

**DEPARTMENT OF HOMELAND SECURITY
BOARD FOR CORRECTION OF MILITARY RECORDS**

Application for Correction of
the Coast Guard Record of:

BCMR Docket No. 2024-083


LTJG (O-2)

FINAL DECISION

This proceeding was conducted according to the provisions of 10 U.S.C. § 1552 and 14 U.S.C. § 2507. The Chair docketed the case after receiving the completed application on April 23, 2014, and assigned the case to a staff attorney to prepare the decision pursuant to 33 C.F.R. § 52.61(c).

This final decision, dated April 24, 2025, is approved and signed by the three duly appointed members who were designated to serve as the Board in this case.

APPLICANT'S REQUEST

The applicant is a currently serving Lieutenant Junior Grade (O-2). Applicant began his Coast Guard career as an enlisted member at the Marion Military Institute in July 2016. He subsequently entered the U.S. Coast Guard Academy (USCGA) in July 2018, graduating in May 2022. The applicant claims that he did not know that, because of his previous enlisted service, he was enrolled in the "legacy" retirement system, not the new Blended Retirement System (BRS). Upon learning this, he requested that his records be amended to reflect that he opted into the BRS.

SUMMARY OF THE RECORD

The applicant entered the Coast Guard as an enlisted member on July 18, 2016. He immediately began studies at Marion Military Institute in an academic preparatory program for the USCGA. As a result, applicant has a date of initial entry into military service (DIEMS) of July 18, 2016.

The applicant entered USCGA in 2018, and graduated with his class on May 18, 2022.

The Coast Guard, along with the rest of the U.S. military, transitioned from the “legacy” retirement system to the BRS in 2017. While there are significant differences to retired pay and other benefits between these two systems, these differences are not relevant to the Board’s decision. Members who joined the Coast Guard prior to December 31, 2017 were “grandfathered” into the legacy retirement system. Those joining after were enrolled in the BRS with no option to opt into the legacy system.

While this was accompanied by a significant roll-out starting in 2016, the applicant claims not to have been informed or counseled, and that he believed he was enrolled in the BRS until reviewing his pay slips after graduation from the USCGA.

VIEWS OF THE COAST GUARD

On February 28, 2025, a Judge Advocate (JA) for the Coast Guard submitted an advisory opinion adopting the position of the Coast Guard Personnel Service Center (PSC) in which he recommended that the Board grant alternate relief in this case.

The PSC acknowledges that the applicant was indeed properly enrolled in the legacy retirement system because of his 2016 DIEMS date, and that he was required to opt in to the BRS during calendar year 2018 if desired. They further acknowledge that is “entirely plausible” that the applicant was unaware of this situation because it was widely assumed that all USCGA cadets in the class of 2022 would have a 2022 DIEMS date and thus be automatically enrolled in the BRS.

The PSC recommends that the Board grant alternate relief by being permitted to retroactively opt-in to the BRS effective the pay period of April 2023, the month his BCMR application was filed.

APPLICANT’S RESPONSE TO THE VIEWS OF THE COAST GUARD

The applicant was provided the Coast Guard Advisory Opinion on March 3, 2025 and given 30 days to respond. As of the date of the Board, he had not provided a response.

APPLICABLE LAW AND POLICY

The BRS was established by law in Sections 631-635 of the FY16 National Defense Authorization Act (NDAA), modified by Sections 631-633 of the FY17 National Defense Authorization Act.

The Department of Defense (DoD) published a policy entitled “Implementation of the Blended Retirement System” on January 27, 2017. This applies to the Coast Guard by agreement with DHS. Policy and procedures in this document superseded all existing “guidance for military retirement in all applicable Departmental issuances . . .” In relevant part, this policy states:

--The BRS went into effect on January 1, 2018. All members joining the uniformed services on or after that date would be enrolled in the BRS with no option to opt in to the legacy retirement system.

--Members who had joined before January 1, 2018 would be grandfathered in to the legacy retirement system. Members with fewer than 12 years of total service were allowed to opt in to the BRS between January 1 and December 31, 2018.

--Cadets at academies (including USCGA) with DIEMS dates prior to December 31, 2017 and in receipt of pay after December 31, 2017 were allowed to opt in to the BRS during calendar year 2018, with that decision taking effect upon their graduation and commissioning.

--DIEMS/DIEUS dates are defined by the policy as follows: “For cadets/midshipmen at one of the Military Service Academies, it is *the date of entry into the academy*” (emphasis added).

FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions based on the applicant’s military record and submissions, the Coast Guard’s submission and applicable law:

1. The Board has jurisdiction over this matter under 10 U.S.C. § 1552(a) because the applicant is requesting correction of an alleged error or injustice in his Coast Guard military record. The Board finds that the applicant has exhausted his administrative remedies, as required by 33 C.F.R. § 52.13(b), because there is no other currently available forum or procedure provided by the Coast Guard for correcting the alleged error or injustice that the applicant has not already pursued. The application is made within three years after discovery of the alleged error or injustice, and is therefore timely.

2. The Board may correct any military record of the Coast Guard when necessary to correct an error or remove an injustice.¹ Error means either legal or factual error.² Injustice, when not also error, is treatment by the military authorities that shocks the sense of justice but is not technically illegal.³ When considering allegations of error and injustice, the Board begins its analysis by presuming that the disputed information in the applicant's military record is correct as it appears in the record, and the applicant bears the burden of proving by a preponderance of the evidence that the disputed information is erroneous or unjust.⁴ Absent evidence to the contrary, the Board presumes that Coast Guard officials and other Government employees have carried out their duties "correctly, lawfully, and in good faith."⁵

3. The Board finds that the applicant's record contains no error. By his own admission, he did not opt in to the BRS during the one-year window in 2018. His DIEMS date was in 2016, prior to the window for automatic entry into the BRS. As a result, he is enrolled in the legacy retirement system.

4. However, while there was no error specific to the applicant's record, the Coast Guard appears to have erred in their implementation of the BRS with respect to cadets at the USCGA. All cadets who had entered *either* military service generally *or* the academy as cadets prior to December 31, 2017 (at a minimum, all of those in the classes of 2018, 2019, 2020, and 2021) should have been informed of their right to opt in to the BRS, and that the effect of not doing so would keep them enrolled in the legacy retirement system; in other words, that a 2018 or later graduation date would not automatically enroll them in the BRS. The Board finds the Coast Guard's advisory opinion in this case troubling. It contends that the Coast Guard "widely assumed" that DIEMS dates for cadets would be the date of their graduation. This clearly conflicts with the published policy, and raises a question – although not germane to this applicant – about whether other cadets and graduates were properly informed of the change in retirement systems, their right to opt in to the BRS, and the effect of not doing so.

5. With respect to this applicant, it is clear that he should have been informed that his DIEMS date prior to December 31, 2017 would result in him being grandfathered into the legacy retirement system, unless he opted into the BRS in 2018. The Board acknowledges that, whatever the Coast Guard's errors, members of the USCGA class of 2022 would have been automatically enrolled in the BRS unless they had military service

¹ 10 U.S.C. § 1552(a); 33 C.F.R. § 52.2(a).

² *Sawyer v. United States*, 18 Cl.Ct. 860, 868 (1989), *rev'd on other grounds*, 930 F.2d 1577 (Fed.Cir.1991).

³ *Id.*

⁴ 33 C.F.R. § 52.24(b).

⁵ *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

prior to beginning the cadet program in the summer of 2018. As an outlier among that group, we find that the applicant was not informed of the effect of his earlier DIEMS date and the impact on his retirement options. Had he been, we are convinced that he would have opted in to the BRS in 2018, with that election taking effect upon his graduation on May 18, 2022.

6. The Coast Guard will correct the applicant's record to reflect enrollment in the BRS effective May 18, 2022.

(ORDER AND SIGNATURES ON NEXT PAGE)

ORDER

The application of LTJG [REDACTED] is granted. He will be enrolled in the Blended Retirement System (BRS) effective May 18, 2022.

April 24, 2025

