

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 15 January 2025

DOCKET NUMBER: AR20240004664

APPLICANT REQUESTS:

- Disenrollment from the Blended Retirement System (BRS) and transfer into the High 3 (legacy retirement); and
- Government matching contributions be forgiven and not recouped

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

- DD Form 149 (Application for Correction of Military Record)
- Leave and Earnings Statements (LES), December 2021 - March 2023

FACTS:

1. The applicant states:

a. He was enrolled in the High 3 (legacy) retirement system upon initial enlistment. In January 2018, while in the Army National Guard (ARNG), a new retirement system started, and he opted into the BRS because it was explained to him that he was no longer eligible for the High 3 due to his part-time status as a traditional guardsman. He was under the impression that all guardsmen had to opt-in to receive any retirement.

b. On 16 June 2021, he was able to access back into the Regular Army at Fort Stewart, GA. During in-processing at Finance, he was told that he could now opt back in to the High 3 retirement system since they looked in the finance system and saw that he was previously enrolled and that he had the option since he was newly accessing on active duty. He immediately chose to opt back in to the High 3 retirement system. For nearly two (2) years, his LES showed the appropriate retirement system (High 3/Legacy), until April 2023 when it suddenly changed to BRS. He did not elect for or wanted this change to BRS. He wanted to remain on High 3 until his retirement date, in which he had for the previous 2 years.

c. He respectfully requests to be placed back on the High 3 retirement system as he elected/opt-in on 16 June 2021, while completing in-processing for accession into the Regular Army. Separately, he asks that any government matching contributions be

forgiven and not recouped, as this was very likely a system error due to the implementation of the Integrated Personnel and Pay System – Army (IPPS-A). However, if debt forgiveness is not advantageous and recoupment is necessary with returning him to High 3/Legacy system, please correct the error/injustice by placing him back on High 3/Legacy system. He believes this is an error and injustice as he elected for High 3 system and signed official paperwork stating that he would receive the High 3/Legacy retirement pay upon retirement from the Army. He has always acted under what he believed to be sound advice at the time of each decision. It was also explained to him that the implementation of IPPS-A is likely the cause of his records and retirement system being changed. LES records also show that he was on High 3 until April 2023.

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

- a. Having prior enlisted service in the Regular Army and ARNG, on 3 August 2013:
 - DA Form 71 (Oath of Office - Military Personnel) shows he was appointed as a second lieutenant (2LT)/O-1E in the Army of the United States, without component, and executed his oath of office
 - National Guard Bureau (NGB) Form 337 (Oaths of Office) shows he was appointed as a 2LT in the Georgia ARNG (GAARNG) and executed his oath of office
- b. On 15 January 2015, the applicant entered active duty.
- c. On 11 July 2018, DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he was honorably released from active duty.
- d. On 12 July 2018, the applicant entered active duty.
- e. On 16 May 2019, DD Form 214 shows he was released from active duty and was transferred to his GAARNG unit.
- f. On 17 May 2019, the applicant entered active duty.
- g. On 8 November 2019, DD Form 214 shows he was released from active duty.
- h. On 9 December 2019, the U.S. Army Human Resources Command (AHRC) published Orders Number HR-9343-00011, which ordered the applicant to Active Duty for Operational Support to serve as Headquarters Department of the Army G-1 Waiver Action Officer for a period of 366 days with a report date of 1 January 2020. The orders show his Pay Entry Base Date (PEBD) as 2 March 2004. The tour length was changed to 731 vice 366 days.

i. On 23 March 2021, AHRC published Orders Number A-03-100136, which ordered the applicant to active duty to fulfill an active duty requirement in a voluntary indefinite status with a report date to his unit at Hunter Army Airfield, GA, on 16 June 2021.

j. On 15 June 2021, DD Form 214 shows he was released from active duty and was transferred to his GAARNG unit.

k. On 19 June 2021, the GAARNG published Orders Number 0001239121.00 voluntarily separating the applicant from the GAARNG for appointment in the Regular Army, effective 15 June 2021.

l. His record contains an NGB Form 23A (ARNG Current Annual Statement) prepared on 8 January 2022, which shows in pertinent part:

- 5184 Active Duty Points
- 5728 Total Career Points
- 5557 Total Points for Retired Pay
- 17 years, 9 months, and 2 days Creditable Service for Retired Pay

m. On 27 February 2023, the Department of the Army published Order Number 0004088687.00, which reassigned the applicant to the Office of the Deputy Chief of Staff G-1, effective 1 July 2023.

n. He is currently serving on active duty.

3. In support of his case the applicant provides LES during the period of December 2021 through March 2023, which show in pertinent part:

- December 2021 to February 2023, his Retirement Plan was shown as "Choice" and shows deductions for ROTH Thrift Savings Plan (TSP) and contributions totals.
- March 2023, his Retirement Plan was shown as Blended (BRS) and shows deductions for ROTH TSP and contributions totals.

4. On 25 November 2024, the Office of the Deputy Chief of Staff G-1, Program Analyst Compensation and Entitlements Division provided an advisory opinion for this case and did not support the applicant's request for disenrollment from BRS and transfer into the High 3 (legacy retirement system). The G-1 advisory official stated:

a. After careful review of the information provided, we do not support the applicant's request for disenrollment from BRS and transfer into the High 3 (legacy retirement system). The applicant opted into BRS effective 2 January 2018, IP Address 24.125.251.242; at the time of BRS enrollment he was made aware of the irrevocable

election to participate in the BRS. There is no evidence the applicant made this election in error.

b. The applicant had ample opportunity to review online resources related to the options of enrolling into BRS versus staying in the High 3 retirement system as referenced in 1.b. (Office of the Secretary of Defense, memorandum (Implementation of the Blended Retirement System), 27 January 2017).

c. Pursuant to the 1.b, paragraph 9b(3), Department of Defense (DoD) Implementation Guidance states: "The decision to enroll in the BRS is Irrevocable." The DoD and the Department of Army published clear instructions regarding the eligibility and made all Soldiers aware of the irrevocable nature when electing BRS.

d. On 1 January 2018, eligible Soldiers were given access to the BRS link on myPay to enroll into the BRS. The system process required Soldiers to follow 5 separate screens to include providing their current address and date of birth. Screen 2 required the Soldier to acknowledge the understanding that the decision to opt in was irrevocable once they complete the election. On screen 3 and 4, Soldiers had to check a box and answer a question respectively that stated, "I fully understand that I am opting into the BRS". Screen 5 allowed the Soldier to save and print the confirmation and again informed the Soldier that they were opting into the BRS.

e. Recommend retroactive approval of 1 percent agency automatic and matching funds effective 1 February 2018, based on the applicant's initial decision to opt into BRS effective 2 January 2018.

5. On 30 November 2024, the applicant was provided with a copy of the G-1 advisory opinion to allow comments or rebuttal.

6. On 11 December 2024, the Deputy Chief of Staff G-1, Chief, Compensation and Entitlements Division, provided an additional advisory opinion for the case and stated:

a. After careful review of additional information provided for consideration, I recommend the Board approve the applicant's request for administrative relief to be disenrolled from BRS and transfer into the High-3 legacy retirement system. This opinion replaces the opinion provided by my staff dated 25 November 2024.

b. This action is justified due to the misinformation provided by both accessions' personnel and finance offices. He was not at fault for this error, and it is in the interest of fairness and equity to correct the record and allow him to remain in the High-3 retirement system, as originally planned. This adjustment would rectify the unintended consequences of the misinformation and ensure that the applicant is not unfairly impacted by administrative oversights.

7. The applicant was provided with a copy of the advisory opinion. He did not respond.

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 Deputy Chief of Staff G-1, Chief, Compensation and Entitlements Division advisory opinion, the Board concurred with the advising official recommendation for approval finding due to the misinformation provided by both accessions' personnel and finance offices. The applicant was not at fault for this error, and it is in the interest of fairness and equity to correct the record and allow him to remain in the High-3 retirement system, as originally planned.

2. The Board determined there is sufficient evidence to support the applicant's contentions for disenrollment from the Blended Retirement System (BRS) and transfer into the High 3 (legacy retirement); and government matching contributions be forgiven and not recouped. The Board agreed administrative relief for the applicant to be disenrolled from BRS and transfer into the High-3 legacy retirement system is warranted. Based on the advisory opine, the Board granted relief.

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 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 by showing the applicant is eligible to disenrollment from the Blended Retirement System (BRS) and transfer into the High 3 (legacy retirement); and government matching contributions be forgiven and not recouped.



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. 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.

2. Army Regulation 600-4 (Remission or Cancellation of Indebtedness) provides policy and instructions for submitting and processing packets for remission or cancellation of indebtedness to the Army. Requests for remission or cancellation of indebtedness must be based on injustice, hardship, or both. In accordance with the authority of Title 10, U.S. Code (USC), section 7837 and/or Title 32, USC section 710(c), the Secretary of the Army may remit or cancel a Soldier's debt to the U.S. Army if such action is in the best interests of the United States.

//NOTHING FOLLOWS//