

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 6 September 2024

DOCKET NUMBER: AR20230015259

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)
- DD Form 368 (Request for Conditional Release), 24 March 2021
- DD Form 1966 (Record of Military Processing - Armed Forces of the United States), 16 April 2021
- DD Form 4 (Enlistment/Reenlistment - Document Armed Forces of the United States), 16 April 2021

FACTS:

1. The applicant states he was mistakenly enrolled in the BRS when he transferred services. He requests to be correctly re-enrolled in the legacy/traditional retirement system. He was enlisted in the U.S. Navy Reserve (USNR) from December 2008 to April 2021. He transferred from the USNR to the California Army National Guard (CAARNG) in April 2021. Up to the time of his interservice transfer he had declined to opt-in to the BRS and was enrolled in the traditional/legacy retirement. After entering the CAARNG his leave and earnings statement now reflects that he is enrolled in the BRS. He did not opt-in. His current command directed him to apply to the Army Board for Correction of Military Records (ABCMR) and stated that there was no other option to pursue this action.

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

a. Having prior enlisted service in the USNR, DD Form 368 shows his conditional release from the USNR was approved on 24 March 2021.

b. On 16 April 2021, DD Forms 1966 and 4 show he enlisted in the CAARNG for a period of 5 years.

3. On 2 August 2024, the National Guard Bureau (NGB), Chief, Special Actions Branch, provided an advisory opinion for this case and recommended approval. The advisory official stated:

a. The applicant was erroneously transferred into the Blended Retirement System during calendar year 2021. He requests to be reinstated to the legacy high 36 system.

b. The BRS went into effect on 1 January 2018. It effected all new service members who joined the service after 1 January 2018. All other members who were serving as of 31 December 2017 were grandfathered under the Army legacy system. Though service members were grandfathered under the legacy system, National Guard and Reserve service members in a paid status who, had accrued fewer than 4230 retirement points as of 31 December 2017, may choose to opt in the BRS. If service members were eligible, they additionally needed to complete the mandatory BRS Opt-in-course and physically opt in the BRS.

c. Transferring the applicant back to the legacy system also falls under the guidance of All Army Activities (ALARACT) Message Number 028/2018 which gives the Army Review Board Agency an overall advisory opinion that supports certain requests for removal from the Blended Retirement System despite enrollment.

d. The NGB transition office and the BRS Policy Coordinator did a review of the applicant's ABCMR claim and agree that he was erroneously transferred to the Blended Retirement System.

e. The applicant was previously a member of the USNR prior to enlisting in the CAARNG. When the applicant enlisted in the CAARNG his previous USNR time was not taken into consideration and therefore his date of entry of 16 April 2021 was considered as his initial enlistment and therefore fell in line with Army guidance that members who joined after 1 January 2018 would automatically be enrolled into BRS.

f. In discussion with the BRS Policy Coordinator, they are aware that when Soldier's transfer from one service component to another there is an error that occurs with the pay system not capturing service members entry pay date, and therefore Soldiers are occasionally transferred into the BRS system.

g. Additionally, though the applicant was eligible to opt in, which he did not, he had never completed the Opt-in-course and therefore should be reinstated back to the Army legacy retirement system. The opinion was coordinated with the assistance of the Army National Guard Bureau transition office.

4. On 6 August 2024, the applicant was provided with a copy of the NGB advisory opinion 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 review based on law, policy, and regulation. Upon review of the applicant's petition, available military records, and the National Guard Bureau, Chief, Special Actions Branch advisory opinion, the Board concurred with the advisory official finding the applicant was erroneously transferred into the Blended Retirement System and transferring him back falls under current guidance.

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 the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army and the Army National Guard records of the individual concerned be corrected by showing he elected to remain in the legacy "high-3" retirement system.

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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. 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 6-4 (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.

2. 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 Department of Defense 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 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.

3. 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. 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//