

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 * 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 February 2010 is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated chapter with hyperlinks and formatted to comply with current administrative instructions.	Update
All	Expanded and rearranged Table of Contents and chapter for clarity.	Update
600101	Expanded the overview of transitional compensation.	Update
600103.A	Expanded definition of “Dependent-Abuse Offense” per statute.	Update
600103.C.1 600103.C.2	Deleted former subparagraphs 600103.C.1 and 2 per Public Law 108-136, sec. 572(b)(1), Nov. 24, 2003.	Delete
600203	Provided additional information and hyperlink for submitting the transitional compensation application.	Update
600301	Added paragraph Recipients of Payments.	Add
600303.A 600303.B 600303.C	Changed the Dependency and Indemnity Compensation (DIC) Cost-of-Living Adjustment Rates are changed Effective December 1, 2011, the.	Update
600402	Added paragraph on Commissary and Exchange benefits per statute.	Add
600403	Added paragraph on Medical and Dental Care per statute.	Add
Bibliography	Referenced Public Law 112-53, November 9, 2011 for DIC rates, updated references for paragraphs 600402 and 600403.	Update

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CHAPTER 60

VICTIMS OF ABUSE – NONRETIREMENT ELIGIBLE MEMBERS
(Transitional Compensation)

6001 GENERAL PROVISIONS

*600101. General

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 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 as a result of misconduct involving abuse of dependents, see Chapter 59.

600102. Scope

A. 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.

B. 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.

600103. Definitions

*A. 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 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 and Other Adverse Actions. Punitive and other adverse actions are actions in which a member of the Armed Forces on active duty more than 30 days and who, after November 30, 1993 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, [voluntarily or involuntarily](#), from active duty under applicable Military Service regulations if the basis for separation includes a dependent-abuse offense.

C. Cohabitation. [It is considered cohabitation 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 according to subparagraph 600103.B](#).

D. Dependent Child. [A dependent child is](#) an unmarried child, including an adopted child or a stepchild, who is residing with the member at the time of the dependent-abuse offense, 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 [because of](#) a mental or physical incapacity that existed before age 18 and who is (or, [at the time](#) a punitive or other adverse action was carried out [in the case of the former member as described in subparagraph 600103.B](#), was) dependent on the [former](#) member for over one-half of the child's support; or

3. Age 18 or older, but less than age 23, [is](#) enrolled in a full-time course of study in an institution of higher learning approved by the Secretary of Defense and who is (or, [at the time](#) a punitive or other adverse action was carried out [in the case of the former member as described in subparagraph 600103.B](#), was) dependent on the [former](#) member for over one-half of the child's support.

E. Spouse or Former Spouse. [The term spouse or former spouse refers to the husband or wife, or former husband or 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.](#)

*6002 ELIGIBILITY FOR TRANSITIONAL COMPENSATION

600201. Eligibility for Transitional Compensation Payment

The dependents of a member [or former member](#) who separates 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 600301](#). 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 resided in the same household as the eligible spouse or former spouse](#).

[600202.](#) Exceptional Eligibility Authority

A. 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:

1. The former member engaged in conduct that is a dependent-abuse offense, as defined in subparagraph [600103.A](#); and
2. The former member was separated from active duty, as described in subparagraph [600102.B](#), on or after November 24, 2003.

B. 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 [600103.B](#), except that the Secretary concerned shall make adjustments to the commencement and duration of payment provisions of [paragraph 600301](#) 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 [600103.B](#).

C. Exceptional eligibility authority [by the Secretary concerned](#) may not be delegated.

[*600203.](#) Application

An individual requests 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 (O&M) fund citation, and forward the application and information for direct deposit to Defense Finance and Accounting Service (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

*6003 PAYMENT

*600301. Recipients of Payments

Transitional compensation shall be paid as follows:

A. If the member or former member was married at the time of the dependent-abuse, then compensation shall be paid to the spouse or former spouse to whom the member or former member was married to at that time, including an amount for each, if any, dependent child of the member or former member described in subparagraph 600103.B, 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 600305, then compensation shall 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 shall be paid to the dependent children of the member or former member described in subparagraph 600103.B.

600302. 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.

600303. 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
1,195	December 1, 2011

NOTE: The DIC rates for 2009 and 2010 remained the same as the December 1, 2008 rate.

*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
*296	December 1, 2011

NOTE: The DIC rates for 2009 and 2010 remained the same as the December 1, 2008 rate.

*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

<u>Effective</u>	<u>1 Child</u>	<u>2 Children</u>	<u>3 Children</u>	<u>Over 3</u>
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
*December 1, 2011	\$505	\$726	\$947	\$947 plus \$180 for each child over 3

NOTE: The DIC rates for 2009 and 2010 remained the same as the December 1, 2008 rate.

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 shall 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.

600304. 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, in whole or in part:

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

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

600305. Forfeiture Provisions

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

1. Cohabitation. If after 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 transitional compensation, then compensation terminates as of the date the former member begins residing in the 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. 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 marriage 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 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. 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. 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.

[600306](#). 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 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 [termination](#), excluding erroneous payments.

[600307](#). 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 of Profit Sharing Plans, [Individual Retirement Accounts](#), Insurance Contracts, etc.)

*[6004](#) OTHER BENEFITS

*[600401](#). Coordination of Benefits

A spouse or former spouse may not receive both payments of transitional compensation under [10 U.S.C 1059](#) 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](#)). If a spouse or former spouse has been awarded a court order providing for payments of compensation pursuant to [10 U.S.C. 1408\(h\)\(1\)](#), is also eligible for payments of transitional compensation under [10 U.S.C 1059](#), then the spouse or

former spouse shall elect which benefit 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.

*600402. Commissary and Exchange Benefits

A. A dependent or former dependent entitled to payment of monthly transitional compensation shall, while receiving payments in accordance with 10 U.S.C. 1059, be entitled to use commissary and exchange stores to the same extent and in the same 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 shall be determined under the other provision of law rather than under this paragraph.

*600403. 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 as described in subparagraph 600103.B are entitled to medical and or dental care for problems associated with the abuse.

B. The Secretary 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 as a result 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 shall 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.

BIBLIOGRAPHY

**CHAPTER 60: VICTIMS OF ABUSE – NONRETIREMENT ELIGIBLE MEMBERS
(Transitional Compensation)**

6001 – GENERAL PROVISIONS

600101 – 600103	Public Law 103-160, section 554, November 30, 1993, DoDI 1342.24, May 23, 1995, Public Law 103-337, section 535, October 5, 1994, 10 U.S.C. 1059
600102	OASD/FM Memo, October 19, 1994
600102.A	10 U.S.C. 1059
600103	10 U.S.C. 1059
600103.D	10 U.S.C. 1059(k)(2)

*6002 ELIGIBILITY FOR TRANSITIONAL COMPENSATION

60201.B	10 U.S.C. 1059(d)(2)
600202	10 U.S.C. 1059(m)

*6003 PAYMENT

600301	10 U.S.C. 1059(d)
600302	10 U.S.C. 1059(e)
600302.C	Principal Deputy Under Secretary of Defense for Personnel and Readiness Policy Memorandum, June 14, 2004
*600303	Public Law 112-53, section 2 (a) – (e), November 9, 2011
600303.A and B	38 U.S.C. 1311
600303.C	38 U.S.C. 1313
600305	10 U.S.C. 1059(g)
600306	10 U.S.C. 1059(e)(3)(C)
600307	Armed Forces Tax Council Memo, December 16, 1994

*6004 – OTHER BENEFITS

*600402	10 U.S.C. 1059(j)
*600403	10 U.S.C. 1076(e)