



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

OPNAVINST 1750.3
N130
20 Dec 2005

OPNAV INSTRUCTION 1750.3

From: Chief of Naval Operations

Subj: TRANSITIONAL COMPENSATION FOR ABUSED DEPENDENTS POLICY

Ref: (a) DOD Instruction 1342.24 of 23 May 95
(b) 10 U.S.C. 1059
(c) 38 U.S.C. 1313
(d) 10 U.S.C. 1076

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).

2. Cancellation. This OPNAV Instruction supersedes SECNAVINST 1750.7. The SECNAV Instruction was cancelled under a separate cancellation memo.

3. Applicability

a. This instruction applies to service members of the Navy who have been on active duty for more than 30 days and who, after 29 November 1993, have been:

(1) Convicted at a court-martial and sentenced to be separated from active duty for a dependent-abuse offense; or

(2) Administratively separated from active duty when the basis for separation includes a dependent-abuse offense; or

(3) Administratively separated or convicted and sentenced to be separated from active duty on grounds that do not include a dependent-abuse offense but, per reference (b), have a substantiated dependent abuse offense.

b. Reference (a) contains definitions and examples of terms pertinent to this policy.

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(1) To determine "dependent-abuse offense" in a specific jurisdiction, contact the cognizant staff judge advocate or Navy Legal Support Office command services.

(2) Status as a "dependent child" is determined under this policy as of the date on which the service member is convicted or administratively separated, whichever is applicable.

4. Policy

a. It is the Department of the Navy's policy to make monthly payments of transitional compensation and provide other benefits described in reference (a) for dependents of members separated for dependent abuse.

b. For members 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, the payment will commence on the date the court-martial sentence is adjudged.

c. For members separated by administrative discharge from active duty for a dependent-abuse offense, entitlement payments will commence on the date of the letter notifying the member of the separation.

d. For members separated from active duty on grounds that do not include a dependent-abuse offense but should have included the offense as a basis for separation and have a substantiated dependent-abuse case per reference (b), the Assistant Secretary of the Navy (Manpower and Reserve Affairs) (ASN(M&RA)) may approve transitional compensation using the following procedure:

(1) The Program Manager, Commander, Navy Installations Millington Detachment (N2113) will submit the family's transitional compensation application to ASN(M&RA) with a decision memorandum from Commander, Navy Personnel Command (COMNAVPERSCOM) requesting authority to favorably process the request. In the decision memorandum, COMNAVPERSCOM will certify that Family Advocacy files substantiate the dependent abuse necessary to make the applicant eligible for transitional compensation. COMNAVPERSCOM will further certify that a contravention of regulations involving substantiated dependent

abuse exists in the administrative separation of the member and the failure to process the member for a dependent abuse offense

was not the fault of the family members. COMNAVPERSCOM will forward the decision memorandum directly to ASN(M&RA) for action.

(2) If ASN(M&RA) approves the COMNAVPERSCOM recommendation, N2113 is authorized to certify and forward the application for transitional compensation to the Defense Finance and Accounting Service (DFAS).

(3) No modifications of the former service member's record are authorized as a result of this procedure.

e. Payments to abused family members will be made as follows:

(1) No payment may be made for any period before 30 November 1993.

(2) If the service member was married at the time of the offense, payment shall be made to the person who was the spouse at the time of the offense.

(3) If there is a spouse who is ineligible to receive payment due to remarriage, cohabitation, or active participation in the offense, payments shall 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 (see paragraph 4g for details on forfeiture provisions).

(4) If there is no eligible spouse because the service member was not married or the spouse has died, payments shall be made to the dependent children of the member who no longer reside in the household of the service member.

(5) 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 (not the spouse of the service member) if the natural parent has legal custody of the dependent child.

(6) The duration of payments will be at least 12 months but not more than 36 months. If on the commencement date of payments the unserved portion of the member's obligated service is less than 36 months (less than 36 months until the End of Active Obligated Service (EAOS)), the duration will be either that unserved portion or 12 months, whichever is greater. "Lost time" while servicing a confinement sentence is not a factor in determining EAOS and duration of transitional compensation payments.

(7) Monthly payment amounts for eligible family members are adjusted annually in references (b) and (c). Payments will be prorated in months when payments start or stop in the middle of the month.

(8) If recipient dies, arrears of pay shall not be paid.

f. When a recipient is notified that payments will stop, the final payment will be the first day of the month following that notification. Payments will cease for the following reasons:

(1) 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.

(2) The administrative separation board's recommendation for administrative separation is disapproved by Chief of Naval Personnel (CHNAVPERS). The recipient shall not be required to repay amounts of transitional compensation received before the CHNAVPERS disapproval decision.

g. Forfeiture of transitional compensation payments will occur in the following cases:

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

(2) Cohabitation. If the member resides in the same household as the spouse or dependent child(ren), the family

members will not receive transitional compensation. When separate residences for the member and the spouse/dependent child(ren) are established, they are eligible for compensation. If a member and the spouse/dependent child(ren) subsequently decide to cohabit, payments terminate as of the date the member begins residing in the household. The spouse/dependent child(ren) is(are) required to notify DFAS within 30 days of cohabitation. In cases where cohabitation occurs and then dissolves, payment will not resume regardless of the subsequent separate living arrangements.

(3) Active Participant. The spouse and dependent child(ren) living with the spouse, will not be paid if the victim was a dependent child and the spouse was an active participant in the abuse (found by competent authority designated by the SECNAV to have been an active participant in the criminal offense or to have actively aided or abetted the member in such conduct). In order for a child abuse victim to be eligible for transitional compensation payments under these circumstances, the child must be removed from the parental home and placed in the legal care and custody of an adult, court-appointed guardian who was not an active participant in the abuse. Transitional compensation payments to a court-appointed guardian for the child are permissible.

h. The spouse will certify annually to DFAS that he/she has not remarried and has not been cohabiting with the offender. Certification will be accomplished by completing the certificate of eligibility. Dependent children will also certify annually that they are not cohabiting with the offender or ineligible spouse via the certificate of eligibility process. DFAS will mail the blank certificate of eligibility to the last known address of recipients. Failure to recertify will result in suspension of account until certification is received by DFAS.

i. Recipients are entitled to the following Commissary, Exchange, and health care benefits:

(1) Recipients may use Commissary and Exchange stores while receiving their payments. A recipient is allowed the same Commissary and Exchange privileges as a dependent of a member of the Armed Services on active duty for a period of more than 30 days.

(2) If a recipient eligible or entitled to use the Commissary and Exchange stores under paragraph 4i.(1) is also

eligible or entitled under another provision of law, eligibility and entitlement will be determined under the other provision of law and not under paragraph 4i(1) above.

(3) Reference (d) specifies 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. Recipients may apply for Secretarial Designee status for medical benefits relating to the knowledge of, or any injury or illness suffered as a result of the abuse. Dental benefits are not available to dependent family members without the service member signing up for the Tricare Dental Plan and having the premiums deducted from the member's pay. Once the member is discharged or is no longer receiving pay, dental coverage will only be available on a "space available" basis.

j. Commissary, Exchange, and health care benefits are automatically established by N2113 upon receipt of application. Recipients will be contacted concerning issuance of uniformed services identification (ID) and privilege card(s). ID cards expire on the day the transitional compensation payments stop.

5. Responsibilities

a. The member's servicing personnel activity is the primary coordinating activity. It is the first point of contact for the reimbursement claim and the source from which to obtain copies of the DFAS procedures for claim submission.

b. Contact Fleet and Family Service Centers and chaplains for appropriate referral information.

c. Local legal assistance officers or Staff Judge Advocates can assist with legal questions.

d. Public Affairs Officers will publicize this instruction through appropriate service channels.

e. Point of contact for Navy Transitional Compensation for Abused Dependents Policy is Chief of Naval Operations (Military Compensation Policy Branch (N130)). Point of contact for administrative support is Commander, Navy Installations Millington Detachment (N2113).

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6. Action. Commanders shall ensure that the policies, provisions, and agreements delineated in reference (a) are available for review by all hands.

7. Form. DD Form 2698, Application For Transitional Compensation, of January 1995 may be obtained from local Fleet and Family Service Centers, Family Advocacy Program Coordinators, Legal Service Offices, or online.

/s/

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Deputy Chief of Naval Operations
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