



Work-Product

UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-00684

Work-Product

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

His retirement plan be changed from the traditional "High-3" to the Blended Retirement System (BRS) and he receive the five percent Thrift Savings Plan (TSP) matching contributions authorized with BRS.

APPLICANT'S CONTENTIONS

On 21 Jan 22, he enlisted in the Work-Prod... Air National Guard (ANG) and commissioned through Officer Training School (OTS) on 10 Mar 23. According to his enlistment date of 21 Jan 22 and his pay date of 22 Jan 20, he should be under the BRS retirement system. However, the Defense Finance and Accounting System (DFAS) told him he is not under the BRS and therefore is not receiving the five percent TSP matching contributions.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is an ANG second lieutenant (O-1).

On 26 Jun 14, according to DD Form 785, *Record of Disenrollment from Officer Candidate – Type Training*, the applicant entered the United States Air Force Academy (USAFA) and on 24 Jun 16 he was disenrolled and administratively separated from cadet status due to a voluntary resignation.

DD Form 214, *Certificate of Release or Discharge from Active Duty* confirms the applicant completed a period of active duty service from 26 Jun 14 through 24 Jun 16 at USAFA. He was honorably discharged and credited with 1 year, 11 months, and 29 days of active service.

The Military Personnel Data System (MilPDS) shows the applicant has an Effective Date of Change of Strength Accountability (EDCSA) of 21 Jan 22.

On 10 Mar 23, according to NGB Form 337, *Oaths of Office*, the applicant was appointed a second lieutenant in the Work-Prod... ANG.

The MilPDS reflects the applicant's retirement plan as traditional "High-3." The applicant's pay date reflects 22 Jan 20; however, based on the applicant's Date Initially Entered Military Service (DIEMS) date of 26 Jun 14, he was placed in the "High-3" retirement plan when he reentered military service in the ANG. In addition, MilPDS reflects the applicant never completed the BRS training or acknowledged his eligibility for the BRS.

AFBCMR Docket Number BC-2024-00684

Work-Product

Work-Product

For more information, see the excerpt of the applicant's record at Exhibit B and the advisory at Exhibit C.

APPLICABLE AUTHORITY/GUIDANCE

General Blended Retirement System Guidance:

Sections 631 through 635 of Public Law 114-92, the National Defense Authorization Act for Fiscal Year 2016, amended in Public Law 114-80, National Defense Authorization Act for Fiscal Year 2017.

On 27 Jan 17, the Deputy Secretary of Defense implemented guidance for the newly created retirement system for the Uniformed Services, which was enacted in the 2016 National Defense Authorization Act for Fiscal Year 2016. This system, called the Blended Retirement System combines the traditional legacy retirement pension, also known as a defined benefit, with a defined contribution benefit into a Thrift Savings Plan. The Blended Retirement System went into effect on 1 Jan 18. Service members who enter the Uniformed Services on or after 1 Jan 18 are automatically enrolled in the Blended Retirement System.

Active component Service members with 12 years (or more) of service prior to 31 Dec 17, and National Guard and Reserve service members who have accrued more than 4,320 retirement points as of 31 Dec 17, are grandfathered under the legacy retirement system and their current retirement plan will not change.

Active component Service members with fewer than 12 years of service as of 31 Dec 17, and members of the National Guard or Reserve who have accrued fewer than 4,320 points as of 31 Dec 17, are also grandfathered under the current retirement system but may choose to opt-in to the Blended Retirement System. Service members who chose to enroll had to affirm on the myPay website that they had completed the mandatory training and acknowledge that the decision to enroll in the Blended Retirement System is irrevocable. The opt-in window for most Airmen closed on 31 Dec 18.

Break-in-Service

A member who, but for a break in service, would otherwise be eligible to elect to enroll in BRS and who returns to service with a Uniformed Service on or after 2 Dec 18, following a break in service that commenced prior to 1 Dec 18, may make an election to enroll in the BRS. For members returning to a paid status in the Reserve Component (RC) following a break in service in the RC may make an election 30 days from the date of reentry.

AIR FORCE EVALUATION

NGB/A1PP recommends denying the application. After reviewing the applicant's source documents, they are insufficient to substantiate the applicant's claim he should be enrolled in BRS. The applicant's DD Form 214 reflects he served at the USAFA from 26 June 2014 to 24 June 2016 in which he was enrolled in the High 3 Retirement system. According to his SURF, when he reenlisted on 21 Jan 22, he did not opt in nor acknowledge receipt of BRS. Upon reentry into the ANG the applicant was under the assumption he should be enrolled into BRS per guidance given that any new accessions after 1 Jan 18 will be automatically enrolled. Based on DoD policy and guidance for the BRS IAW 631 through 635 of P.L. 114-92 and Sections 631 through 633 of P.L. 114-328 and procedures contained in the attached memorandum para 6.b.(3) and para 9.a.(2).b the applicant had 30 days from the date of reentry to make an election to enroll in BRS.

The complete advisory opinion is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 22 Apr 24 for comment (Exhibit D), and the applicant replied on 7 May 24. In his response, the applicant contended when he enlisted on 21 Jan 22 he was not issued a CAC card or able to gain Non-Classified Internet Protocol Router (NIPR) network access for over a 60-day period. Furthermore, he was never given the opportunity to opt into the BRS system within the 30-day window and therefore never had the chance to make the selection. This in turn led him to the assumption he was automatically enrolled in the BRS. Once he gained access to the network and to myPay he did not see the BRS opt in option nor the five percent match to his TSP. He then inquired with his finance office and discovered he was under the "High-3." He submitted a Case Management System (CMS) case to get it corrected, but it was closed after eight months stating he would need to submit an application to the AFBCMR.

In support of his rebuttal response, the applicant provides a memorandum for record, which indicates his commander supports his requests and due to unavoidable delays, the applicant was unable to make the election to enroll in BRS within the first 30 days of entry into the ANG.

The applicant's complete response is at Exhibit E.

FINDINGS AND CONCLUSION

1. The application was timely filed.
2. The applicant exhausted all available non-judicial relief before applying to the Board.
3. After reviewing all Exhibits, the Board concludes the applicant is the victim of an error or injustice. While the Board notes the recommendation of NGB/A1PP against correcting the record, the Board finds a preponderance of the evidence substantiates the applicant's contentions. The Board notes, the applicant had a break-in-service after being discharged as a cadet from the USAFA and missed the typical BRS opt-in window from 31 Dec 17 through 31 Dec 18. When the applicant reenlisted in the ANG on 21 Jan 22, he was under the assumption that as a new accession who entered the service after 31 Dec 18, he was automatically enrolled in the BRS. In addition, the applicant should have been given the opportunity to make a BRS election within the first 30 days of reentering the service; however, based on the limited guidance available for service members, especially for those in the Reserve and Guard component, the Board finds it more than likely he was not provided counsel on how to enroll. Furthermore, the Board believes the delay in the applicant's ability to obtain a CAC card, and the computer access required to make a BRS election was no fault of the applicant, and without access the applicant would have been unable to make an election within the 30-day window. As such, the Board finds it was a procedural defect that prevented the applicant from making an election and he should be afforded the opportunity to opt into the BRS. With respect to the applicant's request for unearned interest he would have received is outside the Board's purview and will be determined by the Defense Finance Accounting Service (DFAS). While the Board has the authority to correct the record in doing so, DFAS can make any appropriate financial calculation for backdating matching contributions and unearned interest. Therefore, the Board recommends correcting the applicant's records as indicated below.

RECOMMENDATION

AFBCMR Docket Number BC-2024-00684

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show:

- a) On 22 January 2022 the applicant elected to opt-into the Blended Retirement System (BRS).

CERTIFICATION

The following quorum of the Board, as defined in Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2024-00684 in Executive Session on 12 Nov 24:

Work-Product III, Panel Chair
Panel Member
Panel Member

All members voted to correct the record. The panel considered the following:

- Exhibit A: Application, DD Form 149, w/atchs, dated 16 Feb 24.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, NGB/A1PP, w/atchs, dated 16 Apr 24.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 22 Apr 24.
- Exhibit E: Response to Advisory, dated 7 May 24.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by DAFI 36-2603, paragraph 4.12.9.

5/5/2025

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