

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 9 July 2025

DOCKET NUMBER: AR20240002420

APPLICANT REQUESTS: Exception to Policy (ETP) to be paid Blended Retirement System Continuation Pay (BRS CP) after his 12th year of service.

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

- DD Form 149 (Application for Correction of Military Record)
- National Guard Bureau (NGB), Fiscal Year 2022 (FY22) Army National Guard (ARNG) Voluntary Education Policy Number 21-049, 22 September 2021, does not apply to the applicant's request for BRS CP
- NGB ARNG Selected Reserve Incentive Program (SRIP) Policy for FY22 Policy Number 22-01, 1 October 2021, does not apply to the applicant's request for BRS CP
- NGB Announcement of FY22 ARNG Accession Options Criteria Number 21-047, 1 October 2021, does not apply to the applicant's request for BRS CP
- NGB ARNG SRIP Policy for FY22 Policy Number 22-01 Update 1, 5 October 2021, does not apply to the applicant's request for BRS CP
- NGB ARNG SRIP Policy for FY22 Policy Number 22-01 Update 2, 13 December 2021, does not apply to the applicant's request for BRS CP
- NGB ARNG SRIP Policy for FY22 Policy Number 22-01 Update 3, 11 April 2022, does not apply to the applicant's request for BRS CP
- NGB ARNG SRIP Policy for FY22 Policy Number 22-01 Update 5, 4 March 2022, does not apply to the applicant's request for BRS CP
- Leave and Earnings Statement (LES), 29 April 2022 shows:
 - Retirement Plan is blank
 - Year to Date TSP Agency Automatic – 77.21
 - Year to Date TSP Agency Matching – 308.79
 - Agency Automatic – 2.34
 - Agency Matching – 9.36
- Headquarters, NYARNG Memorandum, Subject: BRS CP – Calendar Year 2022 (CY22), dated 19 May 2022 states:

- Effective immediately and expires on 31 December 2022
- NYARNG in active status and enrolled in BRS and have not previously received BRS CP with 10 and no more than 12-years of service based on Pay Entry Base Date (PEBD)
- Provided application processing information
- Request for CP (BRS) form shows:
 - The applicant agrees to accept CP at four times the monthly basic pay for his current pay grade (O-3) and years of service
 - He agreed to an additional 4-years of obligated service
 - He requested a lump sum payment
 - The applicant signed to the form on 29 May 2022
 - The form was not certified or approved by the appropriate officials
- NGB ARNG SRIP Policy for FY22 Policy Number 22-01 Update 7, 1 August 2022, does not apply to the applicant's request for BRS CP
- NGB ARNG SRIP Policy for FY22 Policy Number 22-01 Update 8, 1 August 2022, does not apply to the applicant's request for BRS CP
- E-mail with the NYARNG Recruiting and Retention Battalion for the period of 30 November through 1 December 2023 shows in part:
 - The applicant inquired about the ETP from the NGB for his BRS CP because his request was submitted late as the NGB and NYARNG BRS CP Calendar Year 2022 was published late
 - The applicant was informed there was no approved ETP, and he would have request relief from the Army Board for Correction of Military Records (ABCMR)

FACTS:

1. The applicant states:

- He submitted his request for BRS CP within a month after receiving the FY22 NYARNG BRS CP Guidance which was published 2-days prior to his 12-years of service
- He requests the Board overturn the decision to deny his request for BRS CP
- Guidance at the time was, requests for BRS CP could not be submitted until NGB and state guidance was published for the Soldier's respective FY
- His request for BRS CP was denied because it was submitted after his 12-years of service

- A lieutenant colonel attempted to get an approved blanket ETP for all Soldiers who did not receive BRS CP and were past their 12-years of service
- The time between the publication of FY22 guidance and his 12-years of service did not allow for sufficient time to submit his request timely

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

- On 21 May 2010, he enlisted in the Army National Guard of the United States (ARNGUS) and had continuous service
- On 19 December 2013, he was honorably discharged from the ARNGUS to accept a commission
- On 20 December 2013, he executed his oath of office and was appointed as a Reserve commissioned officer in the NYARNG
- On 20 December 2013, he was appointed in the NYARNG by Special Orders Number 189, dated 10 July 2014
- On 16 March 2014, he was ordered to active duty for training to attend the Ordnance Basic Officer Leader Course, on 11 July 2014, he was honorably released from active duty and reverted to the ARNG control
- On 21 May 2022, he obtained 12-years of service based on his PEBD
- On 22 October 2023, he was ordered to active duty in support of Counter Drugs/Counter Narcotics by Orders Number 36-265-0048, dated 22 September 2023
- On 3 January 2025, he was honorably released from active duty and reverted to ARNG control
- On 4 January 2025, he was ordered to active duty in Active Guard/Reserve (AGR) status by Orders Number 358-0010, dated 23 December 2024
- Soldier Management Services – WEB Portal shows his PEBD is 21 May 2010

3. On 21 January 2025, in the processing of this case, the NGB provided an advisory opinion regarding the applicant's request for payment of BRS CP. The advisory official recommended disapproval of his request. A review of the applicant's claim by the NGB determined he was not enrolled in BRS and therefore not eligible for BRS CP. Though his LES show he is enrolled in BRS; however, that is not the case. Therefore, the NGB cannot confirm an error occurred within the system that could have possibly removed him from the system at some point.

4. On 31 January 2025, the Army Review Board Agency, Case Management Division, provided the applicant the advisory opinion for review and comment.

5. On 6 February 2025, the applicant responded stating his 31 January 2025, LES shows "Blended" in the retirement plan box which clearly shows he is enrolled in BRS. He requests the Board take this into consideration. This same LES shows there were no money allocated in the Year to Date Thrift Savings Plan (TSP) Agency Automatic

contributions and Year to Date TSP Agency Matching contributions, the reason for the lack of data, is January 2025, was his first month on the AGR program. He had to reselect his TSP contribution limits which would start on 1 February 2025. An inquiry was submitted to address the issue of when a Soldier moves from the traditional ARNG to the AGR program the BRS enrollment does not transfer with the individual to their active component account. He provided a screenshot of the Defense Joint Military Pay System which shows he is enrolled in BRS on his Reserve component account as identified by the "C" code. His 29 April 2024, LES shows in the Contributions Totals row, money was allocated in the Year to Date Agency Automatic and Year to Date Agency Matching boxes which indicates he has a BRS plan.

The applicant provided:

- DJMS screenshot shows:
 - Agency Automatic – 1.0
 - Agency Automatic Year to Date: 8.67
 - Agency Matching – 4.0
 - Agency Matching Year to Date – 34.70
 - Blended Retirement: C
- LES dated 29 April 2022 shows:
 - Retirement Plan is blank
 - Year to Date TSP Agency Automatic – 77.21
 - Year to Date TSP Agency Matching – 308.79
 - Agency Automatic – 2.34
 - Agency Matching – 9.36
- LES for the period of 1 through 31 January 2025 shows:
 - Retirement Plan: BLENDE
 - Year to Date TSP Agency Automatic – 0.00
 - Year to Date TSP Agency Matching – 0.00
 - Agency Automatic – 0.00
 - Agency Matching – 0.00
- Headquarters, NYARNG Memorandum, Subject: Advisory Opinion, dated 6 February 2024 states:
 - The applicant applied for BRS CP but was denied by the Education and Incentives Services Branch

- The Education and Incentives Services Branch conducted a initial review and determined the applicant was enrolled in BRS and provided the DJMS screenshot previously discussed
- When the applicant requested BRS CP he was 21-days past his 12-years of service of 21 May 2022
- The applicant's BRS CP request for was signed on 12 June 2022
- NGB guidance at the time was to deny the request and advise the applicant to pursue relief through the ABCMR

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation. Upon review of the applicant's petition, available military records and the National Guard Bureau- Special Actions Branch advisory opinion, upon consideration of the advising official's recommendation for disapproval, and following review of the applicant's claim by the NGB, the Board determined that the applicant was not enrolled in the BRS and therefore was not eligible for the BRS Continuation Pay (CP).

2. Although the applicant's LES reflects enrollment in BRS, the Board finds that such documentation is not dispositive of actual enrollment status. The advisory opinion noted that it could not be confirmed whether an administrative or system error may have occurred that removed the applicant from BRS at some point. Notwithstanding, the Board concluded that the applicant was not at fault, as unit administrative procedures failed to properly notify eligible personnel of their entitlement to BRS CP. Accordingly, in the interest of equity and fairness, the Board directs that the applicant be granted entitlement to BRS CP.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
XXX	XXX	XXX	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined that the evidence presented was 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 was in receipt of a completed continuation pay (CP) request prior to the completion of 12 years of service as computed from the PEBD
- DFAS paying his entitlement to CP utilizing the Military Pay Account and not the ABCMR funds payable through Debts and Claims

//SIGNED//
X _____
CHAIRPERSON

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, 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.

3. Deputy Secretary of Defense Memorandum dated 18 December 2019, 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.

//NOTHING FOLLOWS//