



DEPARTMENT OF THE NAVY  
OFFICE OF THE CHIEF OF NAVAL OPERATIONS  
2000 NAVY PENTAGON  
WASHINGTON DC 20350-2000

OPNAVINST 1750.3A  
N17  
11 May 2016

OPNAV INSTRUCTION 1750.3A

From: Chief of Naval Operations

Subj: TRANSITIONAL COMPENSATION FOR ABUSED DEPENDENTS

Ref: (a) DoD 7000.14-R, Department Of Defense Financial Management Regulations, February 2015  
(b) DoD Instruction 1342.24 of 23 May 1995  
(c) ASN (M&RA) memo, Delegation of Authority for Transitional Compensation for Abused Dependents, 2 Apr 2015 (NOTAL)  
(d) ASN (M&RA) memo, Delegation of Authority for Transitional Compensation for Abused Dependents, 21 Apr 2014 (NOTAL)  
(e) 10 U.S.C.  
(f) 38 U.S.C. §1313

1. Purpose. To prescribe amplifying procedures for payment of monthly transitional compensation to dependents of members of the Navy separated for dependent-abuse and to implement the requirements of reference (a), volume 7b, chapter 60, and references (b) through (d). This instruction is a complete revision and should be reviewed in its entirety. Major changes to this revision are summarized in subparagraphs 1a through 1c.

a. The authorization to pay children on the date of notification of administrative separation for domestic abuse.

b. The payment of 36 months of compensation for all abused dependents cases approved for transitional compensation.

c. The payment to children born alive who were "in utero" at the time the abuse occurred.

2. Cancellation. OPNAVINST 1750.3.

3. Applicability. This instruction applies to:

a. Service members of the Navy who have been on active duty for more than 30 days and who, on or after 30 November 1993, have been:

(1) Convicted of a dependent-abuse offense that resulted in the Service member being separated from active duty pursuant to a sentence of a court-martial.

(2) Convicted of a dependent-abuse offense that resulted in the Service member forfeiting all pay and allowances pursuant to a sentence of a court-martial or forfeiting all pay and allowances by operation of law.

(3) Administratively separated from active duty, voluntarily or involuntarily, when the basis for separation includes a dependent-abuse offense.

(4) Committed a dependent-abuse offense, but was administratively separated for another offense that meets the requirements for exceptional eligibility per reference (a), volume 7b, chapter 60, and outlined in subparagraph 5b.

b. Dependents who qualify for transitional compensation for periods on or after 1 December 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 1 November 1998.

4. Definitions

a. Dependent-Abuse Offense. A dependent-abuse offense is conduct by a member of the United States 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 in reference (a), volume 7b, chapter 60, or other criminal code applicable to the jurisdiction where the act of abuse is committed.

(1) Crimes that may qualify as dependent-abuse offenses are ones such as sexual assault, rape, sodomy, assault, battery,

murder, and manslaughter. The aforementioned offenses are not an exhaustive or exclusive listing of dependent-abuse offenses.

(2) To determine "dependent-abuse offense" in a specific jurisdiction, contact the cognizant staff judge advocate or Navy legal services office.

b. Punitive and Other Adverse Actions. Punitive and other adverse actions are actions in which a member of the United States Armed Forces on active duty more than 30 days and who, after 30 November 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.

(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.

c. 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, per paragraph 3.

d. Dependent Child. A dependent child is an unmarried child, including an adopted child or a stepchild, who is residing with the member or eligible spouse at the time of the dependent-abuse offense, which results 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 (as defined in reference (a), volume 7b, chapter 60) 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 paragraph 3, was) dependent on the former member for over one-half of their own support.

(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, at the time a punitive or other adverse action was carried out in the case of the former member as described in paragraph 3, was) dependent on the former member for over one-half of their own support.

## 5. Policy

a. Transitional Compensation. Transitional compensation for abused dependents is the Navy's program to make monthly payments of transitional compensation and provide other benefits described in reference (a), volume 7b, chapter 60, and reference (b) for dependents of members separated for dependent-abuse, if the member is:

(1) Convicted by a court-martial for a dependent-abuse offense and the sentence includes a dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances.

(2) Administratively discharged from active duty for a dependent-abuse offense.

b. Exception to Eligibility. The Secretary of the Navy (SECNAV) may authorize eligibility for transitional compensation for abused dependents benefits under reference (e), section 1059, 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 instruction, if the Secretary determines:

(1) The former member engaged in conduct that is a dependent-abuse offense as defined in subparagraph 4a; or

(2) The former member was separated from active duty other than as described in subparagraph 4b, on or after 24 November 2003.

6. Transitional Compensation Requests. Transitional compensation requests may require the coordination between the Service member's command, legal office or local victim legal counsel, Family Advocacy Program, base security, Navy Criminal Investigative Service, and other agencies to ensure proper preparation of applications for transitional compensation. Transitional compensation request packages must be reviewed by Commander, Navy Installations Command for submission to the Office of the Chief of Naval Operations, Director, 21<sup>st</sup> Century Sailor Office (OPNAV N17), or SECNAV, as appropriate. Typical packages include the information listed in subparagraphs 6a through 6c.

a. DD Form 2698 Application for Transitional Compensation.

b. Courts-martial or administrative separation documentation, such as NAVPERS 1910/31 Administrative Separation Processing Notice, Court-Martial Information for Victims and Witnesses of Crime; court decision documents; or a command letter or memorandum attesting to the separation or separation processing of the Service member abuser.

c. Personnel data such as marital status, dependent information, direct deposit information, and any other documentation supporting the case.

7. Commencement and Duration of Payment

a. In the case of a member convicted by a court-martial of a dependent-abuse offense, when payments are authorized under subparagraph 5a, payments to spouse and children 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 the suspension or disapproval of an adjudged 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 reference (e),

section 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, payments to spouse and children begin as of the date that the separation action was initiated by the commander and would be either the date of the NAVPERS 1910/31 or the notice of administrative show cause proceedings letter.

c. Effective 2 April 2015, 36 months of transitional compensation payments and benefits were authorized per reference (c). All cases which are believed not to warrant the full 36 months must be referred to SECNAV for adjudication.

d. Per reference (a), volume 7b, chapter 60, a dependent child, who was carried during pregnancy at the time of the dependent-abuse offense resulting in the separation of the former member, must not receive payment until after they are born. Payments to a child under this paragraph must not cover any period prior to the birth of the child. Payments under this provision are effective 2 January 2013. There is no authority for payments prior to 2 January 2013.

8. Transitional Compensation Payments. Payments to abused family members:

- a. Must not be made for any period before 30 November 1993;
- b. Must be no more than 36 months;
- c. Must be equal to the amount directed by reference (f);
- d. May increase annually, for eligible family members, if there is a rate change; and
- e. Must not be paid if recipient dies, and scheduled payments must be terminated.

9. Recipients of Payments. Payments to abused family members must be made as outlined in subparagraphs 9a through 9d.

a. If the Service member was married at the time of the offense, payment must be made to the person who was the spouse at the time of the offense.

b. If there is a spouse who is ineligible to receive payment due to remarriage, cohabitation, or active participation in the offense, payments must be made to each dependent child of the Service member who no longer resides in the household of the Service member or the ineligible spouse.

c. If there is no eligible spouse because the Service member was not married or the spouse has died, payments must be made to the dependent children of the member who no longer reside in the household of the Service member.

d. If a recipient is incapable of handling his or her own financial affairs, payments may be made to a court-appointed guardian. In the case of a dependent child under 18 years of age (where spouse is ineligible), payments may be made only to a court-appointed guardian or a natural parent (who is not the spouse of the Service member) if the natural parent has legal custody of the dependent child.

10. Coordination of Benefits. Per reference (b), a spouse or former spouse may not receive both transitional compensation for abused dependents and retirement payments under reference (e), section 1408(h)(1). If a spouse is otherwise eligible for both transitional compensation for abused dependents and retirement payments under reference (e), section 1408(h)(1), the spouse must elect which to receive.

11. Termination of Payments. When a recipient is notified that payments must stop, the final payment must be the first day of the month following that notification. Payments must cease for the reasons listed in subparagraphs 11a and 11b.

a. The member was sentenced by a court-martial to dismissal or discharge for a dependent-abuse offense, and subsequently has that dismissal or discharge remitted, set aside, or mitigated to a punishment that does not include separation.

b. The administrative separation board's recommendation for administrative separation is disapproved by the separation authority specified in MILPERSMAN 1910-704. The recipient must

not be required to repay amounts of transitional compensation received before the separation authority disapproval decision.

12. Forfeiture of Payments. Forfeiture of transitional compensation payments must occur in the cases listed in subparagraphs 12a through 12c.

a. Remarriage. If a spouse receiving payments remarries, payments terminate as of the date of the remarriage. The spouse is required to notify Defense Finance and Accounting Service (DFAS) within 30 days of remarriage. In cases where the remarriage is terminated, payment must not resume. A dependent child, not living in the same household as the remarried spouse or former member, may receive payments.

b. Cohabitation. If the member resides in the same household as the spouse or dependent children, the family members must not receive transitional compensation. When separate residences for the former member and the spouse or dependent children are established, they are eligible for compensation; if a former member and the spouse or dependent children subsequently decide to cohabit, payments terminate as of the date the former member begins residing in the household. The spouse or dependent children are required to notify DFAS within 30 days of cohabitation. In cases where cohabitation occurs and then dissolves, payment must not resume regardless of the subsequent separate living arrangements.

c. Active Participant. When the victim of the dependent-abuse is a dependent child or children, and the Navy determines the spouse actively participated in the dependent-abuse offense resulting in separation, transitional compensation is not authorized. If the children are removed from the household of the spouse that was an active participant, and placed with an adult that has court-ordered guardianship, transitional compensation is authorized on behalf of the children.

13. Annual Recertification. 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. DFAS must send a letter with the certificate of continued

eligibility (COE) information requirements to the recipients last known address. COE requirements are listed in subparagraphs 13a through 13c.

a. Remarriage or Cohabitation 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.

b. Parent or Court-Approved Guardian COE. The parent or court-approved guardian must certify annually that the dependent child or children are not residing with the offender or ineligible spouse via the COE process.

c. COE Return Requirement. Payment recipients must return the COE to DFAS within 60 days of the date of the COE. Failure to return the COE must result in the suspension of payments until verification of eligibility is received.

14. Commissary and Exchange Benefits. Recipients may use commissary and exchange stores while receiving their payments. A recipient is authorized the same commissary and exchange privileges as a dependent of a member of the Military Services on active duty for a period of more than 30 days.

15. Medical and Dental Benefits. References (b) and (e), section 1076, specify that recipients are entitled to the same medical and dental eligibility and benefits as were applicable for that abused dependent during the period of active service of the former member. Subparagraphs 15a through 15c provide clarification of these benefits.

a. Recipients may also apply for SECNAV designee status for medical benefits relating to the knowledge of, or any injury or illness suffered as a result of the abuse. See part 728.77 of Title 32, Code of Federal Regulations, secretarial designees, for additional information.

b. Eligible dependents may receive dental coverage if the active duty Service member and dependent(s) were enrolled in the current military contracted dental plan. The enrollee is responsible to pay the premiums for these plans.

c. Medical and dental care furnished to a dependent of a former Service member by the military health system must be limited to the health care prescribed by reference (e), section 1408(h)(1), and is subject to the availability of space, facilities, and the capabilities of the medical and dental staff.

16. Responsibilities

a. Office of the Judge Advocate General. The Office of the Judge Advocate General must ensure victim legal counsel and other legal services are available for abused dependents.

b. OPNAV (N17)

(1) Establish policy and guidance for transitional compensation for abused dependents program.

(2) Coordinate requests for transitional compensation, and approve or disapprove requests (except under exceptional eligibility authority).

(3) Provide notification of decision to applicant.

(4) Forward those requests for payment per reference (a), volume 7b, chapter 60.

c. Commander, Navy Installations Command

(1) Ensure dependents who are victims of a dependent-abuse offense are aware of their eligibility to apply for transitional compensation.

(2) Assist abused dependents with preparation and submission of transitional compensation application.

(3) Provide support to abused dependents through fleet and family support centers and chaplains for appropriate referral information.

(4) Receive and process the DD Form 2698 and supporting documentation.

(5) Inform OPNAV Total Sailor Fitness Office (OPNAV N170) when transitional compensation applications are received.

(6) Forward DD Form 2698 to Navy Personnel Command for legal review.

(7) Notify Defense Enrollment Eligibility Reporting System (DEERS) when an approved transitional compensation recipient is eligible for a new identification card to maintain commissary, exchange, and health care benefits.

(a) New identification cards are not issued until the active duty Service member is separated, until the dependents are no longer dependents of the Service member (e.g., divorced), or if the spouse receiving transitional compensation payments is an active duty member. Until then, the family continues to use their identification cards affiliated with the active duty Service member.

(b) Identification cards received through the transitional compensation for abused dependents program expire on the date payments are terminated.

d. Commander, Navy Personnel Command

(1) Conduct legal review of separation of active duty members for dependent-abuse offenses per reference (b).

(2) Submit requests for exception to eligibility for transitional compensation per reference (a), volume 7b, chapter 60, to the Assistant Secretary of the Navy (Manpower and Reserve Affairs) for review and final determination by SECNAV.

e. Commanding Officers

(1) Publicize information about transitional compensation policy and procedures on installations.

(2) Facilitate the transitional compensation application process for eligible family members.

(3) Ensure separation, legal, and personnel documentation for dependent-abuse cases is available to process transitional compensation applications.

17. Action. Commanders must ensure that the policies, provisions, and agreements delineated in reference (a), volume 7b, chapter 60, and reference (b) are available for review by all hands.

18. Records Management. Records created as a result of this instruction, regardless of media and format, must be managed per SECNAV Manual 5210.1 of January 2012.

19. Form. DD Form 2698 Application for Transitional Compensation may be obtained from the local fleet and family support center, Family Advocacy Program personnel, legal service offices, or directly from the DoD Forms Management Program Web site: <http://www.dtic.mil/whs/directives/forms/index.htm>.



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