

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 15 January 2025

DOCKET NUMBER: AR20240003245

APPLICANT REQUESTS: correction of his record to show he was paid Continuation Pay Blended Retirement System (CP BRS).

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

- DD Form 149 (Application for Correction of Military Record)
- Memorandum; Subject: BRS CP - Calendar Year 2022 (CY22)
- Memorandum; Subject: BRS CP Provision Procedures CY22
- Email; Subject: CY22 BRS-CP Policy
- Email; Subject: CY22 Blended Retirement Eligibility for CP
- DA Form 4856 (Developmental Counseling Form)
- Request for CP (BRS)
- Memorandum; Subject: Delegation of Signature Authority
- DD Form 577 (Appointment/Termination Record – Authorized Signature)
- Memorandum; Subject: [Applicant] Exception to Policy (ETP) to BRS CP late packet submission request
- Leave and Earnings Statement (LES)
- USAR Form 22-R (Adjustment Certification Worksheet)
- Email; Subject: CP Bonus

FACTS:

1. The applicant states he believes he should receive the benefit because he was eligible to do so when his packet was submitted. There was ambiguity in whether the Soldier should have no more than 12 years or have started the 12th year. He received several emails from Office of the Chief Army Reserve (OCAR) telling him he was eligible and to apply. He received direct communication from the OCAR BRS team telling him he was eligible and to apply. Even disregarding the point above. The only reason this is even in contest is due to lag time in staffing and releasing the information from OCAR. There should be a built-in clause that accounts for Soldiers in that Fiscal Year to be eligible and in the window, that way they would not be punished or lose their benefit due to staff lag time in processing information.

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

a. He enlisted in the Army National Guard (ARNG) on 26 February 2010 for a term of 8 years.

b. On 1 May 2012, he was appointed as a Reserve Commissioned Officer of the Army and executed an oath of office.

c. Orders Number R-08-704014 issued by the U.S. Army Human Resources Command (AHRC) on 14 August 2017 ordered him to active duty in an Active Guard/Reserve (AGR) status, effective 25 September 2017 for a period of 3 years.

d. Orders Number B-09-807636 issued by AHRC on 13 September 2018 promoted him to the rank/grade of captain/O-3, effective on with a date of rank of 1 September 2018.

e. Orders Number R-10-705573A01 issued by AHRC on 11 March 2020, amended Orders Number R-10-705573 (not available in the applicant's record) to read "active duty commitment: indefinite," vice, "active duty commitment: 3 years."

f. On 26 February 2022, the applicant completed 12 years of service.

### 3. The applicant provides:

a. Memorandum; Subject: BRS CP - CY22 that establishes eligibility, amounts, and additional service obligation for CP in CY22.

b. Memorandum; Subject: BRS CP Provision Procedures CY22 that discusses that the BRS CP provision is a one-time, mid-career bonus in exchange for an agreement to perform Additional Obligated Service (AOS), its eligibility requirements, service obligation, repayment, application procedures, and payment options.

c. Email; Subject: CY22 BRS-CP Policy, which was a mass message to personnel eligible for CP for CY22.

d. Email; Subject: CY22 Blended Retirement Eligibility for Continuation Pay, which informed the applicant that he was eligible to receive CP, in exchange for a 4 year AOS.

e. DA Form 4856 dated 13 April 2022, which shows the applicant was counseled on his eligibility for CP.

f. A Request for CP (BRS) application that shows he requested two and a half times the monthly basic pay for his current pay grade and years of service in agreement to an AOS of four years to be paid in a lump sum. The request was endorsed by the applicant

on 13 April 2022, and the certifying official and approval authority endorsed it on 22 July 2022.

g. Memorandum; Subject: Delegation of Signature Authority, issued by the U.S. Army Pacific Support Unit, Detachment Japan on 4 January 2022 which authorized delegation of signature authority to Lieutenant Colonel L- G-, effective 31 December 2021, indefinitely or upon reassignment from current duty position.

h. DD Form 577 dated 28 April 2022 and endorsed by the appointing authority on 11 July 2022, appointing F- A- as the certifying official for CP BRS.

i. Memorandum; Subject: [Applicant] ETP to BRS CP late packet submission request issued by the U.S. Army Pacific Support Unit on 11 July 2022 that requests an ETP be granted on behalf of the applicant due to a permanent change of station move, combined with a COVID-19 resurgence.

j. LES for the month of June 2022 that shows he was enrolled in the BRS.

k. USAR Form 22-R dated 22 July 2022 that requests processing of the applicant's CP BRS application.

l. An email chain from the applicant to OCAR, G-1 from 10 September 2022 through 23 May 2023, in which the applicant periodically requests an update on the status of his CP BRS application, the best way ahead, and ultimately, a recommendation to submit his request to the Army Board for Correction of Military Records.

4. In the processing of this case, the Office of the Deputy Chief of Staff, G-1, Program Analyst, Compensation and Entitlements Division provided an advisory opinion pertaining to CP BRS.

a. After careful review of the information provided, we recommend this case be approved in the interest of fairness and equity. The applicant presents documentation which reflected he was not provided with timely and accurate guidance in submitting the CP application prior to the 12th year of service, and otherwise would have submitted this request within the published timeframe. He did submit a completed request for CP signed effective 12 April 2022; however, the end point prior to 12 years of service for pay was 26 February 2022.

b. The applicant's request for payment of CP should be made based on the date he would have been otherwise qualified for in accordance with reference 1.c, specifically, in the pay grade of O-3 with 12 years of service for pay on 26 February 2022.

c. If the Board grants administrative relief, the payment would be based on the pay grade of O-3 with 12 years for pay purpose from the 2022 pay scale ( $\$7,362.90 \times 2.5 = \$18,407.25$  gross entitlement, less applicable federal withholding tax at 22 percent).

5. On 3 December 2024, the applicant was provided with a copy of the advisory opinion for comment or rebuttal.

6. On 4 December 2024, the applicant provided a response via email that states in effect he concurred with the advisory opinion.

#### 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 Office of the Deputy Chief of Staff, G-1, Program Analyst, Compensation and Entitlements Division advisory opinion, the Board concurred with the advising official recommendation for approval in the interest of fairness and equity. The opine also noted, the applicant was not provided with timely and accurate guidance in submitting the CP application prior to the 12th year of service.

2. The Board determined there is sufficient evidence to support the applicant's contentions for correction of his record to show he was paid Continuation Pay Blended Retirement System (CP BRS). The Board agreed, the applicant's payment of CP should be made based on the date he would have been otherwise qualified for in accordance with reference 1.c, specifically, in the pay grade of O-3 with 12 years of service for pay on 26 February 2022. Based on the advising opine, for pay purpose the 2022 pay scale would be used with the calculation ( $\$7,362.90 \times 2.5 = \$18,407.25$  gross entitlement, less applicable federal withholding tax at 22 percent). Therefore, the Board granted relief.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

█	█	█	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 records of the individual concerned be corrected by:

1. 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
2. DFAS paying his entitlement to CP utilizing the Military Pay Account and not the ABCMR funds payable through Debts and Claims. The payment would be based on the pay grade of O-2E with 12-years of service from the 2022 pay scale ( $\$7,362.90 \times 2.5 = \$18,407.25$  gross entitlement, less applicable federal withholding tax at 22 percent)..

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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.

REFERENCE:

Title 37 United States Code, 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 an active-duty member, 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.

//NOTHING FOLLOWS//