

**SUMMARY OF MAJOR CHANGES TO
DoD 7000.14-R, VOLUME 7B, CHAPTER 60
“VICTIMS OF ABUSE – NONRETIREMENT ELIGIBLE MEMBERS”
(Transitional Compensation)**

All changes are denoted in blue font

Substantive revisions are denoted by a ★ preceding the section, paragraph, table, or figure that includes the revision

Hyperlinks are denoted by *underlined, bold, italic, blue font*

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
600102.C 600107	Principal Under Secretary of Defense (Personnel and Readiness) memo dated April 14, 2008, added subparagraph dealing with eligibility for transitional compensation benefits for person specifically designated by the Secretary (under Exceptional Eligibility Authority).	Add
600103	Nondiscretionary change to incorporate Public Law 108-136, section 572(b)(1) covering transitional compensation commencement and duration of payments.	Update
600104.A 600104.B 600104.C	Nondiscretionary change that incorporates the December 1, 2005; December 1, 2006; December 1, 2007; and December 1, 2008 Dependency and Indemnity Compensation Cost-of-Living Adjustment.	Update

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CHAPTER 60

VICTIMS OF ABUSE – NONRETIREMENT ELIGIBLE MEMBERS
(Transitional Compensation)6001 GENERAL

This chapter covers transitional compensation to abused dependents of nonretirement eligible members of the Armed Forces for up to 3 years. [Chapter 59](#) of this volume identifies benefits for spouses and former spouses of retirement-eligible members who lose eligibility for retired pay as a result of misconduct involving abuse of dependents.

600101. Definitions

A. Dependent-Abuse Offense. A criminal offense defined by [Title 10, United States Code \(U.S.C.\), sections 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 ones such as sexual assault, rape, sodomy, assault, battery, murder, and manslaughter. This is not an exhaustive or exclusive listing of dependent-abuse offenses.

B. Punitive or Other Adverse Action. An action in which a member of the Armed Forces on active duty more than 30 days is:

1. Convicted of a dependent-abuse offense and whose conviction 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. Administratively separated from active duty under applicable Military Service regulations if the basis for separation includes a dependent-abuse offense.

C. Cohabitation. The spouse or former spouse residing in the same household as the former member after punitive or other adverse action is executed.

D. Dependent Child. An unmarried child, including an adopted child or a stepchild, who is residing with the member at the time of the dependent abuse, which results in the separation of the former member, and who is:

1. Under age 18;

2. Age 18 or older and incapable of self-support (helpless child) due to a mental or physical incapacity that existed before age 18 and who is (or, when a punitive or other adverse action was carried out on the member, was) dependent on the member for over one-half of the child’s support; or

3. Age 18 or older, but less than age 23, enrolled in a full-time course of study in an institution of higher learning approved by the Secretary of Defense and who is (or,

when a punitive or other adverse action was carried out on the member, was) dependent on the member for over one-half of the child's support.

E. Spouse or Former Spouse. An individual who:

1. Is married to the member or former member at the time of the commission of the dependent-abuse offense resulting in separation.

2. Does not cohabit with the member or former member after the punitive or other adverse action.

3. Was not an active participant in the conduct constituting the dependent-abuse offense.

600102. Eligibility for Transitional Compensation Payment. The dependents of a member who separates on or after November 30, 1993 are eligible for transitional compensation payments. Payments begin on or after December 1, 1993 for qualified dependents. If a recipient is incapable of handling his or her own 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 legally has 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 a dependent child without regard to whether there is an eligible spouse or former spouse who also is receiving transitional compensation payments. 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, dependent children of the member could receive transitional compensation benefits in their own rights only if the member's spouse or former spouse was ineligible to receive the benefits (because of remarriage, cohabitation, or active participation in the abuse) and the dependent children did not reside in the same household as the spouse, former spouse, or the member; or, if there was no eligible spouse or former spouse (e.g., the member was not married or the spouse died), then payment could be made to the dependent children of the member who did not reside in the household of the member.

★ C. Persons Specifically Designated by the Secretary Concerned, Under Exceptional Eligibility Authority

1. The Secretary 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 concerned determines that:

a. The former member engaged in conduct that is a dependent-abuse offense, as defined in subparagraph 600101.A and

b. The former member was separated from active duty, as described in subparagraph 600101.B, on or after November 24, 2003.

2. Benefits authorized to be provided under this section shall be provided in the same manner as if the former member were an individual separated as described in subparagraph 600101.B, except that the Secretary concerned shall make adjustments to the commencement and duration of payment provisions of paragraph 600103 as the Secretary considers necessary in light of the circumstances, in order to provide benefits substantially equivalent to those provided in the case of an individual separated, as described in subparagraph 600101.B.

3. Exceptional eligibility authority may not be delegated below the Secretary level.

★ 600103. 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), then, if the sentence as approved, includes an unsuspended dismissal, dishonorable discharge, bad-conduct discharge, or forfeiture of all pay and allowances; and

B. In the case of a member being administratively separated based on a dependent-abuse offense, as of the date that the separation action was initiated by the commander under regulations of the Secretary concerned.

C. Payments are made for a period of not less than 12 months and not more than 36 months, based on policies established by the Secretary 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 shall 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.

600104. 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>
	\$769	December 1, 1993
	790	December 1, 1994
	810	December 1, 1995
	833	December 1, 1996
	850	December 1, 1997
	861	December 1, 1998
	881	December 1, 1999
	911	December 1, 2000
	935	December 1, 2001
	948	December 1, 2002
	967	December 1, 2003
	993	December 1, 2004
★	1,033	December 1, 2005
★	1,067	December 1, 2006
★	1,091	December 1, 2007
★	1,154	December 1, 2008

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>
	\$150	October 1, 1993
	200	October 1, 1994
	205	December 1, 1995
	211	December 1, 1996
	215	December 1, 1997
	217	December 1, 1998
	222	December 1, 1999
	229	December 1, 2000
	234	December 1, 2001
	237	December 1, 2002

	241	December 1, 2003
	247	December 1, 2004
★	257	December 1, 2005
★	265	December 1, 2006
★	271	December 1, 2007
★	286	December 1, 2008

C. If transitional compensation is payable to a dependent child under subparagraph 600102.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 Rate

<u>Effective</u>	<u>1 Child</u>	<u>2 Children</u>	<u>3 Children</u>	<u>Over 3</u>
December 1, 1993	\$327	\$471	\$610	\$610 plus \$120 for each child over 3
December 1, 1994	\$336	\$484	\$627	\$627 plus \$123 for each child over 3
December 1, 1995	\$344	\$496	\$643	\$643 plus \$126 for each child over 3
December 1, 1996	\$354	\$510	\$662	\$662 plus \$130 for each child over 3
December 1, 1997	\$361	\$520	\$675	\$675 plus \$132 for each child over 3
December 1, 1998	\$365	\$526	\$683	\$683 plus \$133 for each child over 3
December 1, 1999	\$373	\$538	\$699	\$699 plus \$136 for each child over 3
December 1, 2000	\$386	\$556	\$723	\$723 plus \$140 for each child over 3
December 1, 2001	\$397	\$571	\$742	\$742 plus \$143 for each child over 3
December 1, 2002	\$402	\$578	\$752	\$752 plus \$145 for each child over 3
December 1, 2003	\$410	\$590	\$767	\$767 plus \$148 for each child over 3
December 1, 2004	\$421	\$605	\$787	\$787 plus \$151 for each child over 3
★December 1, 2005	\$438	\$629	\$819	\$819 plus \$157 for each child over 3
★December 1, 2006	\$452	\$649	\$846	\$846 plus \$162 for each child over 3
★December 1, 2007	\$462	\$663	\$865	\$865 plus \$165 for each child over 3
★December 1, 2008	\$488	\$701	\$915	\$915 plus \$174 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 is 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 shall receive the odd cent(s).

F. Arrears of compensation, in the event of the death of a spouse or dependent child, will not be paid.

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

600105. Forfeiture Provisions

A. The transitional compensation payable to the spouse or former spouse is forfeited as a result of:

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

2. Remarriage. The former spouse who is receiving the compensation remarries. Compensation terminates effective as of the date of the former spouse's remarriage. Payments do not resume if the remarriage is terminated.

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

B. Annual Certification. The spouse or former spouse certifies annually to the Defense Finance and Accounting Service (DFAS), Cleveland (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). 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. Dependent children, parent, or court-approved guardian annually will certify that they 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.

★ 600106. Cessation 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 shall stop effective the first day of the month after the Secretary concerned notifies the recipient in writing that payment shall cease for such reason. The recipient is not required to repay transitional compensation received before the effective date of cessation, excluding erroneous payments.

★ 600107. 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 shall not be made for any period for which an order suspends, in whole or in part, that part of a sentence that includes forfeiture of the member's pay and allowance, or otherwise results in continuation, in whole or in part, of the member's pay and allowances.

★ 600108. Coordination of Benefits. A spouse or former spouse may not receive both payments of transitional compensation and payments under 10 U.S.C. 1408(h) of benefits for spouses and former spouses of retirement-eligible members who lost eligibility for retired pay as a result of misconduct involving abuse of dependents. See Chapter 59 of this volume. The spouse or former spouse must elect which benefit he or she chooses to receive. If a spouse or former spouse begins receiving transitional compensation payments and later is determined to be eligible for and receives payments under 10 U.S.C. 1408(h), then any amounts of transitional compensation received must be recouped.

600109. Effective Date. Transitional compensation provisions apply to members who, on or after November 30, 1993, separate from active duty under a court-martial sentence resulting from a dependent-abuse offense; who separate from active duty for administrative reasons if the basis for separation includes a dependent-abuse offense; or who are sentenced to forfeiture of all pay and allowances by a court-martial which has convicted the member of a dependent-abuse offense.

A. Transitional compensation is payable to dependents who qualify on or after December 1, 1993, for periods on or after December 1, 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.

B. If payments for the period December 1, 1993 through the member's active obligated expiration of term of service (ETS) represent less than 12 months, then payments continue until the 12-month minimum period is met.

600110. Applications. An individual requests transitional compensation through a Military Service representative. The Military Service representative approves payment, provides the Operation and Maintenance (O&M) fund citation, and forwards the application to DFAS at:

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

600111. Taxability. Transitional compensation payments are considered to be benefits that are excludable from taxation and should not be reported on Internal Revenue Service Form 1099R, "Distribution From Pensions, Annuities, Retirement of Profit Sharing Plans, IRAs, Insurance Contracts, etc."

BIBLIOGRAPHY**CHAPTER 60 – VICTIMS OF ABUSE – NONRETIREMENT ELIGIBLE MEMBERS
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