

IN THE CASE OF: [REDACTED]

BOARD DATE: 17 October 2024

DOCKET NUMBER: AR20240001640

APPLICANT REQUESTS: recalculation of his retired pay based on the provisions of Public Law 102-484. In effect, he requests adjustment of his retired pay under the provisions of the Temporary Early Retirement Authority (TERA).

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

- DD Form 149 (Application for Correction of Military Record)
- Retirement Order, 2 February 1999
- Transition Order, 2 February 1999
- DD Form 214 (Certificate of Release or Discharge from Active Duty)

FACTS:

1. The applicant states he retired under the Temporary Early Retirement Authority (TERA), and he requests recalculation of his retired pay based on the provisions of Public Law 102-484.

2. The applicant was born in 1959. He turned 62 in 2021.

a. Having had prior service, he entered active duty from [REDACTED] Army National Guard ([REDACTED] ARNG) on 1 June 1995. He served in a variety of assignments in the rank/grade of sergeant first class (SFC)/E-7.

b. On 2 February 1999, [REDACTED] ARNG published Orders 021-275 releasing him from active duty on 30 April 1999 and placing him on the retired list in his retired rank/grade of SFC/E-7 on 1 May 1999.

c. He retired on 30 April 1999, and he was placed on the Retired List in his retired rank/grade of SFC/E-7 on 1 May 1999. His DD Form 214 shows he retired by reason of voluntary early retirement after completing 16 years, 2 months, and 18 days of total active service. His DD Form 214 indicated "member is retiring as provided by Section 4403 of the FY 1993 NDAA (National Defense Authorization Act) (Public Law 102-484 and may qualify for re-computation of retired pay at age 62 (Section 4464 of same law).

3. On 25 July 2024, the National Guard Bureau provided an advisory opinion in the processing of this case. The advisory official restated the applicant's request for a new computation of his retired pay at age 62 in accordance with sections 4403 and 4464 of the FY 1993 NDAA. The advisory official recommended denial, and stated:

a. The applicant was placed on the retired list on 1 May 1999 under sections 4403 and 4464 of the FY 1993 NDAA, also known as Temporary Early Retirement Authority (TERA). His DD 214 with separation date effective 30 April 1999 indicates that he may qualify for a new computation of his retired pay in accordance with Public Law 102-848 (National Defense Authorization Act for Fiscal Year 1993), 23 October 1992

b. TERA authorized members with over 15, but less than 20 years active-duty service to apply for early retirement. This program ended in 2002. The Public and Community Service (PACS) program (reference Public Law 102-848) allowed TERA retirees to apply some post-retirement employment towards their military retirement starting at age 62. PACS credit was authorized up to the time the member would have met 20 years of military service had they remained on active duty. This period is known as the Enhanced Retirement Qualification Period (ERQP). The timeline to submit PACS applications ended one year to the day the member's ERQP expired. In the applicant's case, that date was 17 April 2004.

c. The PACS program officially expired in August 2008. For the Soldier to be eligible for PACS credit, he would need to provide evidence in his application that he completed post-retirement employment with a pre-approved employer. Because his application does not contain any documented proof of this employment, this office cannot provide an opinion on his request for PACS credit and computation of his retired pay.

d. This opinion was coordinated with the ARNG Personnel Policy Division, AGR Policy Branch, Retirement Services Section. The Tennessee Army National Guard did not provide input on this case.

5. The applicant was provided with a copy of this advisory opinion to give him an opportunity to provide a rebuttal. 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 relief is not warranted.

2. The Board concurred with the conclusion of the advisory official that the applicant has not provided evidence of qualifying post-retirement employment performed within his ERQP that would be a basis for relief in this case. Based on a preponderance of the

evidence, the Board determined there is no basis for the correction the applicant seeks at this time.

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.

3/31/2025

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. The Temporary Early Retirement Authority (TERA) was enacted by Congress on 23 October 1992 as part of the National Defense Authorization Act of Fiscal Year 1992.
 - a. Its intent was to assist in the military draw-down of forces by permitting selected military members to retire early when they had between 15 and 20 years of service. Additional years of service could be accumulated, even though not serving in military uniform, during a period called Enhanced Retirement Qualification Period (ERQP).

b. The ERQP was that period from the date of retirement to the date on which the retiree would have attained 20 years of creditable service for the purpose of computing retired pay. The additional years were earned by service in military Reserve Components or employment in qualifying public or community service organizations – called the Public and Community Service (PACS) program.

c. At age 62, the TERA retiree was permitted to have their retired pay recomputed and increased accordingly.

d. The Secretaries or the respective services designated the ranks and military specialties that were eligible to apply according to the needs of the service. Retirement under this program was not a right; it is granted on an individual basis according to the requirements of the service.

2. DODI 1332.37 (Programs to Encourage 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. In order to have their military retired pay and Survivor Benefit Plan base amount (if applicable) recomputed in accordance with DODI 1340.19 (reference (c)), 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.

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

c. Section 6.3.2. Early retirees must provide a copy of their confirmation Defense Outplacement Referral System (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 (reference (a)) or Public Law 103-160 (reference (b)) 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.

//NOTHING FOLLOWS//