



DoD INSTRUCTION 1342.24

TRANSITIONAL COMPENSATION (TC) FOR ABUSED DEPENDENTS

Originating Component: Office of the Under Secretary of Defense for Personnel and Readiness

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Approved by: James N. Stewart, Assistant Secretary of Defense for Manpower and Reserve Affairs, Performing the Duties of the Under Secretary of Defense for Personnel and Readiness

Purpose: In accordance with the authority in DoD Directive 5124.02 and Section 1059 of Title 10, United States Code (U.S.C.), this issuance establishes policy, assigns responsibilities, and prescribes procedures for the payment of monthly TC to dependents of Service members separated for dependent abuse.

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SECTION 1: GENERAL ISSUANCE INFORMATION

1.1. APPLICABILITY. This issuance applies to OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities in the DoD.

1.2. POLICY. The DoD will make monthly TC payments and provide other benefits described in this issuance for spouses or dependents of Service members who meet the eligibility requirements of Section 1059 of Title 10, U.S.C. and this issuance.

1.3. INFORMATION COLLECTIONS. DD Form 2698, “Application for Transitional Compensation,” referred to in Paragraph 3.6.a. of this issuance, has been assigned Office of Management and Budget control number 0704-0578 in accordance with the procedures in Volume 2 of DoD Manual 8910.01. The expiration date of this control number is listed at <http://www.reginfo.gov/public/do/PRASearch>.

SECTION 2: RESPONSIBILITIES

2.1. ASSISTANT SECRETARY OF DEFENSE FOR MANPOWER AND RESERVE AFFAIRS. Under the authority, direction, and control of the Under Secretary of Defense for Personnel and Readiness, the Assistant Secretary of Defense for Manpower and Reserve Affairs:

- a. Establishes and prescribes procedures for the payment of TC to dependents of Service members separated for dependent abuse.
- b. Adjudicates exception to policy requests beyond the authorities provided in this issuance.
- c. Oversees compliance with this issuance.

2.2. DIRECTOR, DEFENSE FINANCE AND ACCOUNTING SERVICE (DFAS). Under the authority, direction, and control of the Under Secretary of Defense (Comptroller)/Chief Financial Officer, Department of Defense, the Director, DFAS, for the Secretaries of the Military Departments:

- a. Establishes TC accounts per instruction from the Secretaries of the Military Departments.
- b. Maintains TC accounts and payment history.

2.3. SECRETARIES OF THE MILITARY DEPARTMENTS. The Secretaries of the Military Departments:

- a. Designate representatives to coordinate requests for TC, approve requests (except exceptional eligibility requests), and forward those requests for payment in accordance with Chapter 60 of Volume 7B of DoD 7000.14-R.
- b. Review and approve or disapprove requests for TC benefits in accordance with the exceptional eligibility authority established in Paragraph 3.9. of this issuance. This responsibility may not be delegated.
- c. Ensure dependents who are victims of a dependent-abuse offense are aware of their eligibility to apply for TC.
- d. Establish departmental guidance to implement this issuance.

SECTION 3: PROCEDURES

3.1. RECIPIENTS OF PAYMENT. The Secretary concerned makes TC payments to Service member dependents, former dependents, or court-appointed guardians if:

a. The Service member was married at the time he or she committed the dependent-abuse offense that resulted in separation, compensation is paid to the spouse or former spouse to whom the Service member was married at the time. Compensation will also be paid to each dependent child of the Service member who resides in the same household as that spouse or former spouse.

b. The Service member's spouse or former spouse is eligible to receive TC and the Service member has one or more dependent children who do not reside in the household of the spouse or former spouse, TC is also paid to each of the Service member's dependent children who were residing in the household at the time of the abuse, but do not reside with the spouse or former spouse.

c. The Service member's spouse or former spouse is ineligible to receive TC because of remarriage, cohabitation, or active participation (see Paragraph 3.3. for information on forfeiture provisions), TC is only paid to each of the Service member's dependent children who were residing in the household at the time of the abuse, but do not reside with the spouse or former spouse.

d. There is no spouse or former spouse for reasons other than those in Paragraph 3.3. (e.g., because the Service member had no spouse or the spouse has died), payments are made to each of the Service member's dependent children who do not reside in the Service member's household.

e. A recipient is incapable of handling his or her own affairs; payments may be made only to a court-appointed guardian. For a dependent child under 18 years of age, payments may be made only to a court-appointed guardian or a parent who has legal custody of the dependent child or children and who is not also the abuser.

3.2. PAYMENTS.

a. Beginning Payments.

(1) Service Member Convicted by a Court-martial for a Dependent-abuse Offense.

Payment of TC begins:

(a) On 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

(b) On the date the person acting in accordance with Section 860, Article 60(c) of Chapter 47 of Title 10, U.S.C. approves the court-martial sentence if:

1. There is a pre-trial agreement that provides for disapproval or suspension of the dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances; and

2. The sentence, as approved, includes an unsuspended dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances.

(2) **Service Member Considered for Administrative Separation from Active Duty.** If the basis for the separation includes a dependent-abuse offense, payment of TC to a spouse or former spouse or dependent children begins on the date when a commander of the Service member initiates the separation action.

(3) **Suspension or Deferral of Total Forfeiture of Pay and Allowances Pursuant to a Sentence of a Court-Martial.** In the case of payment of TC by reason of a total forfeiture of pay and allowances pursuant to a sentence of a court-martial, payment of TC will not be made for any period for which an order:

(a) Defers or suspends, in whole or in part, that part of a sentence that includes total forfeiture of the Service member's pay and allowance; or

(b) Otherwise results in continuation, in whole or in part, of the Service member's pay and allowances.

b. Duration. Payments must continue, unless otherwise forfeited under Paragraph 3.3 of this issuance, for at least 12 months and no more than 36 months, as prescribed by the Secretary concerned. When the unserved portion of the Service 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, payments continue for no less than the unserved portion.

(1) For enlisted Service members, obligated active duty service is the time remaining on their terms of enlistment.

(2) For officers, obligated active duty service is indefinite unless an officer has a date of separation established. In that case, it is the time remaining until the date of separation.

c. Amount.

(1) The spouse or former spouse is paid monthly the amount currently in effect, in accordance with Section 1311(a)(1) of Title 38, U.S.C.

(2) If the spouse or former spouse to whom compensation is paid has custody of a Service member's dependent child or children who reside(s) in the same household as that spouse or former spouse, the amount is increased for each dependent child by the amount in effect for that month, in accordance with Section 1311(b) of Title 38, U.S.C.

(3) If each dependent child receives compensation, as described in Paragraph 3.1.a., such compensation is paid monthly in equal shares, with the amount determined in accordance with the rates in effect for that month pursuant to Section 1313 of Title 38, U.S.C. For payments for

more than one dependent child, if the payment amount does not divide evenly, the youngest dependent child receives the odd cent.

- (4) Partial month entitlements are pro-rated.
- (5) If a recipient dies, arrears of payments are not paid.
- (6) Payment for a dependent child does not cover any period before the birth of the child.

(7) As long as the payee meets the eligibility criteria in Paragraph 3.1. at the time TC payment begins under Paragraph 3.2.a., the payee is entitled to TC for the duration established by Service regulations (see Paragraph 3.2.b.) even if the payee ceases to meet the definition of dependent child at some point during receipt of TC.

d. Stopping Payment.

(1) Payments will be stopped if:

- (a) The conviction that is the basis for the payments is disapproved or set aside.
- (b) The sentence resulting from the conviction that is the basis for the payment is disapproved, remitted, set aside, or mitigated to a lesser punishment so that it does not include a dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances.
- (c) Under applicable regulations, the competent authority disapproves the proposed administrative separation that is the basis for payment.
- (d) The spouse, former spouse, or child(ren) forfeit their eligibility, as described in Paragraph 3.3.

(2) If payment is stopped for any of the reasons in Paragraphs 3.2.d.(1)(a) through (d), payments will end on the first day of the first month following the month in which the recipient is notified in writing that the payment of TC will stop (e.g., if the recipient is notified on March 16, then payments will stop effective April 1).

(3) Recipients are not required to repay amounts of TC received before the effective date payment is stopped, in accordance with Paragraph 3.2.d.(2); however, TC may be recouped for erroneous payments or payments made based on false information provided.

e. Taxability. 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."

3.3. FORFEITURE PROVISIONS.

a. Remarriage. The former spouse receiving TC must notify DFAS within 30 days of remarriage.

(1) The Secretary concerned stops payment effective the date the recipient remarries. The Secretaries will not renew payments if the subsequent marriage is terminated.

(2) If a Service member's dependent child is not living in the same household as the former spouse when the former spouse remarries, payments are made to each dependent child or his or her court-appointed guardian.

b. Cohabitation.

(1) The spouse or former spouse must notify DFAS within 30 days of the date the Service member begins residing in the same household as them or any dependent child(ren) receiving TC payments.

(2) When the Service member lives in the same household as the spouse, former spouse or dependent children receiving TC payments:

(a) Compensation payments end as of the date the Service member begins living in that household, if, after a punitive or other adverse action is executed, the Service member lives in the same household as the spouse or former spouse or dependent child or children to whom compensation is otherwise payable.

(b) Compensation paid for a period after the Service member's separation, but before the Service member resides in the same household, is not recouped.

(c) Compensation will not be resumed if the Service member subsequently ceases to live in the same household before the end of the period of eligibility for such payments.

c. Participation of the Spouse or Former Spouse.

(1) When the victim of the dependent-abuse is a dependent child or children, and the Secretary concerned determines the spouse or former spouse actively participated in the conduct constituting the dependent-abuse offense, TC will not be paid to the spouse or former spouse.

(2) If a Service member's dependent child is not living in the same household as the spouse or former spouse, payments are made to each dependent child or his or her court-appointed guardian.

d. Annual Certification. In order to continue benefits, the spouse or former spouse must annually certify in writing to DFAS that he or she is not remarried or is not cohabitating with the Service member separated for the abuse.

3.4. COORDINATION OF BENEFITS. A spouse or former spouse may not concurrently receive TC payments and retired pay payments pursuant to Sections 1059 and 1408(h), respectively, of Title 10, U.S.C. If a spouse or former spouse is eligible for both TC payments and retired pay payments, the spouse or former spouse chooses which of the two payments to receive. If the spouse or former spouse receives TC payments and later receives payments from

a Service member's retired pay, any TC received concurrently with retired pay must be recouped.

3.5. SOURCE OF FUNDS. TC must be paid from operations and maintenance funds of the Department of the Service member.

3.6. APPLICATION OF PROCEDURES. An individual must initiate a request for TC through a Service-appointed representative. The Service-appointed representative:

- a. Collects data and validates the claim using DD Form 2698.
- b. Approves payment and forwards the application to DFAS unless otherwise submitted by the Secretary concerned under Paragraph 3.9.

3.7. COMMISSARY AND EXCHANGE BENEFITS.

- a. A recipient of TC is entitled to use commissary and exchange stores while receiving payments.
- b. If a recipient entitled to use commissary and exchange stores is also entitled to use commissary and exchange stores under another provision of law, the entitlement is determined under the other provision of law and not Paragraph 3.7.a.

3.8. MEDICAL BENEFITS.

- a. The Secretary concerned will determine appropriate medical and dental care eligibility for TC recipients and affected dependents. At a minimum, an abused dependent who is receiving TC in accordance with Paragraph 3.1. may receive medical and dental care, including mental health services, in facilities of the military services or through the TRICARE program as outlined in Sections 1076 and 1077 of Title 10, U.S.C.
- b. Dental care may be provided on a space-available basis in facilities of the Military Services.
- c. Eligible dependents of a member who is retirement eligible, but who loses eligibility for retirement pay because of dependent-abuse misconduct, may receive medical and dental care in accordance with Section 1408(h) of Title, 10 U.S.C.

3.9. EXCEPTIONAL ELIGIBILITY.

- a. The Secretary concerned may authorize TC benefits for a spouse, former spouse, or dependents of a Service member in a case in which the spouse, former spouse, or dependents are not otherwise eligible for such benefits under this issuance, if the Secretary concerned determines:

- (1) The Service member engaged in conduct that is a dependent-abuse offense; and
 - (2) The Service member was separated from active duty other than as described in Section 1059, Subsection (b) of Title 10, U.S.C.
- b. The Secretary concerned may determine the beginning and duration of payments for individual exceptional eligibility cases in a manner similar to that established in Paragraphs 3.2.a. and 3.2.b..
- c. The authority described in Paragraphs 3.9.a. and 3.9.b. may not be delegated.

GLOSSARY

G.1. ACRONYMS.

DFAS Defense Finance Accounting Services

TC transitional compensation

U.S.C. United States Code

G.2. DEFINITIONS.

Unless otherwise noted, these terms and their definitions are for the purposes of this issuance.

dependent abuse offense. Conduct by an individual while a Military Service member on active duty for a period of more than 30 days that involves abuse of a then-current spouse or a dependent child of the Service member or an attempt or conspiracy to commit such abuse, and that is a criminal offense, as defined by Sections 801 through 940 of Title 10, U.S.C., or other criminal codes applicable to the jurisdiction where the act of abuse is committed. The term “involves abuse of the then-current spouse or a dependent child” means that the criminal offense is against the person of that spouse or a dependent child. Crimes that may qualify as dependent-abuse offenses include sexual assault, rape, sodomy, maiming, assault, battery, murder, and manslaughter. (This is not an exhaustive or exclusive listing of dependent-abuse offenses, but is provided for illustrative purposes only. The facts and circumstances of a particular case should always be interpreted in the manner most favorable to the spouse or a dependent child of the member.)

dependent child. An unmarried child, including an adopted child or a stepchild, who resided with the member or eligible spouse at the time of the dependent-abuse offense resulting in the separation of the former member or 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 and is:

Under 18 years of age;

18 years of age or older and is incapable of self-support because of a mental or physical incapacity that existed before the age of 18 and who is (or, at the time a punitive or other adverse action was executed in the case of the former member, was) dependent on the former member for over one-half of the child’s support; or

18 years of age or older but less than 23 years of age, 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 executed in the case of the former member, was) dependent on the former member for over one-half of the child’s support.

exchange stores. The Army and Air Force Exchange Service, the Naval Exchange, the Marine Corps Exchange, and the Coast Guard Exchange.

parent. The natural father or mother, or father or mother through adoption. For purposes of TC, parent does not include persons who have stood “in loco parentis” to a dependent child.

Secretary concerned. Includes the Secretary of the Military Departments and the Secretary of the Department of Homeland Security, when applicable.

Service member. Includes former Service members, where appropriate.

spouse. An individual, to include Service members, lawfully married to a Service member, as recognized by any state, possession or territory of the United States. Includes the term “former spouse” where appropriate.

REFERENCES

- DoD 7000.14-R, Volume 7B, “Department of Defense Financial Management Regulations (FMRs): Military Pay Policy – Retired Pay,” current edition
- DoD Directive 5124.02, “Under Secretary of Defense for Personnel and Readiness (USD(P&R)),” June 23, 2008
- DoD Manual 8910.01, Volume 2, “DoD Information Collections: Procedures for DoD Public Information Collections,” June 30, 2014, as amended
- United States Code, Title 10
- United States Code, Title 38