

IN THE CASE OF: [REDACTED]

BOARD DATE: 21 October 2024

DOCKET NUMBER: AR20230005284

APPLICANT REQUESTS: disenrollment from the Blended Retirement System (BRS) and placement in the "legacy/traditional retirement system (High Three)."

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

- DD Form 149 (Application for Correction of Military Record)
- Memorandum Implementation of the BRS
- Memorandum BRS Continuation Pay (CP) Calendar Year (CY) 2023

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, 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 he was unintentionally/inadvertently placed into the BRS. He joined the U.S. Army in 2005, which was outside of the qualifying window. He is requesting his retirement option to be converted back to the traditional retirement. He feels his records are in error because he was not supposed to be on the BRS due to when the BRS came out and when it actually went live on 1 January 2018. At that time, he was already over 13 years of service and the BRS would not benefit him when he completed 20 years of service. The Board should find it in the interest of justice to consider his application r because per the BRS Implementation Guidance and the CY 23 BRS CP Policy, he does not and will not benefit from the CP which will put him in a bind when he retires.
3. The applicant provides the following documents:
 - a. Memorandum Implementation of the BRS, 27 January 2017, which is the implementation guidance of the BRS. The entire memorandum is available for the Board's consideration.

b. Memorandum BRS CP CY 2023, 2 March 2023, which establishes eligibility, amounts, and additional service obligation for CP in CY 2023. The entire memorandum is available for the Board's review.

4. The applicant's service record contains the following documents:

a. DD Form 4 (Enlistment/Reenlistment Document Armed Forces of the United States) shows he enlisted in the Regular Army and entered active duty on 19 May 2005.

b. DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he was honorably released from the Regular Army and transferred to a U.S. Army Reserve (USAR) Troop Program Unit (TPU) on 16 November 2008. He had completed 3 years, 5 months, and 28 days of active duty service. He was discharged for completion of required active service.

c. DD Form 4 (Enlistment/Reenlistment Document Armed Forces of the United States) shows he reenlisted in the USAR on 4 October 2012. He has remained in the USAR through immediate reenlistments and extensions of his enlistment.

d. DA Form 5016 (Retirement Accounting Statement), 2 June 2024 shows he was in the Regular Army from 19 May 2005 through 16 November 2008. He was in a TPU of the USAR from 17 November 2008 through 8 August 2010. He has been in the USAR on Active Guard/Reserve status since 9 August 2010. His pay entry basic date is 19 May 2005 and he has 19 qualifying years for retirement.

5. On 13 September 2023, the Program Analyst, Compensation and Entitlements Division, G-1 provided an advisory opinion for the Board's consideration, which states:

a. After careful review, the Army G-1 cannot support the applicant's request for removal from the BRS. He was fully aware of the irrecoverable election that was made to participate in the BRS. He completed the enrollment process on 4 January 2018; there is no evidence that a computer error would complete the enrollment process. In order for a servicemember to be enrolled, they must complete all screens within the BRS module during the enrollment period.

b. The Department of Defense (DoD) implementation guidance states: "The decision to enroll in the BRS is irrecoverable." The DoD and the Department of the Army published clear instructions regarding the eligibility and made all servicemembers aware of the irrecoverable nature, when electing into the BRS.

c. 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 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.

6. On 9 May 2024, the advisory opinion was provided to the applicant to allow him the opportunity to respond. He did not respond.

BOARD DISCUSSION:

1. The Board considered the applicant's statement concerning his enrollment and his not being eligible for Continuation Pay, his record of service and the DCS G1 Advisory Opinion regarding the applicant's eligibility and the process required to enroll in the Blended Retirement System (BRS). The Board found that at the time of enrollment, the applicant was eligible to decline BRS but available evidence reflects that he completed the required enrollment procedures that included multiple acknowledgements that the election was irrevocable once completed. The Board found insufficient evidence to determine the applicant's enrollment was in BRS was in error or unjust.

2. After reviewing the application, all supporting documents, and the applicant's military record, based on a preponderance of evidence, the Board found relief was not warranted.

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 correction of the records of the individual concerned.

4/28/2025

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. Title 10, U.S. Code, 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. Army Regulation 600-8-7 (Retirement Services Program) prescribes the policies for the Retirement Services and Survivor Benefit Plan functions of military human resources management. In pertinent part:
 - a. Paragraph 6-4 (High-3 Retired Pay Plan or Reduced Retired Pay Plan) states Soldiers with a Date of Initial Entry to Military Service (DIEMS) between 1 August 1986 and 31 December 2017 were eligible to remain grandfathered in the High-3 Retired Pay Plan (see information and calculation in paragraph 6-3 (High-3 Retired Pay Plan)).
 - b. Paragraph 6-5a (Blended Retirement System (BRS)) states, the BRS, under Title 10, U.S. Code, section 1409, applies to all Servicemembers with a Date of Initial Entry to Military Service (DIEMS) on or after 1 January 2018 and certain eligible Soldiers who chose to opt-in. Those with a DIEMS prior to 1 January 2018 who had less than 12 years of active service or less than 4,320 retirement points for Reserve Component Soldiers as of 31 December 2017 had a choice to either remain grandfathered in the High-3 Plan or opt into the BRS. The percentage multiplier for Soldiers under the BRS

is 2 percent, multiplied by the average of the highest 36 months of basic pay. The average of the highest 36 months of basic pay will typically be the Soldier's last 3 years of basic pay.

3. All Army Activities Message Number 028/2018 states, effective 1 January 2018, eligible Soldiers who completed the mandatory training were eligible to enroll in the BRS. The DoD policy is that this informed decision by a Soldier eligible to enroll in the BRS is irrevocable. Several Soldiers from all components have notified their respective component and the Army G-1 of their unintentional enrollment in the BRS. Soldiers are reminded to be attentive of the link within MyPay database they are activating. Soldiers should not activate the BRS link unless they have made a decision to leave the legacy retirement plan for the new BRS.

a. In an effort to eliminate the confusion between links within the MyPay database, as of February 2018 Defense Finance and Accounting Service (DFAS) separated the "BRS opt-in" link from close proximity of the "LES" link.

b. Soldiers who notified their component that they inadvertently opted into the BRS may petition the ABCMR for relief. ABCMR personnel have indicated that they will give these requests a higher priority upon receipt.

4. DoD Financial Management Regulation 7000.14, Volume 7A, effective March 2013 states in section 0301 (Basic computation) for individuals who first became members after 7 September 1980, the retired or retainer pay base is generally the average of the highest 36-months of basic pay received. The retired pay base for a member with 36 or more months of active service is the average monthly basic pay the member received over their highest earning 36-months. In the case of a Reserve component member, this is the total amount of basic pay to which the member was entitled during the member's high 36-months or to which the member would have been entitled if the member had served on active duty during the entire period of the member or former member's high 36-months. Only months during which the individual was a member of a uniformed service may be used. Monthly basic pay amounts, starting with the highest rate of pay, are added together until the total number of months equals 36-months. Divide the total pay derived from the sum of months by 36, and round to the nearest cent to obtain the retired pay base applicable to the member.

5. 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. Servicemembers who enter the military on or after 1 January 2018, will automatically be enrolled in BRS. Servicemembers 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.

6. 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 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.

7. All Army Activity 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.

8. All Army Activities (ALARACT) 067-2020 subject: Implementation Guidance for Exception to Policy (ETP) to Retroactively Enroll Certain Eligible Soldiers in the Blended Retirement System (BRS) and Hardship Extension of the Enrollment Period, 31 July 2020 provided procedural guidance for automatic and hardship extensions of the enrollment period outline provides additional administrative procedures necessary for certain Soldiers to request an exception to policy to allow for retroactive enrollment in the BRS for specific reasons outlined in reference b [Delegation of Authority: BRS enrollment period extension and enrollment dated adjustment]. It also provides procedural guidance for automatic and hardship extensions of the enrollment period

outlined in reference c [BRS enrollment period extension for newly commissioned officers].

//NOTHING FOLLOWS//