

VOLUME 7B, CHAPTER 60: “VICTIMS OF ABUSE – NONRETIREMENT ELIGIBLE MEMBERS (TRANSITIONAL COMPENSATION)”

SUMMARY OF MAJOR CHANGES

All changes are denoted by [blue font](#).

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by [bold, italic, blue, and underlined font](#).

The previous version dated [April 2016](#) is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated the chapter with hyperlinks and revised to comply with current administrative instructions.	Revision
600101.B	Pursuant to Title 10, United States Code (U.S.C.), section 1059 and Department of Defense Instruction 1342.24, revised subparagraph for accuracy by adding the sentence, “No payment will be made for any period before November 30, 1993.”	Addition
600302.A.2	Pursuant to 10 U.S.C. § 1059(m)(1), revised subparagraph for accuracy to read, “The former member was separated from active duty in a manner other than described in paragraph 600202, on or after November 24, 2003.”	Revision
600403.A-C	Updated the “Dependency and Indemnity Compensation (DIC)” rates, effective December 1, 2016.	Revision
600403.A-C	Deleted “DIC” rates prior to 2010. Transitional compensation may be payable to abused dependents or former dependents of nonretirement eligible members of the Armed Forces for a period of not less than 12 and not more than 36 months.	Deletion
600405.A.2	Pursuant to 10 U.S.C. § 1059(f)(3) added, "If the payments to the spouse terminates due to remarriage and there are dependent children not living in the same household as the spouse or member, payment will be made to each dependent child."	Addition
Bibliography	Updated references at paragraph 600403.	Revision

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CHAPTER 60

VICTIMS OF ABUSE – NONRETIREMENT ELIGIBLE MEMBERS
(TRANSITIONAL COMPENSATION)

6001 GENERAL

*600101. Purpose

This chapter covers transitional compensation that may be payable to abused dependents or former dependents of nonretirement eligible members of the Armed Forces for a period of not less than 12 and not more than 36 months. Transitional Compensation is a congressionally authorized program pursuant to Title 10, United States Code (U.S.C.), [section 1059](#) which provides temporary monetary payments and benefits to dependent family members of service members or former service members who are separated from the military due to dependent-abuse offenses. For information on benefits for spouses and former spouses of retirement-eligible members who lose eligibility for retired pay because of misconduct involving abuse of dependents, see Chapter 59.

A. Transitional compensation provisions apply to members who, on or after November 30, 1993:

1. Separate from active duty under a court-martial sentence resulting from a dependent-abuse offense,
2. Separate from active duty for administrative reasons if the basis for separation includes a dependent-abuse offense, or
3. Are sentenced to forfeiture of all pay and allowances by a court-martial that has convicted the member of a dependent-abuse offense.

* B. Transitional compensation is payable to dependents who qualify on or after [November 30, 1993](#). [No payment will be made for any period before November 30, 1993](#). In cases where a spouse or former spouse is receiving payments and there is an eligible dependent child or children not residing in the same household as the spouse, former spouse, or member, transitional compensation is payable to the dependent children for periods on or after November 1, 1998.

600102. Authoritative Guidance

The bibliography at the end of this chapter lists the authoritative references.

6002 DEFINITIONS

600201. Dependent-Abuse Offense

A dependent-abuse offense is conduct by a member of the Armed Forces, while on active duty for more than 30 days, that involves the abuse of the spouse or dependent child of the member and is a criminal offense defined by [10 U.S.C. §§ 801-940](#) or other criminal code applicable to the jurisdiction where the act of abuse is committed. Crimes that may qualify as dependent-abuse offenses are sexual assault, rape, sodomy, assault, battery, murder, and manslaughter. The aforementioned offenses are not an exhaustive or exclusive listing of dependent-abuse offenses.

600202. Punitive or Other Adverse Actions

Punitive or other adverse actions are actions in which a member of the Armed Forces who has been on active duty more than 30 days **and who, on or after** November 30, 1993, is:

A. Convicted of a dependent-abuse offense **that** results in separation from active duty under a court-martial sentence or forfeiture of all pay and allowances under a court-martial sentence; or

B. Administratively separated, voluntarily or involuntarily, from active duty according to applicable Military Service regulations, if the basis for separation includes a dependent-abuse offense.

600203. Cohabitation

Cohabitation is when the spouse, former spouse, or dependent child is residing in the same household as the former member after punitive or other adverse action is executed against the member or former member.

600204. Dependent Child

A dependent child:

A. Is an unmarried child, including:

1. An adopted child or a stepchild residing with the member or eligible spouse at the time of the dependent-abuse offense **resulting** in the separation of the former member; or

2. A child who was carried during pregnancy at the time of the dependent-abuse offense resulting in the separation of the former member, and was subsequently born alive to the eligible spouse or former spouse (as defined in 10 U.S.C. § 1059(1)); **and**

B. Meets one of the following age requirements:

1. Is under age 18;
2. Is age 18 or older and incapable of self-support, due to a mental or physical incapacity that existed before age 18, and is (or, at the time a punitive or other adverse action was carried out in the case of the former member, was) dependent on the former member for over one-half of the child's support; or
3. Is age 18 or older, but less than age 23 and enrolled in a full-time course of study in an institution of higher learning approved by the Secretary of Defense, and is (or, at the time a punitive or other adverse action was carried out in the case of the former member, was) dependent on the former member for over one-half of the child's support.

600205. Spouse or Former Spouse

The term spouse or former spouse refers to the husband or wife, or former husband or former wife, respectively, of the member or former member at the time of the commission of the dependent-abuse offense resulting in separation from military service.

6003 ELIGIBILITY FOR TRANSITIONAL COMPENSATION

600301. Eligibility for Transitional Compensation Payment

The dependents of a member, or former member, who separated on or after November 30, 1993, and the basis for the separation includes a dependent-abuse offense, are eligible for transitional compensation payments. Payments begin on or after December 1, 1993, for eligible dependents. If a recipient is incapable of handling his or her affairs, then payments are made only to a court-appointed guardian. In the case of a dependent child under 18 years of age, payments are made only to a court-appointed guardian or a natural parent (who is not a spouse of the member) if the natural parent has legal custody of the dependent child.

A. Spouse or Former Spouse. In the case of a separation from active duty under punitive or other adverse action, payments are made to the person who was the member's spouse at the time of the offense. The spouse or former spouse does not have to be the victim in order to receive transitional compensation.

B. Dependent Child. Effective November 1, 1998, a dependent child of the member who does not reside in the same household as the member's spouse or former spouse may be paid transitional compensation benefits. Payments may be made to such dependent child as prescribed in paragraph 600401. A dependent child's eligibility is determined as of the date on which the member is convicted of the dependent-abuse offense or the date on which the member is administratively separated. Prior to November 1, 1998, there was no provision mentioned for the member's dependent children who **did not** reside in the same household as the eligible spouse or former spouse.

*600302. Exceptional Eligibility Authority

A. The Secretary of the Military Department concerned may authorize eligibility for transitional compensation benefits for dependents and former dependents of a former member of the Armed Forces for cases in which the dependents are not otherwise eligible for such benefits if the Secretary of the Military Department concerned determines that:

1. The former member engaged in conduct that is a dependent-abuse offense; and

* 2. The former member was separated from active duty in a manner other than those described in paragraph 600202, on or after November 24, 2003.

B. Benefits authorized under this section will be provided in the same manner as if the former member was an individual separated as described in paragraph 600202. The Secretary of the Military Department concerned will adjust the commencement and duration of payment provisions of paragraph 600401, as the Secretary considers necessary according to the circumstances, in order to provide benefits equivalent to those provided in the case of an individual separated in a manner described in paragraph 600202.

C. Exceptional eligibility authority by the Secretary of the Military Department concerned may not be delegated.

600303. Application

An individual can request transitional compensation through a Military Service representative. The Military Service representative may:

A. Approve payment;

B. Assist applicant in filling out the Department of Defense (DD) Form 2698, Application for Transitional Compensation;

C. Have the applicant submit a Standard Form 1199A, Direct Deposit Sign-up Form, completed by the applicant and the financial institution or a voided check/deposit slip with a written authorization for direct deposit of payments; and

D. Provide the Operation and Maintenance fund citation, and forward the application and information for direct deposit to the Defense Finance and Accounting Service (DFAS) at the following address:

Defense Finance and Accounting Service
Attn: VOA
P.O. Box 998011
Cleveland, OH 44199-8011

Facsimile Numbers:

DSN: 580-6470

Commercial Number: (216) 522-6470

6004 PAYMENT

600401. Recipients of Payments

Transitional compensation **will** be paid as follows:

A. If the member or former member was married at the time of the dependent-abuse offense, then compensation **will** be paid to the spouse or former spouse to whom the member or former member was married to at that time. An amount will be included for each, if any, dependent child of the member or former member, provided the child resides in the same household as the spouse or former spouse.

B. If a spouse or former spouse has forfeited his or her entitlement for reasons described in paragraph 600405, then compensation **will** be paid to each eligible dependent child who does not reside in the household of the member or the ineligible spouse or former spouse.

C. If there is no eligible spouse or former spouse, then such compensation **will** be paid to the dependent children of the member or former member.

600402. Commencement and Duration of Payment

A. In the case of a member convicted by a court-martial of a dependent-abuse offense, payments begin:

1. As of the date that the court-martial sentence is adjudged if the sentence, as adjudged, includes a dismissal, dishonorable discharge, bad-conduct discharge, or forfeiture of all pay and allowances; or

2. If there is a pretrial agreement that provides for disapproval or suspension of the dismissal, dishonorable discharge, bad-conduct discharge, or forfeiture of all pay and allowances, as of the date the court-martial sentence was approved by the person acting under [10 U.S.C. § 860\(c\)](#), only if the sentence as approved, includes an unsuspended dismissal, dishonorable discharge, bad-conduct discharge, or forfeiture of all pay and allowances.

B. In the case of a member being administratively separated based on a dependent-abuse offense, payment begins as of the date that the separation action was initiated by

the commander under regulations determined by the Secretary of the Military Department concerned.

C. Payments are made for a period of not less than 12 months, but cannot exceed 36 months, based on policies established by the Secretary of the Military Department concerned.

1. When the unserved portion of the member's obligated active duty service, as of the starting date of payment, is greater than 12 months and less than or equal to 36 months, the duration of payments will be no less than the unserved portion.

2. For enlisted members, the obligated active duty service is the time remaining on their term of enlistment. For officers, the obligated active duty service is indefinite unless the officer has a date of separation established, in which case it is the time remaining until the date of separation.

D. A dependent child who was carried during pregnancy at the time of the dependent-abuse offense resulting in the separation of the former member, who was subsequently born alive to the eligible spouse or former spouse (as defined in 10 U.S.C. § 1059(l)), will not receive payment until after the child is born. Payments to a child under this paragraph will not cover any period prior to the birth of the child. Payments under this provision are effective January 2, 2013. There is no authority for payments prior to January 2, 2013.

*600403. Amount of Payment

* A. A spouse or former spouse receives transitional compensation at the same rate as monthly Dependency and Indemnity Compensation (DIC) under [38 U.S.C. § 1311\(a\)\(1\)](#).

<u>DIC Rate</u>	<u>Effective Date</u>
\$1,154.00	December 1, 2010
\$1,195.00	December 1, 2011
\$1,215.00	December 1, 2012
\$1,233.23	December 1, 2013
\$1,254.19	December 1, 2014
\$1,254.19	December 1, 2015
\$1,257.95	December 1, 2016

NOTE: See the Veterans Administration website at http://benefits.va.gov/Compensation/current_rates_dic.asp for information on DIC and other rates.

* B. If the spouse or former spouse has custody of a dependent child or children of the member who resides in the same household as that spouse or former spouse, then transitional compensation is increased for each child by an amount equal to the monthly DIC amount payable for dependent children under 38 U.S.C. § 1311(b).

<u>DIC Rate</u>	<u>Effective Date</u>
\$286.00	December 1, 2010
\$296.00	December 1, 2011
\$301.00	December 1, 2012
\$305.52	December 1, 2013
\$310.71	December 1, 2014
\$310.71	December 1, 2015
\$311.64	December 1, 2016

* C. If transitional compensation is payable to a dependent child under subparagraph 600101.B, then payments are made in equal shares, in an amount equal to the monthly DIC amount payable for dependent children under [38 U.S.C. § 1313](#).

DIC Child Rates

<u>Effective</u>	<u>1 Child</u>	<u>2 Children</u>	<u>3 Children</u>	<u>Over 3 Children</u>
December 1, 2010	\$488.00	\$701.00	\$915.00	\$915.00 plus \$174.00 for each child over 3
December 1, 2011	\$505.00	\$726.00	\$947.00	\$947.00 plus \$180.00 for each child over 3
December 1, 2012	\$513.00	\$738.00	\$963.00	\$963.00 plus \$183.00 for each child over 3
December 1, 2013	\$520.70	\$749.07	\$977.45	\$977.45 plus \$185.75 for each child over 3
December 1, 2014	\$529.55	\$761.80	\$994.07	\$994.07 plus \$188.91 for each child over 3
December 1, 2015	\$529.55	\$761.80	\$994.07	\$994.07 plus \$188.91 for each child over 3
December 1, 2016	\$531.14	\$764.09	\$997.05	\$997.05 plus \$189.48 for each child over 3

D. Payments will be prorated for months when payments start or stop in the middle of a month (e.g., if the former spouse receiving transitional compensation remarries, then compensation terminates effective as of the date of the marriage).

E. When paying multiple children and the payment amount does not divide equally, the youngest child [will](#) receive the odd cent(s).

F. Transitional compensation payments will stop effective the date of death of the recipient. Arrears of compensation will not be paid.

G. Advance payment of transitional compensation benefits is not authorized.

600404. Effect of Continuation of Military Pay

In the case of payment of transitional compensation by reason of a total forfeiture of pay and allowances pursuant to a sentence of a court-martial, payment of transitional compensation **will** not be made for any period for which an order, in whole or in part:

- A. Suspends that part of a sentence that includes forfeiture of the member's pay and allowances; or
- B. Otherwise results in the continuation of the member's pay and allowances.

*600405. Forfeiture Provisions

A. The following will result in the forfeiture of transitional compensation payable to the spouse or former spouse:

* 1. **Cohabitation.** If, after a punitive or other adverse action has been executed, the former member resides in the same household as the spouse or former spouse or child who is receiving transitional compensation, compensation terminates as of the date the former member begins residing in the household. Any compensation paid before the member resides in the household **will** not be recouped. Once terminated for cohabitation, the payments do not resume.

2. **Remarriage.** If the former spouse receiving compensation remarries, then compensation terminates effective as of the date of the former spouse's remarriage. Payments do not resume if the subsequent marriage is terminated. **If the payments to the spouse terminate due to remarriage and there are dependent children not living in the same household as the spouse or member, payment will be made to each of those dependent children.**

3. **Active Participation.** If the victim was a dependent child, and the competent authority designated by the Secretary of the Military Department concerned has found that the spouse was an active participant in the conduct constituting the criminal offense, or actively aided or abetted the member in such conduct against that dependent child, then the spouse or former spouse may not be paid transitional compensation.

B. Annual certification is the certificate provided by the spouse or former spouse that certifies annually to the DFAS-Cleveland Site that he or she has not remarried and has not been cohabiting with the offender. The form to be used is a Certificate of Eligibility (COE).

1. **DFAS-Cleveland Site Notification.** The spouse or former spouse must notify the DFAS-Cleveland Site within 30 days of the date of remarriage or the date the member begins residing in the same household as the spouse, former spouse, or dependent child.

2. **Parent or Court-Approved Guardian COE Requirement.** The parent or court-approved guardian will certify annually that the dependent child or children are not residing with the offender or ineligible spouse via the COE process. If the COE is not received within 60

days of the date of the COE, then payments will be suspended until verification of eligibility is received.

600406. Termination of Payments

Transitional compensation is not payable when a member's court-martial sentence, which includes a dismissal, dishonorable discharge, or bad-conduct discharge, is remitted, set aside, or mitigated to a lesser punishment that does not include such punishment, or the administrative separation is disapproved. Any payment of transitional compensation that has started **will** stop effective the first day of the month after the Secretary of the Military Department concerned notifies the recipient in writing that payment **will** cease for such reason. The recipient is not required to repay transitional compensation received before the effective date of termination, excluding erroneous payments.

600407. Taxability

Transitional compensation payments are considered benefits that are excludable from taxation and should not be reported on Internal Revenue Service Form 1099R, Distribution From Pensions, Annuities, Retirement or Profit Sharing Plans, IRAs, Insurance Contracts, etc.

6005 OTHER BENEFITS

600501. Coordination of Benefits

A. Election of Benefits. A spouse or former spouse may not concurrently receive both payments of transitional compensation under 10 U.S.C. § 1059 and payments under 10 U.S.C. § 1408(h)(1) (see Chapter 59 for spouses and former spouses of retirement-eligible members who lost eligibility for retired pay as a result of misconduct involving abuse of dependents). If a spouse or former spouse has obtained a court order awarding compensation pursuant to 10 U.S.C. § 1408(h)(1), then the spouse or former spouse **will** elect which benefit to receive. An application for payment under 10 U.S.C. § 1408(h), pursuant to the requirements of Chapter 59, will be considered an election to receive 10 U.S.C. § 1408(h) payments. See Chapter 59, paragraph 5903 for application requirements.

B. Effective Date. The election to receive benefits under 10 U.S.C. § 1408(h) is effective on the date that a complete application is received. If the applicant is not eligible to receive benefits under 10 U.S.C. § 1408(h) on the date the application is received, then the effective date will be the date the applicant becomes eligible for payments under 10 U.S.C. § 1408(h). Payments of transitional compensation under 10 U.S.C. § 1059 will be terminated and payments under 10 U.S.C. § 1408(h) **will** commence on the first day of the first month after the date the election to receive payments under 10 U.S.C. § 1408(h) is effective.

600502. Commissary and Exchange Benefits

A. A dependent or former dependent entitled to payment of monthly transitional compensation **will**, while receiving payments in accordance with 10 U.S.C. § 1059, be

entitled to use commissary and exchange stores to the same extent and manner as a dependent of a member of the Armed Forces on active duty for a period of more than 30 days.

B. If a dependent or former dependent is eligible or entitled to use commissary and exchange stores under another provision of law, then the eligibility or entitlement of that dependent or former dependent to use commissary and exchange stores **will** be determined under the other provision of law rather than under this paragraph.

600503. Medical and Dental Care

A. Eligible dependents may, while receiving transitional compensation, receive dental and medical care, including mental health services, through military facilities as TRICARE beneficiaries. Pursuant to the approval of the Secretary of the Military Department concerned, eligible dependents of a member or former member are entitled to medical and or dental care for problems associated with the abuse.

B. The Secretary **of the Military Department** concerned may furnish medical care in facilities of the uniformed services to the dependent for the treatment of any adverse health condition resulting from such dependent's knowledge of the abuse, or any injury or illness suffered by the abused person because of such abuse.

C. Medical and dental care furnished to a dependent of a former member of the uniformed services in facilities of the uniformed services **will** be limited to the health care prescribed by [10 U.S.C. § 1077](#), and subject to the availability of space, facilities, and the capabilities of the medical and dental staff.

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**CHAPTER 60: VICTIMS OF ABUSE – NONRETIREMENT ELIGIBLE MEMBERS
(TRANSITIONAL COMPESATION)**

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600101 10 U.S.C. § 1059
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May 23, 1995,
Office of the Assistant Secretary of Defense/Force
Management Memorandum, October 19, 1994

6002 DEFINITIONS

600201-600205 10 U.S.C. § 1059
600204 10 U.S.C. § 1059(l)
Public Law 112-239, section 564, January 2, 2013
Public Law 113-181, section 2, November 13, 2014

6003 ELIGIBILITY FOR TRANSITIONAL COMPENSATION

600301.B 10 U.S.C. § 1059(d)(2)
600302 10 U.S.C. § 1059(m)

6004 PAYMENT

600401 10 U.S.C. § 1059(d)
600402 10 U.S.C. § 1059(e)
600402.C Principal Deputy Under Secretary of Defense for
Personnel and Readiness Policy Memorandum,
June 14, 2004
600403 Public Law 112-53, section 2(a) – (e),
November 9, 2011
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Public Law 113-52, section 2(a) – (e),
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600403.C	38 U.S.C. § 1313
600405	10 U.S.C. § 1059(f)(3)
	10 U.S.C. § 1059(g)
600406	10 U.S.C. § 1059(e)(3)(C)
600407	Armed Forces Tax Council Memorandum, December 16, 1994

6005 – OTHER BENEFITS

600501	10 U.S.C. § 1059(i)
600502	10 U.S.C. § 1059(j)
600503	10 U.S.C. § 1076(e)