

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 13 March 2025

DOCKET NUMBER: AR20240007908

APPLICANT REQUESTS: re-computation of his retirement pay at age 62, under the provisions of Temporary Early Retirement Authority (TERA) due to his Public and Community Service (PACS).

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

- DD Form 149 (Application for Correction of Military Record)
- Orders Number 119-201, dated 29 April 1995
- DD Form 214 (Certificate of Release or Discharge from Active Duty) ending 30 September 1995
- SF's 50 (Notification of Personnel Action)
- Department of Defense Financial Management Regulation (DoDFMR), Volume 12, Chapter 18 excerpt
- Public Law 102-484 excerpt

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, 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, he retired under TERA with the Army. He was employed with the Department of Defense, Defense Accounting and Finance Center, as a federal employee, from 6 July 2009 through 28 February 2022, and would like recomputation of his retirement pay at age 62 as authorized by Public Law 102-484.
3. A review of the applicant's available service record reflects the following:
 - On 7 August 1979, he enlisted in the Regular Army
 - On 29 April 1995, Orders Number 119-201 was issued for retirement effective 1 October 1995
 - DD Form 214 shows honorable retirement with 16 years, 1 month, and 24 days of active service and narrative reason as voluntary early retirement

4. The Office of the Deputy Chief of Staff, G-1, Program Analyst, Compensation and Entitlements Division provided an advisory opinion recommending disapproval of the applicant's request stating, in effect:

a. After careful consideration this office does not recommend approval of the applicant's request for 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 applicants Enhanced Retirement Qualification Period of 7 August 1999, is based on the ending date of service, at what would have been the 20-year point of active service. The first date of service indicated on the submitted SF50 indicates a period of Government service of 6 July 2009, through 28 February 2022, which is non qualifying for purposes of a re-computation of retired pay. The allowable period of time would have been required to be between the dates of 1 October 1995, and 7 August 1999.

c. The applicant retired from the Army under TERA on 30 September 1995, with a total of 16 years, 1 month, and 24 days of active Federal service. There is no employment documentation submitted that would allow for the re-computation of retired pay.

5. On 27 February 2025, the applicant was provided with a copy of the advisory opinion to provide a response. The applicant has not responded to date.

BOARD DISCUSSION:

1. After reviewing the application and all supporting documents, the Board determined relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the available documentation, the facts and recommendations outlined in the G1 advisory opinion, as well as the lack of any rebuttal of the facts and recommendations submitted by the applicant, the Board concluded the applicant would not qualify for additional service.

2. The Board wished to inform, however, the applicant that under current DoD policy, the ABCMR cannot grant such relief. If the applicant wishes to seek such relief in the future, they should apply directly with The Office of the Deputy Chief of Staff, G-1, Program Analyst, Compensation and Entitlements Division.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:XXX	:XXX	:XXX	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.

//SIGNED//

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, U.S. Code, 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. The NDAA for Fiscal Year 1993 (FY93 NDAA), PL 102-484, 23 October 1992, Congress enacted the TERA, which permitted selected military members to retire early. Section 534 of that law gave the Secretary of Defense authority to allow the Service Secretaries to permit early retirement for selected military members having more than 15 but less than 20 years of active service.

3. Section 4464 of the FY93 NDAA allowed eligible members retired under TERA to perform public and community service following retirement and receive credit for this service to be used to recompute military retired pay, and where applicable, the Survivor Benefit Plan based amount when the retired member attains or would have attained 62 years of age. Public and community service job vacancies included education, conservation, environmental protection, law enforcement and public health care positions.

4. Department of Defense Instruction (DODI) 1340.19 (Certification of Public and Community Service Employment of Military Retirees), paragraph 2.2.3, the veteran must have performed public/community service "within the period beginning on the date of retirement and ending on the date retired member would have attained 20 years of creditable service for computing retired pay." This timeframe is referred to as the Enhanced Retirement Qualification Period (ERQP). DODI 1340.19 paragraph 5.3.3 also states all reporting should have been completed by the retiree no later than one year following the ERQP.

5. DODI 1332.37 (Program to Encourage Public and Community Service 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, Department of Defense (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 recomputed in accordance with DODI 1340.19 (Certification of Public and Community Service 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 administrator
- 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 6.3.5. 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.

6. Retirees were required to document their employment using DD Form 2676 (Validation for Public or Community Service) 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//