

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 4 August 2023

DOCKET NUMBER: AR20230001268

APPLICANT REQUESTS: retroactive enrollment into the Blended Retirement System (BRS) with entitlement to 5 percent matching Thrift Savings Plan (TSP) contributions.

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 4187 (Personnel Action), 17 October 2022
- Training Certificate, 2 October 2018
- Memorandum – Subject: Exception to Policy (ETP) to BRS Opt-In Window, 1 November 2022
- Email communication

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code (USC), 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 in pertinent part that when he entered active duty, his Date of Initial Entry to Military Service (DIEMS) was incorrectly annotated within the personnel system. He contests that due to this error he was automatically enrolled into the BRS. When the error was discovered, his BRS enrollment was terminated without his knowledge. Upon reaching 2 years of service, he should have begun receiving matching TSP contributions. Unfortunately, this action did not occur. He notes that upon being made aware of the error, he attempted to resolve the issue by being reenrolled into the BRS and to receive retroactive matching of the TSP contributions. The applicant spoke with the finance office at his duty location and was advised to retake the BRS training. Upon completion of the training, his BRS enrollment date would be effective on the date of completion (June 2022) instead of the original date (October 2018) when he initially completed the training. The applicant was further advised that he would need to petition this Board in order to have his BRS date adjusted with entitlement to retroactive TSP matching because the applicable ETP had already been signed and could not be amended.

3. A review of the applicant's available service records reflects the following:
 - a. On 12 May 2018, the applicant was appointed a Regular Army commission.
 - b. On 21 June 2018, Headquarters, U.S. Army Cadet Command issued Orders Number 172-006 ordering the applicant to active duty with a 10 July 2018 report date to the Basic Officer Leader Course (BOLC).
 - c. The applicant attended the BOLC from 11 July 2018 – 14 September 2018 and returned to his unit, C Company, Walter Reed Army Medical Center.
 - d. On 14 April 2021, Orders Number 104-14 issued by U.S. Army Garrison Fort Detrick, ordered the applicant on a permanent change of station to Joint Base Lewis McChord, effective 17 January 2022
4. The applicant provides the following a:
 - a. DA Form 4187 dated 17 October 2022, reflective of the applicants submitted request for an ETP for enrollment in the BRS and retroactive pay for each qualifying month up to the present date. The applicant notes that his DIEMS date is 24 February 2014
 - b. .
 - c. Training Certificate dated 2 October 2018, reflective of the applicant's completion of the BRS Opt-In course on 2 October 2018.
 - d. Memorandum – Subject: ETP to BRS Opt-In Window, dated 1 November 2022, reflective of the Department of the Army, Office of the Deputy Chief of Staff, G-1 approval of the applicant's request for ETP for enrollment in the BRS. The Defense Finance and Accounting Service would provide access to the opt-in link on MyPay, to ensure the proper retroactive Government automatic and matching TSP contributions are credited to the service members TSP account. Retroactive matching TSP contributions would only be made in accordance with the individual contribution previously made that should otherwise have been matched had the member been correctly enrolled in the BRS. This document further provides that the applicant's BRS election date would be 28 June 2022 based on his completion of the BRS Opt-In training on 28 June 2022. The justification for this error provides that the applicant was previously a Reserve Officer Training Corps (ROTC) cadet inadequately advised of his eligibility and opportunity to enroll in the BRS.
 - e. Email communication (July 2022 – October 2022) reflective of the applicant's efforts to address and resolve his BRS Opt-In issue and retroactive entitlement to TSP matching through the Department of the Army, Office of the Deputy Chief of Staff, G-1.

The applicant was advised to petition this Board should he contest the decision to make his BRS enrollment date match the date noted on the ETP approval. The applicant was further advised that service members have had years to address their BRS issues.

5. A review of the applicant's most recent Officer Record Brief (30 November 2022) reflects the following:

- DIEMS – 24 February 2014
- Basic Active Service Date (BASD) – 10 July 2018
- Pay Entry Basic Date (PEBD) – 10 July 2018

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined relief was warranted. The Board carefully considered the applicant's contentions, military record, and regulatory guidance. Documentation available for review shows that applicant was previously a Reserve Officer Training Corps (ROTC) cadet and inadequately advised of his eligibility and opportunity to enroll in the BRS. As there was no reason for the applicant to doubt the correctness of the advice, the Board concluded there was sufficient evidence of an injustice to warrant a correction to the record.

BOARD VOTE:

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| █ | █ | █ | GRANT FULL RELIEF |
| : | : | : | GRANT PARTIAL RELIEF |
| : | : | : | GRANT FORMAL HEARING |
| : | : | : | DENY APPLICATION |

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of Army records of the individual concerned be corrected to show he submitted a properly completed request for Blended Retirement System (BRS) with entitlement to 5 percent matching Thrift Savings Plan (TSP) with an election date of 28 June 2022 and that it was approved.

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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, USC, 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. Deputy Secretary of Defense Memorandum, Implementation of the Blended Retirement System dated 27 January 2017, states that the BRS goes into effect 1 January 2018. Service members who enter the military on or after 1 January 2018, will automatically be enrolled in BRS. Service members who enter service on or before 31 December 2017 are grandfathered into the legacy high-3 retirement system. However, service members in the active component as of 31 December 2017, who have served fewer than 12 years, or service members in the Reserve component who have accrued less than 4,320 retirement points as of 31 December 2017 and are in a paid status, will have the option of electing BRS or to remain in the legacy retirement system. Those currently serving members who are eligible to opt into BRS will have an entire year to make their opt-in decision. The opt-in or election period for BRS begins 1 January 2018, and concludes on 31 December 2018. The decision to opt-in is irrevocable.
3. ALARACT Message Number 050/2019 (Implementation Guidance for Exception to Policy (ETP) to Retroactively Enroll Certain Eligible Soldiers in the Blended Retirement System and Hardship Extension of the Enrollment Period) provides that Soldiers who would like to request an ETP to the BRS Calendar Year (CY) 2018 Opt-In enrollment will acknowledge the irrevocability of the Opt-In decision. Soldiers who were notified of their eligibility for BRS and did not have access to the BRS link on MyPay, must notify the Deputy Chief of Staff G-1 of the discrepancy. These extensions do not create the authority to enroll a Soldier who had the opportunity to elect to enroll in the BRS during the CY2018 but who chose not to do so, nor does it allow for retroactive Thrift Savings Plan (TSP) contributions.
4. On 1 January 2018 eligible Soldiers were given access to the BRS link on MyPay to enroll in the BRS. The system process required Soldiers to follow 5 separate screens (enclosed) to include providing their current address and date of birth. Screen two required the Soldier to acknowledge that he/she understands that the decision to opt-in is irrevocable once they complete the election. On screen three and four, Soldiers had to check a box and answer a question respectively that stated "I fully understand that I am opting into the BRS." Screen five allowed the Soldier to save and print the confirmation and again informed the Soldier that they were opting into the BRS. Prior to the beginning of the BRS enrollment, the Defense Finance and Accounting Service (DFAS) moved the Leave and Earning Statement (LES) link on MyPay and

replaced it with the BRS opt-in link. Service members immediately began to contact their respective Services of their "erroneous" enrollment while trying to acquire a LES and surprisingly received notification that they had opted into the BRS. After several complaints, the Department in coordination with DFAS, moved the LES link back its customary first position on MyPay and relocate the BRS link effective 26 January 2018.

5. Army Regulation 15-185 (ABCMR) paragraph 2-9 states the ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

//NOTHING FOLLOWS//