

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 7 August 2024

DOCKET NUMBER: AR20240000746

APPLICANT REQUESTS:

- an exception to policy (ETP) to convert from the Uniformed Services Blended Retirement System (BRS) back to the Legacy / High 3 Retirement System (Legacy)
- personal appearance

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

- DD Form 149 (Application for Correction of Military Record)
- Self-authored letter

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 in pertinent part that she did not receive adequate training prior to opt-in to the BRS. She contests that she did not receive training by her unit administrative staff and the training provided through the BRS website was insufficient to make an informed decision about retirement. Despite her efforts to seek out adequate information, she continued to encounter obstacles (website errors, ill equipped leadership, and unsolicited advice) that prevented her from completely understanding BRS and how it would impact her retirement goals. Given the importance of BRS and its impact on her future retirement benefits, she is now concerned that her lack of training, availability of informed leaders, and inaccurate information adversely affected her financial planning and decisions. She notes that at her age, with almost 10 years of service completed at the time of application, she did not fully appreciate the comparative long-term benefits of the Legacy System for someone in her position. The BRS seemed appealing due to its flexibility and the matching contributions, but she did not fully understand the cumulative impact of the High-3 system on her potential retirement benefits. As a service member, the applicant argues that she has the right to

receive adequate training and support of which did not occur. In light of these circumstances, she would like an ETP authorizing her to revert back to the legacy retirement plan that she was previously under when she joined the military in 2014.

3. A review of the applicant's available service records reflects the following:

a. On 10 April 2014, the applicant enlisted in the U.S. Army Reserve (USAR) for 8 years.

b. On 27 September 2017, the applicant enlisted in the Army National Guard for 4 years.

c. On 9 November 2017, Headquarters, 99th Readiness Division issued Orders Number 17-313-00051 retroactively discharging the applicant from the USAR permitting his transfer into the ARNG effective 26 September 2017.

d. On 3 April 2021, the applicant elected to extend her enlistment by 2 years.

e. On 26 July 2023, the applicant elected to extend her enlistment by 1 month resulting in a 23 October 2026 expiration term service (ETS) date.

f. On 25 October 2023, the applicant was discharged from the DCARNG. NGB Form 22 (National Guard Report of Separation and Record of Service), item 23 (Authorization and Reason) reflects "ETS."

4. The Department of Defense policy is that this informed decision by a Soldier eligible to enroll in the BRS is irrevocable.

#### BOARD DISCUSSION:

1. 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 and standard review based on law, policy and regulation. The governing policy provides that the decision by a Soldier eligible to enroll in the BRS is irrevocable. Upon review of the applicant's petition, available military records, the Board noted the applicant indicated BRS seemed appealing due to its flexibility and the matching contributions, but she did not fully understand the cumulative impact of the High-3 system on her potential retirement benefits. The Board agreed it cannot grant exceptions to policy based on limited understanding. The Board determined evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board denied relief.

2. The applicant's request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

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.

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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. 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. ALARACT 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.

3. AR 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that applicant's do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

//NOTHING FOLLOWS//