

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 9 August 2024

DOCKET NUMBER: AR20230014831

APPLICANT REQUESTS: an exception to policy to convert from the Uniformed Services Blended Retirement System (BRS) back to the Legacy/High 3 Retirement System.

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

- DD Form 149 (Application for Correction of Military Record)
- Defense Finance and Accounting System (DFAS) - Case Management System information

FACTS:

1. The applicant states he elected to opt into the BRS on 2 October 2018. He contests that despite his timely enrollment, the Thrift Savings Plan (TSP) matching was not initiated. It was not until 31 August 2023, and the submission of a DFAS case at his local finance office was the matter resolved. However, this 5-year delay has resulted in his inability to fully benefit from the matching incentive causing a significant impact on his financial planning. He notes that with less than 10 years remaining in service, the loss of 5 years of financial growth is now irrevocable. Given these circumstances, he would like to opt-out of the BRS and be returned to the Legacy retirement system.

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

a. After serving as an enlisted Soldier in both the U.S. Army Reserve (USAR) and the Army National Guard (ARNG), on 18 December 2007, the applicant was appointed as a Reserve commissioned officer and executed an oath of office.

b. On 21 May 2008, the National Guard Bureau (NGB) issued Special Orders Number 130 AR announcing Federal recognition of the applicant's initial appointment in the NMARNG, effective 20 December 2007.

c. On 6 May 2010, the NGB issued Special Orders Number 89 AR announcing the withdrawal of the applicant's Federal recognition and subsequent transfer into the USAR, effective 4 May 2010.

d. On 2 January 2018, the U.S. Army Human Resources Command (HRC) issued Orders Number R-01-806936 ordering the applicant to active duty in an Active Guard/Reserve (AGR) status, effective 5 February 2018, for 3 years. No additional orders are available reflective of the applicant being extended on active duty. However, a review of his available points history reflects that he is still on active duty in the AGR program.

3. The applicant provides DFAS - Case Management System information reflective of the initiation of a pay inquiry on the applicant's behalf on 31 August 2023, pertaining to his TSP matching. The applicant noted that he was not receiving the 5 percent TSP matching. On or about 11 September 2023, the applicant's BRS enrollment was validated. DFAS was supposed to correct his account to reflect his opt-in information and make all necessary retroactive adjustments. The applicant's records were corrected on 13 September 2023 retroactively collecting 1 percent agency contributions for the month's of April 2018 – August 2023; retroactively collecting matching contributions for the months of July 2018 – November 2018 and January 2019 – August 2023. On or about 19 September 2023, the applicant requested to be removed from the BRS citing the reasons stated in his requested relief. The applicant was advised on 10 October 2023, that his election to opt-in was irrevocable and the only course of action available would be to initiate the matching contributions and retroactively pay any missing auto matching.

4. On 7 March 2024, Department of the Army, Office of the Deputy Chief of Staff, G-1, Program Analyst, Compensation and Entitlements Division, provided an advisory opinion recommending denial of the applicant's request noting that after careful review of the information provided, it was determined that the applicant opted into BRS effective 2 January 2018. At time of enrollment, he was made aware of the irrevocable election to participate in the BRS. The applicant is entitled to receive matching contributions from 1 February 2018 to the present of 1 percent agency automatic and 4 percent matching contributions, for a total of 5 percent matching, which is effective the first day of the month after opting into the BRS. To ensure he recovers the gains from retroactive or late contributions, breakage is allowed and credited which is the loss incurred or the gain realized on makeup or late contributions. It is the difference between the value of the shares of the applicable investment fund(s) that would have been purchased had the contribution been made on the "as of" date and the value of the shares of the same investment fund(s) on the date the contribution is posted to the account. A review of the applicant's pay account with DFAS, Thrift Savings Plan team, has indicated all retroactive funds due to breakage have been credited to the applicable TSP accounts.

5. On 15 March 2024, the applicant was provided with a copy of the advisory opinion and afforded 15 days to provide comments.

6. On 26 March 2024, the applicant responded to the advisory opinion noting that DFAS has not credited retroactive funds that were identified in the Case Management. The comments within the case provided that retroactive adjustments have been made; however, the applicant contests that no funds have been paid to his TSP. The applicant further provides that he verified this with his TSP statements and has spoken to the DFAS service desk. He again argues that this secondary issue further advances the loss in value and has a negative impact on his retirement. The applicant contacted DFAS regarding the issue and was advised that a new case would be opened to address the issue.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive review based on law, policy, and regulation. Upon review of the applicant's petition, available military records, and the Program Analyst for the Compensation and Entitlements Division of the Office of the Deputy Chief of Staff G-1, the Board concurred with the advising official finding the applicant opted into the Blended Retirement System effective 2 January 2018. At that time, he was made aware that his decision was irrevocable. There is no evidence the applicant made this election in error. The Board noted the applicant was credited with retroactive funds due to breakage. The Board concluded there was no error or injustice in the applicant's decision to opt into the Blended Retirement System vice the Legacy/High 3 Retirement and denied relief.

BOARD VOTE:

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| : | : | : | 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.

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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.

REFERENCE:

Deputy Secretary of Defense Memorandum, Implementation of the Blended Retirement System, dated 27 January 2017, advised the Blended Retirement System (BRS) was to go into effect 1 January 2018. BRS offers service members portable government retirement savings, provides the Department of Defense (DoD) greater force management flexibility and is a key step in modernizing DoD's ability to recruit, retain and maintain the talent required for military readiness, while reducing the direct cost to the American taxpayer.

a. Eligibility: 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.

b. Those currently serving members who were eligible to opt into BRS would have an entire year to make their opt-in decision. The opt-in or election period for BRS began 1 January 2018, and concluded on 31 December 2018. The decision to opt-in is irrevocable.

//NOTHING FOLLOWS//