

SEPARATION PAY (INVOLUNTARY)

Why Know About This?

The Army is, through various regulations, programs and boards, engaging in force reduction. Some Soldiers may be separated with no retirement or other benefits and separation pay may be the only entitlement owed them upon involuntary separation.

What is the Law?

Until now there has not been a regulation focused specifically on the federal law (Title 10 USC, 1174) and Defense Department policies (DODI 133.2.29) governing involuntary separation pay.

Laws, directives and policies governing special pays for Soldiers who are being separated have been consolidated in an entirely new regulation, Army Regulation 637-2.

The regulation, entitled Separation Pay (Non-Disability) and Levels of Payment, was published April 21, 2016 and became effective on May 21, 2016.

What is the Purpose of Separation Pay?

It applies to Regular Army, Army National Guard and Army Reserve officers and enlisted soldiers who are on active duty or active service.

The nondisability separation pay program provides a one-time, lump-sum payment to regular and reserve Soldiers who are being involuntarily discharged or released from active duty or active service short of reaching retirement eligibility.

Involuntary separation pays complement the Temporary Early Retirement Authority (TERA), which is popularly known as the 15-year early retirement plan.

What is TERA?

TERA is not an entitlement, but rather an option that to date has been limited to Soldiers who are being involuntarily separated from active duty because of a drawdown, or in the case of some officers, because of promotion non-selection.

Soldiers cannot volunteer for TERA if they have not been selected for involuntary separation.

TERA allows Soldiers with at least 15, but fewer than 20, years of active service to receive the same benefits as those who retire with 20 or more years of service, except their retirement pay is reduced accordingly.

Soldiers who fail to qualify for TERA, but who have at least six, but fewer than 20, years of service generally are entitled to involuntary separation pay, provided they are not being forced out for cause, such as a court-martial conviction.

Two Types of Separation Pay:

Half Separation Pay – for Soldiers who are not qualified for retention, and who have been denied re-enlistment or continuation, and whose separation is characterized as “honorable” or “general.”

Separations associated with the half-pay formula include expiration of service obligation, selected changes in service obligation, convenience of the government, drug abuse rehabilitation failure, alcohol abuse rehabilitation failure, security issues and service-specific programs designated for half-pay, such as the Qualitative Management Program.

Payments are calculated by multiplying 5 percent of a Soldier’s basic pay at the time of separation by years and partial years of active service.

Full Separation Pay – for Soldiers who are qualified for retention, but who are being denied re-enlistment or continuation under “honorable” conditions because of a reduction in force, promotion non-selection, or because of high-year of tenure policies, such as those associated with Retention Control Points.

Payments are calculated by multiplying 10 percent of a soldier’s basic pay at the time of separation by years and partial years of service.

How Do I Get It?

Federal law requires that Soldiers who receive involuntary separation pay agree to serve a minimum of three years in the Ready Reserve, which for Soldiers consists of a National Guard or Army Reserve troop unit, the Individual Mobilization Augmentee program, or the Individual Ready Reserve.

The three-year Ready Reserve obligation will begin on the active-duty separation date, unless the Soldier has an existing service obligation.

In such cases, the three-year obligation will not begin until the day after the existing obligation is completed in the Ready Reserve.

Before completing the reserve transition process, Active Army Soldiers should make sure that a DA Form 3340 (Request for Reenlistment or Extension in the Regular Army) is used to validate their denial of continuation on active duty.

The Ready Reserve service agreement should be prepared and submitted on a DA Form 4187 (personnel action request) as described in Chapter 1 of AR 637-2.

If you have questions, contact the Fort Bliss Legal Assistance Office at (915) 568-7141 for an appointment to speak with an attorney.