

IN THE CASE OF: [REDACTED]

BOARD DATE: 24 April 2025

DOCKET NUMBER: AR20240010932

APPLICANT REQUESTS: reconsideration of his previous request for an 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:
Self-authored Statement.

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20230004505 on 1 February 2024. A majority of the Board found that, given the applicant's explanation of his understanding of the BRS CP eligibility, it was clear the requirement to apply prior to reaching 12-years of service was not adequately explained to him. A majority of the Board found he applied for BRS CP in a timely manner, his application would have been approved barring any errors in the application. Based on the preponderance of the evidence, a majority of the Board determined his record should be corrected to show he submitted a timely application and should be paid any monies he is due as a result of this correction. However, the Deputy Assistant Secretary of the Army (Review Boards) reviewed the evidence presented, findings, conclusions and Board member recommendations. Based upon the justification given by the applicant for not making a timely BRS CP submission and the findings and recommendations of the National Guard Bureau (NGB) advisory official. He overturned the Board's recommendation; therefore, the applicant's request was denied.

2. The applicant essentially states:

- He is a captain (CPT) in [REDACTED] Army National Guard (ARNG) as a M-Day Soldier
- He enlisted in the ARNG on 30 June 2010 and commissioned in the ARNG on 21 October 2016
- Due to his dual status in the ARNG as a civilian and a M-Day Soldier he was not adequately informed about the BRS CP benefit

- As a M-Day Soldier his access to information, resources and briefings were limited compared to full time service members
- Consequently, he was not aware of his eligibility and window of opportunity to receive BRS CP
- BRS CP is essential in supporting his long term career goals and financial planning so it is critical to rectify this situation promptly and ensure fairness and equity among all Soldiers, irrespective of their duty status
- The lack of awareness stems from operational and systemic communication gaps which impact part time service members
- Granting him relief will provide him the intended benefits of the BRS and support of his continued commitment to serve in the ARNG

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

- On 30 June 2010, he enlisted in the ARNG
- On 11 May 2016, he extended his enlistment in the ARNG for 1-year for a new expiration term of service of 30 June 2017
- On 21 October 2016, he executed his oath of office and was appointed a Reserve commissioned officer and a second lieutenant (2LT) in [REDACTED] ARNG and was extended a temporary Federal recognition
- On 20 October 2016, he was honorably discharged from the ARNG to accept a commissioned appointment in the ARNG by Orders Number 333-807 dated 28 November 2016
- On 21 October 2016, he was appointed in the [REDACTED] ARNG as a second lieutenant with the same date of rank and was extended a Federal recognition by Special Orders Number 257 dated 9 December 2016
- DD Form 214 (Certificate of Release or Discharge from Active Duty) shows the applicant was ordered to Active Duty for Training (ADT) on 9 July 2017 to attend the Basic Officer Leaders Course, he was honorably released from active duty on 26 October 2017
- On 21 April 2018, he was promoted to the rank of first lieutenant by Special Orders Number 252 dated 4 October 2018
- DD Form 220 (Active Duty Report) shows the applicant was ordered to ADT on 9 February 2020 to attend the Petroleum and Water Officer Course Phases I and II, he was honorably released from active duty on 6 April 2020
- On 30 June 2022, he obtained 12-years of service based on his pay entry base date (PEBD)
- On 12 January 2023, he was promoted to the rank of CPT with the same date of rank by Special Orders Number 149
- On 5 December 2023, he was ordered to active duty in support of Operation European Assure Deter and Reinforce by Orders Number 27-321-0147 dated 17 November 2023

- On 6 November 2024, he was honorably released from active duty and reverted back to [REDACTED] ARNG control
- Soldier Management Services - WEB Portal shows his Pay Entry Base Date as 30 June 2010

4. In the processing of ABCMR Docket Number AR2023004505, the NGB provided an advisory opinion regarding the applicant's request for the ETP to be allowed to be paid BRS CP after his 12th year of service. The advisory official recommended disapproval of his request. The applicant signed a request for BRS CP on 13 March 2023. This request was signed by a certifying official on the same day. Based on his PEBD of 30 June 2010, he was eligible to apply for BRS CP between 30 June 2021 and 30 June 2022. This office recommends denial of the Soldier's request for an ETP of the time in service eligibility requirement for BRS CP because his claim that "the policy" is unclear is insufficient to recommend an approval.

5. The applicant was provided the advisory opinion for review and comment. He responded by stating he was informed that by submitting his signed BRS CP request form to the ABCMR that it would be approved, and he would still receive his BRS CP payment. He had also advised him that he should submit his BRS CP request form to the ABCMR for approval and BRS CP payment. He did not understand why "denial" was recommended regarding his claim. He had heard of several others who were severely past the 12-year mark that received approvals and payments.

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 and the prior advisory opinion obtained by the National Guard Bureau, the Board concurred with the advising official finding the applicant's claim that the policy is unclear is insufficient to recommend an approval of his request. Although the prior Board recommended approval of his request, the Deputy Assistant Secretary of the Army (DASA) (Review Board) disagreed with the Board's recommendation and concluded that there was no error or injustice and denied relief. In the applicant's current reconsideration request, the Board agreed with the prior decision by the DASA and found insufficient evidence to grant relief in his request 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 amendment of the ABCMR decision rendered in Docket Number AR20230004505 on 1 February 2024.

5/5/2025

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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.

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 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.

5. Department of the Army Assistant Secretary of the Army Manpower and Reserve Affairs memorandum dated 27 January 2022, Subject: Blended Retirement (BRS) Continuation Pay (CP) – Calendar Year 2020 (CY22) states the guidance was effective 1 January 2022 and expired on 31 December 2022 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 has not previously received BRS CP; and
- will complete 10-years of service during the CY22 as computed from the Soldier's PEBD
- eligible to enter into an agreement to 4-year service the obligation period
- member of the Selected Reserve or otherwise a member of the Ready Reserve and eligible to receive basic pay or inactive duty pay; and
- eligible to enter into an agreement to 4-year service the obligation period

6. All Army Activities Message 016/2019 refers to an official military communication that provides guidance on an "Extension to Implementation Guidance for ETP" which allows for the retroactive enrollment of certain eligible Soldiers into the Blended Retirement System (BRS) and also outlines a hardship extension for the enrollment period for specific cases; essentially giving Soldiers who might have missed the original BRS enrollment window a chance to join under specific circumstances.

//NOTHING FOLLOWS//