

IN THE CASE OF: [REDACTED]

BOARD DATE: 5 December 2024

DOCKET NUMBER: AR20240002148

APPLICANT REQUESTS: retroactive reinstatement into the Blended Retirement System (BRS) and Thrift Savings Plan (TSP) participation.

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

- DD Form 149 (Application for Correction of Military Record)
- Case Resolution Management

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 he received an email from the Defense Finance Accounting Service (DFAS) stating that his TSP agency auto contribution and matching have both been terminated. He was informed the change originated from a request made three years ago to switch from the BRS to the Legacy Retirement System. He did not make a request to change this entitlement. At the time of the change, he was in the Reserve Officers' Training Corps and not on active duty. He wishes to remain in the BRS with contributions being made to his TSP at a rate of 15 percent of his base pay.
3. A review of the applicant's service record shows:
 - a. On 17 November 2017, he enlisted in the U.S. Army Reserve (USAR).
 - b. Orders Number 8149028, issued by the Department of Defense, Military Entrance Processing Station on 21 May 2018, ordered him to initial active duty for training with a report date of 29 May 2018.
 - c. Orders Number 176-1307, issued by the U.S. Army Maneuver Support Center of Excellence on 25 June 2018, discharged him from the USAR with an effective date of

27 June 2018. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he completed 29 days of service.

d. On 14 May 2021, the applicant was appointed as a Reserve commissioned officer and executed an oath of office the same day.

4. The applicant provides a Case Resolution Management case dated 31 January 2024 that states he was erroneously removed from the BRS and enrolled into the Legacy Retirement System, and that he would like to be enrolled into the BRS again.

5. In response to the request for an advisory opinion, a Program Analyst from the Compensation and Entitlements Division, Department of the Army, G-1, stated:

a. After careful review of the information provided, in the interest of fairness and equity, the applicant should be retroactively enrolled into the BRS effective 16 October 2021. He was originally enrolled in BRS effective 16 October 2021, with a vesting date of 17 October 2023, which is the original date he was identified as being enrolled in BRS erroneously.

b. The U.S. Army Human Resources Command confirmed the applicant is currently enrolled in BRS effective February 2024. There is no documentation or evidence presented that reflects he was aware or had knowledge of the erroneous enrollment.

c. The applicant's BRS account should be adjusted back to the original date of enrollment, which was initiated through systems errors, and no fault of the Soldier.

6. On 11 October 2024, the applicant was provided with a copy of the advisory opinion for comment or rebuttal. He did not provide a response in reference to the advisory opinion.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found relief is warranted.

2. The Board concurred with the conclusion of the advisory official that the applicant was erroneously removed from BRS. The Board determined the applicant's record should be corrected to show he enrolled in BRS effective 16 October 2021.

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 records of the individual concerned be corrected by showing he was enrolled in BRS effective 16 October 2021.

X

CHAIRPERSON

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, USC, 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. 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, USC, 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.

3. 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.

//NOTHING FOLLOWS//