

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 25 October 2024

DOCKET NUMBER: AR20240001482

APPLICANT REQUESTS: retroactive enrollment 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)
- Joint Knowledge Online (JKO) BRS Opt-In Course Certificate, dated 4 November 2017
- Defense Finance and Accounting Service (DFAS) Military Leave and Earning Statement (LES), dated 3 April 2020
- Navy Personnel Command – Statement of Service for Navy Reserve Retirement, dated 20 April 2023
- DD Form 214 (Certificate of Release or Discharge from Active Duty), ending 26 May 2023

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, 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:

a. His records do not reflect enrollment in BRS. He sought to enroll in 2017 while serving in the U.S. Navy Reserve. Upon completing his Navy contract and enlisting in the Army National Guard, he was not provided guidance to re-enroll or enroll into the Blended Retirement System. His status in the Thrift Savings Plan (TSP) remained from the Navy not processing him into BRS. He was not notified to enroll within 30 days of joining the Army National Guard after a break in service. His military records are incorrect due to no fault of his own as he was not notified of his requirement to enroll in BRS.

b. The initial error occurred approximately in 2017, while serving as an E-5 sailor in

the Navy. In 2023, despite his break in service, he was not notified that he would remain in TSP and his opportunity to enroll in BRS was within the first 30 days upon joining the Army National Guard. Because he did not attend the Army Basic Leadership Course (BLC), he had to enroll as an E-4 and was ineligible to join as a sergeant (SGT)/E-5. Rather than wait for opportunity to attend BLC or receive a waiver, he elected to attend Basic Combat Training as an E-4 without privileges in order to meet the October 2023 timeline as he was training to become a warrant officer. Due to the training time frame, he missed the initial 30-day window to enroll in BRS.

3. The applicant provides the following:

- a. JKO BRS Opt-In Course Certificate, dated 4 November 2017 showing his completion of the online course.
- b. DFAS Military LES, dated 3 April 2020 showing his pay as an E-5 with the U.S. Navy. The document is void of TSP payments.
- c. Navy Personnel Command – Statement of Service for Navy Reserve Retirement, dated 20 April 2023 showing his qualifying years of service with the U.S. Navy from 28 August 2014 to 27 August 2022.

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

- a. Having had prior service with the U.S. Navy, on 16 September 2022, he enlisted in the California Army National Guard (CAARNG) in the rank of specialist (SPC)/E-4.
- b. DA Form 1059 (Service School Academic Evaluation Report), dated 26 May 2023 shows he successfully completed advanced individual training, RQ7 Operator Course from 8 February 2023 to 26 May 2023.
- c. DD Form 214, ending 26 May 2023 shows he was honorably released from active duty training for completion of required active service.
 - (1) Item 12 (Record of Service) shows service from 4 October 2022 to 26 May 2023 for a net active service this period of 7 months and 23 days.
 - (2) Item 14 (Military Education) shows RQ-7 Operator Course, 18 Weeks, 2023.
- c. His record is void of the DA Form 1059 for attendance and completion of Warrant Officer Candidate School.
- d. DD Form 214, ending 13 September 2023 reflects honorable release from active

duty training, discharge from the Reserve of the Army, and Return to the Army National Guard to accept commission or warrant in the Army.

(1) Item 12 shows service from 9 August 2023 to 13 September 2023 for a net active service this period of 1 month and 3 days.

(2) Item 14 shows Warrant Officer Candidate School (WOCS), 5 weeks, 2023.

e. On 14 September 2023:

(1) United States Army Warrant Officer Career College Certificate shows he completed Warrant Officer Candidate School as a Warrant Officer One from 9 August 2023 to 14 September 2023.

(2) He accepted a Reserve warrant officer position and executed an oath of office.

(3) NGB Form 337 (Oaths of Office) shows he accepted position as a warrant officer with the CAARNG and executed an oath of office.

f. His record is void of the Request for CP BRS form or any documentation related to request for enrollment.

g. He continues service with the CAARNG.

5. On 6 September 2024, the National Guard Bureau, Chief, Special Actions Branch provided an advisory opinion recommending disapproval of the applicant's request.

a. The BRS went into effect on 1 January 2018. It effected all new service members Who joined the service after 1 January 2018. All other members who were serving as of 31 December 2017 were grandfathered under the Army legacy system. Though service members were grandfathered under the legacy system, National Guard and Reserve service members in a paid status who, had accrued fewer than 4230 retirement points as of 31 December 2017, may choose to opt in the BRS. If service members were eligible, they were required to complete the mandatory BRS Opt-in-course and physically opt in the BRS.

b. Blended Retirement Policy states that all members of the Uniformed Services who have a date of initial entry into military service or date of initial entry into uniformed services on or before 31 December 2017 will remain grandfathered under the legacy retirement plan until such time as they elect to enroll in the BRS if eligible. Blended Retirement Policy states that any member of a uniformed service determined to be

eligible for enrollment in the BRS will complete mandatory training on the BRS, to be provided by the Assistant Secretary of Defense for Readiness.

c. The National Guard Bureau transition office and the BRS Policy Coordinator did a review of his ABCMR claim and recommend that he should not be allowed to transfer to the Blended Retirement System because he has not completed the educational requirements as per BRS policy. He was previously a member of the Navy Reserve prior to enlisting in the California Army National Guard (CAARNG). When he enlisted in the CAARNG he had not yet opted into BRS per records he provided, though he stated he attempted to opt into BRS as a member of the Navy Reserve. His records show that he has not completed the educational requirements to be eligible to opt into BRS and therefore he would not be able to opt into BRS.

d. In discussion with the BRS Policy Coordinator, they were aware that when Soldiers transferred from one service component to another there is an error that occurs with the pay system not capturing service members entry pay date, and therefore Soldiers are occasionally transferred into the BRS system, which is not the case for the applicant as he had not yet enrolled into BRS after being discharge from the Navy Reserve. Additionally, he was not eligible to opt in because there is no record of the Soldier completing the mandatory training that would make him eligible to opt into BRS, while a member of the Navy Reserve or Army National Guard.

6. On 26 September 2024, the applicant was provided a copy of the advisory opinion for his acknowledgement and/or response. The applicant has not provided a response to date.

7. By regulation (AR 637-1), 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.

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 Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive review based on law, policy, and regulation. Upon review of the applicant's petition, available military records, and the Chief, Special Actions Branch for the National Guard Bureau, the Board concurred with the advising official finding the applicant has not completed the educational requirements pursuant to the Blended Retirement System policy. The Board recommends the applicant complete

the education requirement and submit through the appropriate organization for processing. The Board concluded there was no error or injustice and denied relief.

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. Title 10, U.S. Code, 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. Title 37 United States Code (USC), section 356 (CP) states:

a. The Secretary concerned shall pay CP under subsection (a) to a full Thrift Savings Plan (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.

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. 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.

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//