeing to the additional obligated service in the Regular Army on 5 September 2023. Based on her PEBD, the applicant's last day of eligibility was at the 12th year mark, 3 November 2021. The Board reviewed and agreed with the advisory official's finding that she submitted her request for CP BRS on 5 September 2023, long after her last day of eligibility. She did not provide verification she signed her agreement prior to her 12-years of service based on her PEBD. Thus, the Board determined relief is not warranted.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	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. 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.

2. 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.

3. 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.

4. 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.

5. Department of the Army Assistant Secretary of the Army Manpower and Reserve Affairs memorandum dated 19 January 2021, Subject: Blended Retirement (BRS) Continuation Pay (CP) – Calendar Year 2021 (CY21) states the guidance was effective immediately and expired on 31 December 2021 and it applied to Regular Army (RA), Army National Guard/Army National Guard of the United States, and the U. S. Army Reserve Soldiers who were covered under the BRS. For eligibility for RA Soldiers:

- covered under the BRS and
- would complete 11-years of service but not more than 12-years of service during the CY21 as computed from the Soldier's Pay Entry Base Date (PEBD)

For RA Soldiers performing active service in a career status program, CP is 2.5 times the monthly basic pay, based on current pay grade and years of service at the time CP is approved. In exchange for CP, Soldiers must agree to serve for 4-years of additional service in the component in which they are serving at the time CP is approved. The service obligation commences upon approval of the CP request. At a minimum, the BRS CP election packet will include the proof of BRS enrollment status and the request for CP contract. All Soldiers may submit the CP request once they become eligible for CP based on the PEBD and should submit the CP request no later than 60-days prior to completing 12-years of service. The request for BRS CP must be approved prior to the Soldier completing 12-years of service. The approval authority for RA Soldiers is colonels or civilian equivalent (GS-15) and will appoint appropriate personnel to serve as the program certifying officials.

//NOTHING FOLLOWS//