

IN THE CASE OF: [REDACTED]

BOARD DATE: 3 October 2024

DOCKET NUMBER: AR20240000339

APPLICANT REQUESTS: re-computation of retirement pay at age 62 under the Temporary Early Retirement Authority (TERA).

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Certificate of Release or Discharge from Active Duty), 30 June 1995
- Certificate of Appreciation, 31 December 2015
- Certificate of Appreciation
- Identification Cards

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code (USC), 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 he was made aware of TERA in December of 1994. In February or March 1995, he was advised that he was eligible for early retirement, so he submitted his request accordingly. Prior to retiring, he was advised that he would receive the same benefits as a service member who completed 20 years of service, but his retirement pay would be calculated based on his completion of 16 years of service. However, upon reaching age 62, he would need to contact the Department of Defense to have his retirement pay recalculated based on reaching 20 years of service. He contests that he was not informed of the additional requirements as provided by Section 4403 of Fiscal Year (FY) 1993 National Defense Authorization Act (NDAA).
3. A review of the applicant's available service records reflects the following:
 - a. On 2 July 1979, the applicant enlisted in the Regular Army.

b. On 28 August 1990, Headquarters, 5th Infantry Division (Mechanized) and Fort Polk issued Orders Number 00166-048 announcing the applicant's promotion to staff sergeant (SSG)/E-6, effective 1 September 1990.

c. On 30 June 1995, the applicant honorably retired from military service in accordance with Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), Chapter 12 (Retirement for Length of Service). DD Form 214, item 18 (Remarks) provides that the applicant was retiring as provided by Section 4403 of the FY93 NDAA (Public Law 102-484) and may qualify for recomputation of retired pay at age 62 (Section 4464 of the same law). He completed 15 years, 11 months, and 29 days of net active service.

4. The applicant provides:

a. Certificate of Appreciation dated 31 December 2015, reflective of the applicant being recognized by the city of Houston for his completion of 20 years of meritorious service to his community.

b. Certificate of Appreciation reflective of the applicant being recognized by the United Negro College Fund for his contribution.

c. Identification Cards reflecting varying employment periods within the city of [REDACTED], and [REDACTED]

5. On 1 August 2024, a Program Analyst, Compensation and Entitlements Division, Office of the Deputy Chief of Staff, G-1, provided an advisory opinion recommending disapproval of the applicant's request, noting that procedures for reporting and computing the enhanced retirement credit are computed based on the DD Form 2676 (Validation of Public or Community Service Employment), which is missing from the application. The applicant retired from the Army under TERA on 30 June 1995, with a total of 15 years, 11 months, and 29 days of active Federal service. The applicant needs to complete a DD Form 2676. When the applicant resubmits the application with the required DD Form 2676, if the employment is verified as currently reflected on the Certification of Appreciation form, the applicant's Enhanced Retirement Qualification Period will be adjusted accordingly.

6. On 2 August 2024, the applicant was provided with a copy of the advisory opinion and afforded 15 days to provide comments. As of 30 September 2024, the applicant has not responded.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found relief is not warranted.
2. The Board concurred with the conclusion of the advisory official that, while the applicant may be eligible for recomputation of his retired pay, he must first a DD Form 2676 and go through the established verification process. The Board determined that relief is not warranted at this time without the benefit of the applicant utilizing the correct process.

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.

3/29/2025

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. Department of Defense Instruction (DODI) 1332.37 (Program to Encourage Public and Community Service (PACS) Employment) establishes policy, assigns responsibilities, and prescribes procedures to encourage and assist separating Service members, Service members retiring with 20 or more years of service, DOD civilian personnel leaving the Government, and spouses, to enter PACS employment and to encourage and assist Service members requesting retirement with fewer than 20 years of service to register for PACS employment.

a. Section 4.2.2. provides that in order for retirees to have their military retired pay recomputed in accordance with DODI 1340.19 (Certification of PACS Employment of Military Retirees), early retirees must be employed with a DOD-registered PACS organization that provides the services listed in enclosure 1, subparagraphs E1.1.4.1. through E1.1.4.12., or that coordinates the provision of services listed in enclosure 1, subparagraphs E1.1.4.1. through E1.1.4.12. PACS organizations provide or coordinate the following services:

- Elementary, secondary, or post-secondary school teaching or administration
- Support of teachers or school administrators
- Law enforcement
- Public health care
- Social services
- Public safety
- Emergency relief
- Public housing
- Conservation
- Environment
- Job training
- Work in a Federal, state or local government organization in which provides or coordinates services listed above
- Other PACS consistent with or related to services listed above

b. Section 6.3.1. Registering for PACS is a requirement for consummation of their early retirement under Public Law 102-484, section 4403 or section 561 of Public Law 103-160.

c. Section 6.3.2. Early retirees must provide a copy of their confirmation DORS mini-resume to their servicing military personnel office for filing in their Service record before their final retirement processing.

d. Section 6.3.5. DOD-approved PACS employment qualifies the Service member who is retired under Public Law 102-484, section 4403 or Public Law 103-160 for increased retired pay effective on the first day of the first month beginning after the date on which the member or former member attains 62 years of age. The former service member must have worked in DOD-approved PACS employment between the date of early retirement and the date in which he or she would have attained 20 years of creditable service for computing retired pay and have retired on or after 23 October 1992 and before 1 October 1999.

3. Retirees were required to document their employment using DD Form 2676 and submit the form to the DMDC. The timeline to submit PACS applications to the DMDC ended 1 year to the day after the member's ERQP expired. DMDC is no longer authorized to accept any new PACS applications. The program officially expired in August 2008 (1 year after the last official TERA recipient's ERQP expired).

//NOTHING FOLLOWS//