

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

SUMMARY OF MAJOR CHANGES

Changes are identified in this table and also 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 [July 2018](#) is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated the chapter with hyperlinks and formatting to comply with current administrative instructions.	Revision
1.2 (600102)	Updated the “Authoritative Guidance” paragraph to comply with current administrative instructions.	Revision
3.2 (600302)	Added the expansion of eligibility for exceptional transitional compensation for dependents of current members.	Addition
Table 60-1, Table 60-2, and Table 60-3	Added the Dependency and Indemnity Compensation rates, effective December 1, 2018 and 2019.	Addition
References	Updated “References.”	Revision

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CHAPTER 60

VICTIMS OF ABUSE – NONRETIREMENT ELIGIBLE MEMBERS
(TRANSITIONAL COMPENSATION)

1.0 GENERAL (6001)

1.1 Purpose (600101)

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, section 1059 ([10 U.S.C. § 1059](#)) which provides temporary monetary payments and benefits to dependent family members or former dependents 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 [DoDFMR Volume 7B](#), Chapter 59.

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

1.1.1.1. Separate from active duty under a court-martial sentence resulting from a dependent-abuse offense;

1.1.1.2. Separate from active duty for administrative reasons if the basis for separation includes a dependent-abuse offense; or

1.1.1.3. Are sentenced to forfeiture of all pay and allowances by a court-martial that has convicted the member of a dependent-abuse offense.

1.1.2. 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. See [paragraph 600401](#) for detailed explanation.

*1.2 Authoritative Guidance (600102)

The pay policies and requirements established by the DoD in this chapter are derived primarily from, and prepared in accordance with the U.S.C., including Titles 10 and 38. Due to the subject matter in the chapter, the list of authoritative sources is extensive. The specific statutes, regulations, and other applicable guidance that govern each individual section are listed in a reference section at the end of the chapter.

2.0 DEFINITIONS (6002)

2.1 Dependent-Abuse Offense (600201)

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.

2.2 Punitive or Other Adverse Actions (600202)

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:

2.2.1. 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

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

2.3 Cohabitation (600203)

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.

2.4 Dependent Child (600204)

A dependent child:

2.4.1. Is an unmarried child, including:

2.4.1.1. 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

2.4.1.2. 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(I)); and

2.4.2. Meets one of the following age requirements:

2.4.2.1. Is under age 18;

2.4.2.2. 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

2.4.2.3. 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.

2.5 Spouse or Former Spouse (600205)

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.

3.0 ELIGIBILITY FOR TRANSITIONAL COMPENSATION (6003)

3.1 Eligibility for Transitional Compensation Payment (600301)

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.

3.1.1. 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.

3.1.2. 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.

*3.2 Exceptional Eligibility Authority (600302)

3.2.1. The Secretary of the Military Department concerned may authorize eligibility for transitional compensation benefits for dependents and former dependents of a [member or](#) 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:

3.2.1.1. The [member or](#) former member engaged in conduct that is a dependent-abuse offense; and

3.2.1.2. The [member or](#) former member was separated from active duty in a manner other than those described in paragraph [600202](#), on or after November 24, 2003.

3.2.2. Benefits authorized under this section will be provided in the same manner as if the [member or](#) 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](#).

3.2.3. For the purposes of the provision of benefits under this paragraph, a member shall be considered separated from active duty upon the earliest of:

3.2.3.1. The date an administrative separation is initiated by the commander of the member;

3.2.3.2. The date 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

3.2.3.3. The date the member's term of service expires.

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

3.3 Application (600303)

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

3.3.1. Approve payment;

3.3.2. Assist applicant in filling out the of [DD Form 2698](#), Application for Transitional Compensation;

3.3.3. 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

3.3.4. 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: R&A Uniques
1240 East 9th Street
Cleveland, OH 44199-2055

Facsimile Numbers:

DSN: 580-6470

Commercial Number: (216) 522-6470

4.0 PAYMENT(6004)

4.1 Recipients of Payments (600401)

Transitional compensation will be paid as follows:

4.1.1 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.

4.1.2. 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.

4.1.3. 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.

4.2 Commencement and Duration of Payment (600402)

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

4.2.1.1. 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

4.2.1.2. 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.

4.2.2. In the case of a member 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.

4.2.3. 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.

4.2.3.1. 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.

4.2.3.2. 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.

4.2.4. 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(I)), 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.

*4.3 Amount of Payment (600403)

Use the monthly Dependency and Indemnity Compensation (DIC) rates to pay transitional compensation. The Veterans Affairs (VA) website provides information on DIC rates at http://benefits.va.gov/Compensation/current_rates_dic.asp. DIC rates for prior years are located at the end of the VA webpage under "Historical Rate Tables."

4.3.1. A spouse or former spouse receives transitional compensation rates as annotated at the VA website for DIC. See Table 60-1 for transitional compensation rates paid to spouse or former spouse.

4.3.2. 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. See Table 60-2 for additional transitional compensation rates paid to spouse or former spouse with an eligible dependent child or children.

4.3.3. 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. See Table 60-3 for transitional compensation rates paid to an eligible child or children.

4.3.4. 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).

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

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

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

4.4 Effect of Continuation of Military Pay (600404)

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:

4.4.1. Suspends that part of a sentence that includes forfeiture of the member's pay and allowances; or

4.4.2. Otherwise results in the continuation of the member's pay and allowances.

4.5 Forfeiture Provisions (600405)

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

4.5.1.1. 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.

4.5.1.2. 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.

4.5.1.3. 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.

4.5.2. 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).

4.5.2.1. 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.

4.5.2.2. 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.

4.6 Termination of Payments (600406)

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.

4.7 Taxability (600407)

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

5.0 OTHER BENEFITS (6005)

5.1 Coordination of Benefits (600501)

5.1.1. 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, section [5904](#) for application requirements.

5.1.2. 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.

5.2 Commissary and Exchange Benefits (600502)

5.2.1. 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.

5.2.2. 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.

5.3 Medical and Dental Care (600503)

5.3.1. 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.

5.3.2. 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.

5.3.3. 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.

*Table 60-1. Spouse or Former Spouse Transitional Compensation Rate

<u>Effective Date</u>	<u>DIC Rate</u>
December 1, 2010	\$1,154.00
December 1, 2011	\$1,195.00
December 1, 2012	\$1,215.00
December 1, 2013	\$1,233.23
December 1, 2014	\$1,254.19
December 1, 2015	\$1,254.19
December 1, 2016	\$1,257.95
December 1, 2017	\$1,283.11
December 1, 2018	\$1,319.04
December 1, 2019	\$1,340.14

*Table 60-2. Spouse or Former Spouse with Dependent Child Transitional Compensation Rate

<u>Effective Date</u>	<u>DIC Rate</u>
December 1, 2010	\$286.00
December 1, 2011	\$296.00
December 1, 2012	\$301.00
December 1, 2013	\$305.52
December 1, 2014	\$310.71
December 1, 2015	\$310.71
December 1, 2016	\$311.64
December 1, 2017	\$317.87
December 1, 2018	\$326.77
December 1, 2019	\$332.00

*Table 60-3. Dependent Child Transitional Compensation Rate

<u>DIC Child Rates</u>				
<u>Effective Date</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
December 1, 2017	\$541.76	\$779.37	\$1,016.99	\$1,016.99 plus \$193.27 for each child over 3
December 1, 2018	\$556.93	\$801.18	\$1,045.47	\$1,045.47 plus \$198.68 for each child over 3
December 1, 2019	\$565.84	\$814.01	\$1,062.20	\$1,062.20 plus \$201.95 for the fourth child. Refer to rate table for additional children over four located at: http://benefits.va.gov/compensation/current_rates_dic.asp .

*REFERENCES

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

1.0 – GENERAL (6001)

- 1.1 10 U.S.C. § 1059
DoD Instruction 1342.24, May 23, 1995
Office of the Assistant Secretary of Defense/Force
Management Memorandum, October 19, 1994

2.0 – DEFINITIONS (6002)

- 2.1-2.5 10 U.S.C. § 1059
2.4 10 U.S.C. § 1059(l)
Public Law 112-239, section 564, January 2, 2013
Public Law 113-181, section 2, November 13, 2014

3.0 – ELIGIBILITY FOR TRANSITIONAL COMPENSATION (6003)

- 3.1.2 10 U.S.C. § 1059(d)(2)
3.2 10 U.S.C. § 1059(m)
* [Public Law 116-92, section 621,](#)
[December 20, 2019](#)
* [Fiscal Year 2020 National Defense Authorization](#)
[Act, section 621, December 20, 2019](#)

4.0 – PAYMENT (6004)

- 4.1 10 U.S.C. § 1059(d)
4.2 10 U.S.C. § 1059(e)
4.2.3 Principal Deputy Under Secretary of Defense for
Personnel and Readiness Policy Memorandum,
June 14, 2004
4.3 38 U.S.C. § 1114
38 U.S.C. § 1115
38 U.S.C. § 1311
38 U.S.C. § 1313
38 U.S.C. § 1314
Public Law 112-53, sections 2(a) – (e),
November 9, 2011
Public Law 112-198, sections 2(a) – (d) and 3,
November 27, 2012
Public Law 113-52, sections 2(a) – (e),
November 21, 2013

REFERENCES (Continued)

	Public Law 113-181, sections 2(a) – (e), September 26, 2014
	Public Law 114-197, sections 2(a) – (d) and 3, July 22, 2016
	Public Law 115-75, sections 2(a) – (d) and 3, November 2, 2017
*	Public Law 115-258, sections 2(a) – (d) and 3, October 9, 2018
*	Public Law 116-58, sections 2(a) – (d) and 3, September 26, 2019
4.3.1 and 4.3.2	38 U.S.C. § 1114 38 U.S.C. § 1115 38 U.S.C. § 1311 38 U.S.C. § 1314
4.3.3	38 U.S.C. § 1313
4.5	10 U.S.C. § 1059(f)(3) 10 U.S.C. § 1059(g)
4.6	10 U.S.C. § 1059(e)(3)(C)
4.7	Armed Forces Tax Council Memorandum, December 16, 1994
5.0 – OTHER BENEFITS (6005)	
5.1	10 U.S.C. § 1059(i)
5.2	10 U.S.C. § 1059(j)
5.3	10 U.S.C. § 1076(e)