

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 24 July 2024

DOCKET NUMBER: AR20230013067

APPLICANT REQUESTS: in effect, disenrollment from the Blended Retirement System (BRS) and placement in the legacy retirement system.

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

- DD Form 149 (Application for Correction of Military Record)
- Leave and Earnings Statements (LES), September 2022 and February 2023
- LES, March, April, and August 2023
- Email communication, April, May, June, and July 2023
- Email communication, 17 May 2023
- DA Form 1559 (Inspector General (IG) Action Request), 19 May 2023
- Email communication, July and August 2023

FACTS:

1. The applicant states:

a. His retirement choice changed in March 2023 from "Choice" to "Blended." He is requesting the retirement option to be changed back to "Choice (HIGH-3)."

b. His March LES indicated on the retirement plan code a change from all previous LES's. The change was "Choice" and now reads "Blended." After Human Resources (HR) Technicians submitted a pay inquiry it was identified that on 23 January 2018 he opted into the BRS. He does not recall this action and only remembers conducting the mandatory training. The Defense Finance and Accounting Service (DFAS) stated that it was never authorized and/or approved in DFAS as to why the action never had an effective date. DFAS stated that a "CMR" (Army Board for Correction of Military Records (ABCMR) case needs to be opened and should be an easy fix since DFAS never activated the action and no money has been paid (contributions, matching contributions, continuation pay).

c. The follow-on response from the pay inquiry states that "if First Sergeant S\_ feels this information is incorrect, he will need to contact the ABCMR to dispute it. He contacted the special actions team at the National Guard Bureau (NGB) and their

response was to exhaust all avenues through his home State (Indiana) unit and the Adjutant General prior to filing a submission through the ABCMR. To date he has exhausted all HR avenues in his current chain of command, NGB and within his State Indiana Army National Guard (INARNG) as well as the INARNG IG section, DFAS requests, along with multiple pay inquiries to resolve the issue.

d. As stated, he does not recall selecting for BRS that had a deadline of 31 December and he has been enrolled in Choice/HIGH-3 until his LES suddenly changed in March of 2023. To date (15 September 2023), he has not received any of the additional benefits that come with opting into BRS such as agency contributions, matching contributions and/or continuation pay.

2. A review of the applicant's military records show the following:

a. He enlisted in the Regular Army on 5 September 2000.

b. On 4 September 2004, DD Form 214 (Certificate of Release or Discharge from Active Duty) shows the applicant was released from active duty and was transferred to the U.S. Army Control Group (Reinforcement).

c. NGB Form 23B (ARNG Retirement Points History Statement) shows he enlisted in the ARNG on 27 May 2010

d. DA Form 4836 (Oath of Extension of Enlistment or Reenlistment) dated 23 February 2014 shows the applicant extended his 27 May 2010, 4-year INARNG enlistment for 1 year, which changed his Expiration Term of Service (ETS) to 26 May 2015. Item 6e (Basic Pay Entry Date) shows 18 July 2002.

e. The applicant's record shows he has served in the ARNG and Active Guard/Reserve (AGR) continuously through multiple reenlistments/extensions.

f. On 13 July 2022, the NGB published Order Number 194-06, which placed the applicant on active duty in an AGR status to serve in U.S. Army Europe as Operations Noncommissioned Officer In-Charge (NCOIC) from 5 October 2022 to 30 September 2025.

g. On 2 May 2024, DA Form 4836 shows the applicant extended for 2 years in the ARNG, which changed his ETS to 26 May 2028.

3. In support of his case the applicant provides:

a. LESs dated September 2022 and February 2023, which show retirement plan "choice".

b. LESs dated March, April, and August 2023, which show retirement plan "blended". It also shows Agency matching contribution totals as zero.

c. Email communication dated April, May, June, and July 2023, between the applicant and INARNG HR Tech, discussing the LES change in retirement plan from choice to blended. The applicant requested information on his pending ticket with DFAS.

d. Email communication dated 17 May 2023, between the applicant and NGB Appeals Analyst, wherein, the Appeals Analyst stated, it appears the applicant might have mistakenly been enrolled in the BRS program, as the applicant claimed he did not previously make the election. The applicant was informed to seek redress for the matter through channels at his unit and State level. However, if he was unable to obtain relief, he may submit an application with the ABCMR.

e. DA Form 1559 dated 19 May 2023, which shows he requested IG assistance with his LESs and retirement plan code change.

f. Email communication dated July and August 2023, between the applicant, INARNG HR Tech, and INARNG J1 Retirement Services NCOIC, discussing the change to the applicant's retirement plan and how to fix the applicant's retirement plan change from "Blended" back to "Choice". The applicant was informed he may have to submit a request to the ABCMR.

4. On 1 March 2024, the Office of the Deputy Chief of Staff G-1, Program Analyst Compensation and Entitlements Division, provided and stated:

a. After careful review of the information provided, this office supports the applicant's request for administrative relief to be disenrolled from BRS.

b. The applicant's military record should be changed to reflect removal from BRS and placed into High 3 retirement system. The applicant's record does indicate enrollment into BRS without benefit of agency automatic or matching contributions, which led the applicant to the assumption that he only completed the required BRS Opt-In Training course without opting into the BRS.

c. The applicant's LES was changed to reflect "Blended" in March 2023 without receiving the 1 percent agency automatic or matching contributions. The February 2023 LES reflected "Choice", which indicated enrollment in the High 3 or legacy retirement system.

5. On the same date, the applicant was provided a copy of the G-1 advisory opinion to allow for comments or rebuttal. He did not respond.

BOARD DISCUSSION:

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 the Office of the Deputy Chief of Staff, G-1- Compensation and Entitlement Division advisory opinion, the Board concurred with the advising official recommendation for approval, showing the applicant has been disenrolled from the Blended Retirement System (BRS) and placed in the High 3 retirement system. The Board noted the applicant's record does not indicate enrollment into BRS without benefit of agency automatic or matching contributions. Based on the advisory opinion recommendation, 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 showing the applicant is disenrolled from the Blended Retirement System (BRS) and placed in the High 3 retirement system.



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. Army Regulation (AR) 600-8-7 (Retirement Services Program) prescribes the policies for the Retirement Services and Survivor Benefit Plan functions of military human resources management (see AR 600-8). In pertinent part:

a. Paragraph 6-5a (Blended Retirement System) 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.

b. The BRS consists of four main components, a defined benefit, a defined contribution, Continuation Pay (CP), and a lump sum option.

(1) Defined benefit. The defined benefit under BRS is retired pay based on the Soldier's length of service at the time of retirement. Retired pay under BRS is calculated as indicated in paragraph 6-5a.

(2) Defined Contributions. The defined contribution under BRS, is accomplished through automatic agency contributions and matching contributions through the TSP. For additional information, the prescribing regulation for TSP is AR 637–1.

(3) CP. CP under BRS is a one-time mid-career bonus payment in exchange for an agreement to perform AOS. For additional information, the prescribing regulation for CP is AR 637–1.

(4) Lump sum option. Under BRS Soldiers have three payment options upon retirement. They may retire and receive full monthly retired pay, or they may also choose to receive a lump sum payment. The lump sum option allows Servicemembers to choose to elect 25 percent or 50 percent lump sum payment at retirement in exchange for reduced monthly retired pay until the Servicemember reaches full Social Security retirement age, which for most is 67 years old.

2. AR 637-1 (Army Compensation and Entitlements Policy) provides Department of the Army policies for entitlements and collections of pay and allowances for active duty Soldiers. It is used in conjunction with the Department of Defense (DoD) Financial Management Regulation, Volume 7A. In pertinent part:

a. Paragraph 18-15 (Blended Retirement System opt-in Soldier individual Thrift Savings Plan contribution) states, (1) If a BRS opt-in Soldier previously contributed to TSP, the balance of any prior TSP contributions will carry over following enrollment in BRS. Individual TSP contributions made prior to BRS will not be matched. (2) BRS opt-in Soldiers will not be automatically enrolled in TSP. BRS opt-in Soldiers must affirm their prior contribution election or make a new contribution election. A BRS opt-in Soldier may contribute to TSP at the individual contribution percentage or dollar amount the Soldier elects at the time of enrollment in BRS. A contribution election may be changed any time in accordance with TSP regulations.

b. Paragraph 18-18 (Agency Contributions for BRS Opt-In Soldiers) states:

(1) Agency automatic (1 percent) contributions –

(a) Start date. Commencing with the pay period that follows a Soldier's BRS opt-in, the agency will automatically contribute to that Soldier's TSP account at no cost to the Soldier and without relation to the amount the Soldier contributes, an amount equal to:

- One percent of basic pay earned by that Soldier during that pay period for active service; or
- One percent of inactive duty pay earned by that Soldier during that pay period for IDT.

(b) End date. The agency (1 percent) contribution will continue for each pay period in which a Soldier receives either basic pay or inactive duty pay, or both, through the end of the pay period during which the Soldier attains 26 years of service, as calculated from the PEBD.

(2) Agency matching contributions –

(a) Start date. Commencing with the pay period that follows a Soldier's BRS opt-in election the agency will contribute an amount that matches the Soldier's individual contribution to TSP (up to 4 percent) in accordance with DoD FMR, Volume 7A chapter 51, table 51–3.

(b) End date. No matching agency contributions will be made to a Soldier's TSP account after the pay period during which the Soldier attains 26 years of service, as calculated from the PEBD.

3. All Army Activity Message Number 028/2018 states, effective 1 January 2018, eligible Soldiers who completed the mandatory training were eligible to enroll in the BRS. The Department of Defense policy is that this informed decision by a Soldier eligible to enroll in the BRS is irrevocable.

4. Department of Defense 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. a. 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.

//NOTHING FOLLOWS//