

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 24 July 2024

DOCKET NUMBER: AR20230013129

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)
- Applicant's statement
- Orders Number 9009007, 19 December 2018
- National Guard Bureau (NGB) Form 22 (Report of Separation and Record of Service), 8 January 2019
- Orders Number 014-930, 14 January 2019
- Leave and Earnings Statements (LES), 1-28 February 2023
- LES, 1-31 March 2023
- Orders Number 0004516069.00, 19 April 2023
- Email communication, 11 September 2023

FACTS:

1. The applicant states:

a. He transferred to Active Duty from the Army National Guard (ARNG) for Officer Candidate School (OCS) in January 2019. In March of 2023, his LES began reflecting the "Blended" Retirement Program instead of the Legacy Program, indicating he was no longer in the legacy retirement program. With a Pay Entry Base Date (PEBD) of 27 October 2010, he was grandfathered into the Legacy Program. He reached out to Fort Jackson Finance, who informed him that their records indicate that he allegedly opted into the BRS on 28 December 2018, approximately one week prior to departure for OCS and Active Duty. He was informed that if he felt this was in error, he needed to contact the Army Review Boards Agency.

b. He does not recall opting into the BRS in December 2018, as it would not have made sense as not only was he transferring to Active Duty, but also as he has been in service for nearly 13 years, it would not make logical sense to him to opt into the new

program. Additionally, he does not understand why this change did not appear until March of 2023, over four years after he allegedly opted into the new program.

c. He originally enlisted in the Ohio National Guard on 27 October 2010, and he does not have a break in service. His understanding is due to his time in service, he should be grandfathered into the old system. On 9 January 2019, having been discharged from the National Guard on 8 January 2019, he officially switched to the Active Component and was assigned to then Fort Benning (Moore), GA, to attend OCS.

d. According to his 2018 planner, the day he allegedly opted into BRS, he was meeting with a realtor, as he was preparing to sell his home in preparation for Active Duty. That entire week was packing and moving week. During this time, he does not recall opting into the BRS, nor would it have made logical sense to do so. He transferred to Active Duty to continue his career, as he anticipates serving more than 20 years.

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

a. He enlisted in the ARNG on 27 October 2010.

b. On 25 July 2018, DA Form 4836 (Oath of Extension of Enlistment or Reenlistment) shows he extended his ARNG enlistment for 1 year, which changed his expiration term of service to 26 October 2019. Item 6e (Basic Pay Entry Date) shows 27 October 2010.

c. On 19 December 2018, the Military Entrance Processing Station, Gahanna, OH, published Orders Number 9009007, which assigned the applicant to the 30th Adjutant General Battalion, Fort Benning, GA, with a report date of 9 January 2019.

d. On 8 January 2019, NGB Form 22 shows the applicant was honorably discharged from the ARNG for enlistment into the Regular Army.

e. On 9 January 2019, he enlisted in the Regular Army.

f. After completing OCS, DA Form 71 (Oath of Office - Military Personnel) shows he was appointed as a Regular Army Adjutant General Corps officer and executed his oath of office on 17 May 2019.

3. In support of his case the applicant provides:

a. Orders Number 014-930 dated 14 January 2019, published by the State of Ohio Adjutant General's Department, which honorably discharged the applicant from the ARNG for enlistment into the Regular Army, effective 8 January 2019.

- b. LES dated 1-28 February 2023, which shows his retirement plan as "Choice."
  - c. LES dated 1-31 March 2023, which shows his retirement plan as blended. It shows total contributions.
  - d. Orders Number 0004516069.00 dated 19 April 2023, published by the Department of the Army, which assigned the applicant to Fort Jackson, SC, as a student, with an effective and report date of 9 July 2023.
  - e. Email communication dated 11 September 2023, between the applicant and the Separation Supervisor Army Military Pay Office Fort Jackson, wherein, the Separation Supervisor stated, the applicant's case was reviewed by TSP [Thrift Savings Plan Office], and they responded by stating, their office verified the applicant opted into BRS on 21 December 2018 through the link in MyPay. BRS enrollment is irreversible.
4. On 28 February 2024, the Office of the Deputy Chief of Staff G-1, Program Analyst Compensation and Entitlements Division, provided an advisory opinion for this case 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. The applicant's military record should be changed to reflect removal from BRS and placed into High 3 retirement system. The applicant mistakenly enrolled into BRS without benefit, while a member of the Army National Guard in December 2018. He attended OCS 9 January 2019 through 16 May 2019, subsequently commissioning onto active-duty 17 May 2019.
  - b. 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 29 February 2024, the applicant was provided with a copy of the G-1 advisory opinion for comments or rebuttal. He did not respond.

**BOARD DISCUSSION:**

- 1. 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, Program Analyst Compensation and

Entitlements 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.

2. The Board determined the applicant mistakenly enrolled into BRS without benefit, while a member of the Army National Guard in December 2018. The Board agreed, based on the advising official recommendation, the Board granted relief to show the applicant was approved for disenrollment from BRS and placed in the High 3 retirement system.

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 (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.

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.

5. AR 15–185 (Army Board for Correction of Military Records (ABCMR)) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. In pertinent part, it states that 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. The ABCMR will decide cases based on the evidence of record. It is not an investigative agency.

//NOTHING FOLLOWS//