

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 29 January 2025

DOCKET NUMBER: AR20240003665

APPLICANT REQUESTS: disenrollment from the Blended Retirement System (BRS) and transfer into the High 3 (legacy retirement).

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

- DD Form 149 (Application for Correction of Military Record)
- Headquarters, 99th Regional Support Command Orders 12-103-00041, 12 April 2012
- Defense Finance and Accounting Service (DFAS) Military Leave and Earnings Statement
- National Guard Bureau (NGB) Form 22 (Report of Separation and Record of Service)
- NGB Form 23A (Current Annual Statement)

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 she re-enlisted into the ARNG in 2020, after 8 years of service, she separated in 2012, and then an 8-year break in service. At the time of re-enlistment, the choice was not presented to her to remain in the High 3 legacy system or opt-in to BRS. At the time, she had 1,064 retirement points and less than 12 years of service, she should have been given a choice. It was brought to her attention she had been automatically enrolled in BRS after her re-enlistment. She endured officer candidate school to receive her commission to ensure a higher pension with the intention of retiring after 30 years of service, a path she would not have chosen had she known she was enrolled in BRS.

3. The applicant provides:

a. NGB Form 22, which shows her record of service from 13 February 2004 to 12 February 2010 as a member of the ARNG. The form reflects 6 years of service and honorable discharge for expiration of active status commitment in the Selected Reserve.

b. NGB Form 23A, which shows her points history from 13 February 2004 until the date prepared, 6 July 2023, and annotated 1,376 total career points and 10 years of creditable service for retired pay.

4. A review of the applicant's service record shows:

a. Having prior ARNG service from 13 February 2004 to 12 April 2012, she re-enlisted in the ARNG on 6 July 2020.

b. She was voluntarily separated to accepted appointment as a commissioned officer on 10 September 2022.

c. She was commissioned as a second lieutenant on 11 September 2022.

d. She continues service in the ARNG.

5. An advisory opinion was received in the processing of this case from the NGB. On 21 January 2025, the Chief, Special Actions Branch recommended approval of the applicant's request.

a. After review of the applicant's submission, records, and discussion with the RIARNG, the applicant is enrolled in BRS. A review of the applicant's submitted LES does not indicate enrollment into the BRS.

b. As the applicant's date of initial entry into military service is prior to 1 January 2018, the applicant should have been given the option to opt into the BRS in accordance with the Deputy Secretary of Defense Memorandum, subject: Implementation of BRS, dated 27 January 2017 (BRS Implementation Guidance); there is no automatic enrollment as the applicant must agree to be removed from the High 3 legacy retirement system as well as complete the required training to be enrolled. RIARNG confirmed [Applicant] is currently enrolled in BRS.

c. It is the recommendation of their office that the applicant's request be approved.

d. The RIARNG concurs with their recommendation.

6. On 23 January 2025, the applicant was provided with a copy of the advisory opinion for review and/or comment.

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 National Guard Bureau- Special Actions Branch advisory opinion, the Board concurred with the advising opinion recommendation for approval finding the applicant should have been given the option to opt into the BRS in accordance with the Deputy Secretary of Defense Memorandum, subject: Implementation of BRS, dated 27 January 2017.

2. The Board determined there is sufficient evidence based on the advising opine to show the applicant's disenrollment from the Blended Retirement System (BRS) and transfer into the High 3 (legacy retirement). The Board noted, the applicant reenlisted in the Army National Guard in 2020 following an eight-year break in service, with prior service dating back to 2004. Evidence in the record show, at the time of reenlistment, the applicant had accumulated over 1,000 retirement points and fewer than 12 years of service, qualifying her for a choice between the High-3 legacy retirement system and the Blended Retirement System (BRS). However, the applicant was not presented with this option and was automatically enrolled in BRS, contrary to policy outlined in the Deputy Secretary of Defense's BRS Implementation Guidance. The Board acknowledged the applicant's intent to retire after 30 years of service and her pursuit of a commission further support her claim that she would have opted to remain in the legacy system had she been properly informed. Therefore, the Board granted relief to correct the applicant's record to reflect disenrollment from BRS and transfer into the High-3 retirement system.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
XXX	XXX	XXX	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 to show the applicant's disenrollment from BRS and transfer into the High-3 retirement system.

X //SIGNED//

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, 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. Deputy Secretary of Defense Memorandum, Implementation of the Blended Retirement System, dated 27 January 2017, advised the Blended Retirement System (BRS) went 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//