

IN THE CASE OF: [REDACTED]

BOARD DATE: 14 November 2024

DOCKET NUMBER: AR20240003049

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)
- DD Form 214 (certificate of Release or Discharge from Active Duty)
- Aerial Photograph of a Plot
- Several newspapers and/or magazine articles
- Standard Form (SF) 50, Notification of Personnel Action

FACTS:

1. The applicant states he requests a re-evaluation to his military records to prove him Qualified Public Service (QPS). He retired from active-duty Army 30 June 1997 under the military temporary early retirement program (TERA). His DD Form 214 reflects in Block 18 (Remarks) that his military pay may qualify for re-computation at age 62 by section 4403 or the Fiscal Year 1993, National Defense Authorization Act (NDAA) (Public Law 102-484). He is submitting this information for review and re-computation since he meets the age requirement of age 62, per his DD Form 214. In 1997, when he retired there was very limited if any access to online information. Even today the relevant information is difficult to obtain. He has enclosed a copy of his first employment, after retiring in 1997. He attempted to obtain a civilian government position as a respiratory therapist; however, none were available. He thus accepted a position in the Methodist hospital healthcare system in [REDACTED]. Attached is a verification letter of employment and several articles on the nonprofit status of Methodist Hospital at the time of his employment. The Qualified Public Service info does not specify whether the facility he worked in had to be a 100% nonprofit organization, therefore, he is qualified for re-computation time. Lastly, he has enclosed a copy of his most current SF 50 indicating he worked for the government for 14 years before retiring. He hopes this satisfies the requirements needed to update his military records.

2. The applicant was born in 1961. He turned 62 in 2023.

a. The applicant enlisted in the Regular Army on 13 March 1980. He served in a variety of assignments, attaining the rank/grade of sergeant first class (SFC)/E-7.

b. On 16 January 1997, Headquarters, Fort Carson, CO published Orders 016-0092 releasing him from active duty on 30 June 1997 and placing him on the retired list in his retired rank/grade of SFC/E-7 on 1 July 1997. May 1999. The orders state:

- Statute Authorizing Retirement: 4403
- Voluntary Retirement: 17 years, 4 months, and 18 days
- Section 1405: 17 years, 4 months, and 18 days

c. He retired on 30 June 1997, and he was placed on the Retired List in his retired rank/grade of SFC/E-7 on 1 July 1997. His DD Form 214 shows he retired by reason of voluntary early retirement after completing 17 years, 4 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 13 September 2020, an official at the Compensation and Entitlement Division of Army G-1 provided an advisory opinion in the processing of this case. The advisory official referenced Title 10, United States Code, Section 1143a and Department of Defense Instruction 1332.37 (Program to Encourage Public and Community Service Employment). After careful consideration, the advisory official stated:

a. This office does not recommend approval of the applicant's request or re-computation of his retirement pay at age 62 under the provision of section 4464 of Public Law 102-484. Procedures for reporting and computing the enhanced retirement credit are computed based on the Department of Defense (DD) Form 2676 (Validation of Public or Community Service Employment), which is missing from the application.

b. The applicant will need to provide a completed DD 2676 as required by reference 1.b, to process this request. The applicant retired from the Army under TERA on 30 June 1997, with a total of 17 years, 4 months, and 18 days of active Federal service. When the applicant resubmits the application with the required DD 2676, if the employment is verified as currently reflected on the Certification of Service form, the applicant's Enhanced Retirement Qualification Period will be adjusted accordingly.

4. 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:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive review based on law, policy, and regulation. Upon review of the applicant's petition and available military records, the Board reviewed and concurred with the Program Analyst for the Compensation and Entitlements Division for the Office of the Deputy Chief of Staff G-1 finding the applicant has not provided the appropriate documentation as required for the G-1 to process his request. When the applicant submits the application with the required DD Form 2676, if his employment is verified, his qualification period will be adjusted accordingly. Therefore, the Board denied relief.

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.

6/10/2025

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//