



Montana Council on Educational Opportunity for Military Children

Meeting Agenda

December 03, 2019 – 3:00 pm to 4:00 pm MST

Phone conference call: (712) 770-3665, Access Code 514145

- **3:00 pm – Begin Meeting**
- Approval of May 28, 2019 Minutes – Superintendent Elsie Arntzen
- National Meeting & Presentation – BG (R) Hal Stearns & Superintendent Arntzen
- Discuss including the National Guard & Reserve members in the MIC3 Compact
- **4:00 pm – Conclude Meeting**

Membership:

BG (R) Harold Stearns – Compact Commissioner

Elsie Arntzen – Chairperson, State Superintendent Montana Office of Public Instruction

Tom Moore – Vice Chairperson, Superintendent Great Falls Public Schools

CPT Michelle Bogden – Representative of the Executive Branch, Montana Army National Guard

Representative Edward Buttrey – Montana House of Representatives

Marjorie Hahn – Child & Youth Educational Services School Liaison, Malmstrom Air Force Base

Mark Beckman – Executive Director, Montana High School Association

Invited Guests:

Cherise Imai - MIC3 Executive Director

Don Kaminar – MIC3 Executive Committee Chair

Dr. Kathleen Berg – National Guard and Reserve Taskforce Chair

Brian Garrett – MIC3 Utah State Council Member



MEETING/PROJECT NAME:

Montana Council on Educational Opportunity for Military Children

DATE OF MEETING: May 28, 2019 TIME: 09:00 – 10:30

LOCATION: Loy Elementary Cafeteria, 501 57th St N, Great Falls, MT 59405

MEETING OBJECTIVE: Business Meeting

PRESIDER: Elsie Arntzen, State Superintendent, Montana Office of Public Instruction

MINUTES PREPARED BY: Virginia Díaz, Administrative Clerk, Montana Office of Public Instruction

ATTENDEES

PRESENT COUCIL MEMBERS

Elsie Arntzen, OPI Superintendent

Representative Edward Buttrey

Tammy Lacey, GFPS Superintendent

BG (R) Hal Stearns, Compact Commissioner

ABSENT COUNCIL MEMBERS

CPT Michelle Bogden, Montana National Guard

AGENDA AND NOTES, DISCUSSIONS, ISSUES (OPEN PRESENTATIONS)

TOPICS AND DISCUSSIONS

Meeting Begins: 09:00 am

Approval of October 23, 2018 Minutes

- Motion to approve minutes from October 23, 2018 meeting by Superintendent Elsie Arntzen
- 1st by Superintendent Tammy Lacey
- 2nd by Representative Edward Buttrey

Review Bylaws Draft 3

- Move to approve Bylaws Draft 3 by Mark Beckman
- 2nd by Superintendent Tammy Lacey
- Bylaws Draft 3 will be posted for 30 days on the OPI's website for public comment

Legislative Interim Dates

- Not all Interim Committees had set meeting dates as of MIC3 meeting date.

National Meeting & Presentations

- National MIC 3 meeting will be October 23, 24, 2019 in Colorado; BG (R) Hal Stearns is scheduled to attend.

Honoring Members: Superintendent Tammy Lacey & Rep. Jean Price

- BG (R) Hal Stearns presented a certificate awarded from the MIC 3 national office to late Rep. Jean Price, in recognition for her outstanding support of MIC3 in Montana. The certificate was received by Representative Edward Buttrey and will be forwarded to late Rep. Price's family.
- BG (R) Hal Stearns presented a certificate awarded from the MIC 3 national office to Superintendent Tammy Lacey, in recognition for her career-long support of military families and her outstanding support of MIC 3 in Montana.
- Montana National Guard presented Superintendent Tammy Lacey with
 - a plaque recognizing her service to military families.
 - a military coin in recognition for her efforts in promoting a military friendly community not only in the education system but also around the Great Falls community.

Plaque Honoring MIC3 Montana Champions 2019

- Superintendent Arntzen presented plaque to Principal Kim Ray for Loy Elementary great contribution in serving military families. Plaque will be displayed at Loy Elementary.

Parent Question Interactions with Commission Members

- Parent question: if the military parent retires during the child's school year, and the family transitions, will the child be eligible for graduation?
 - BG (R) Hal Stearns addressed the question: the child/student would benefit from the MIC3 provisions. See 20-1-230 Article III, (1) (b), MCA.

Other Business

- Recommendation was made to present MIC 3 at the Autumn Superintendent's meeting to promote awareness
- Recommendation was made to pursue Purple Star Award to celebrate students, leaders, and communities throughout the year and not only in April.
- CPT Michelle Bogden was unable to attend the meeting due to her out-of-state Annual Training
- Darcy Trimmer, late Rep. Price's daughter, was unable to join the meeting due to being out-of-state. She was aware of the certificate, expressed gratitude for the recognition and regretted not being able to join.

End of Meeting: 10:30 am

MIC3 National Annual Business Meeting

October 22-24, 2019

Colorado Springs, CO with opportunity to visit United States Air Force Academy

In attendance from Montana MIC3 Council:

Superintendent Elsie Arntzen, State Superintendent, Office of Public Instruction

Marjorie Hahn, Child & Youth Education Services School Liaison (CYES-SL), Malmstrom Air Force Base

This meeting represented

- 47 states
- 166 people represented by Commissioners, DoD, and school liaisons

Executive Report

100% Staff turnover

Finance standings Com.

- Monthly meeting need agenda sent to all Commissioners.
- Need reserve & investment policy discussed more thoroughly.

5 Standing Committee Reports

I. Finance Report

- Current year dues reflect an increase of \$1.00 to \$1.15 rate per student, hadn't changed in 10 years.
- \$2300 is the current total state dues – MT has lowest dues / Data for allocation from DoD Deputy of Defense.
- Reflects student ages of 5-18.
- MIC3 total budget is \$665,000, 2020-2021
 - Fiscal impacts of 12% benefits.
 - Increased to 50 + 1 membership as released in Kentucky.
 - MIC3 is part of Council of State Governments housed in Kentucky.
- Finance – Sustainability
 - Based on trend of number of people serving in Forces.
 - \$4 million investment reserve fund plus \$1.3 million in working reserve for 2 years.
 - Increase outside partnerships.

II. Compliance Report

1. Reporting deadlines
2. Commissioner checklist
3. Set up state council/send State Council meeting dates
4. State must have 1 annual meeting
5. Signed annual code of conduct from State Commissioner

III. Rules Committee

1. New rules impacted from increasing dues

2. Does MT submit cases from incoming & sending states?
3. Facts – 2018 Data Reports:
 - a. Only 29 cases relating to Compact
 - b. Most cases are SPED at 30% with kindergarten entry and graduation at 23% exit
 - c. No cases out of Montana reported

IV. **Training Committee**

1. New Commissioners, mentioning program.

V. **Communication Committee**

1. Website analytics up 28% in last 2 years
2. Monthly newsletter needs to be given to all members of Commission
3. Transition to mobile device compatibility
4. Commissioner updates to all State members
5. Pushing more social media
 - a. Facebook 392 new followers
 - b. Twitter 265 new followers

Thoughts to enhance presence of MIC3 in Montana:

- Do we need National training from Executive Staff for State Commission?
 - Possible Regional with Wyoming, Idaho, North Dakota, South Dakota
- Need to use PSA & video for Purple Up Day, Purple Star schools
- Webinar to share on website
- Enhance the photo gallery
- Need to be part of the National Guard & Reserve Task Force - Dr. Kathy Berg, Hawaii
- Need a mentor tool kit for State Commissioners replicated from National Commissioner
- Need to put SPED director on State Council, or a counselor

Voted, Actions October 23, 2019

New slate of Officers voted in by unanimous acclamation

- Chair – John “Don” Kaminar (Arkansas)
- Vice Chair – Laura Anastasio (Connecticut)
- Treasurer – Craig Nevenswander (Kansas)

Purple Star Discussion

Patterning off Ohio’s model with Illinois, Wyoming, Florida, MT on Purple Star schools

- Makes schools military-friendly
- Create criteria
- Liaison POC (point of contact)

Give schools

- Banner
- Plaque
- Coin

Re-apply for 2 years. 1st years October to December

Check out Ohio website DOE. Check out the Tennessee brochure

Need to have a call with Ohio: Corey O'Brien, Teacher, Purple Star POC

Another Opportunity:

NMSI Grant – DoD Grant

- 100 students on Science & Math – look at this grant process

Voting

Thursday, October 24, 2019 meeting

1. Budget 2020 – unanimously approved
 2. Bylaws change to have an ad hoc committee before becoming permanent – passed (2 opposed)
-
- Strategic Plan Reports from the 5 standing committees were given more in depth.
 - Presentation DoD State Liaison for Military Rep on State Councils qualification. Bill Hampton – see link.
 - Report on coverage of National Guard & Reserve from newly formed Task Force.
 - Need to check on our Military Identifier for ESSA. Needs to be National Guard as well as Active Duty
 - Need an ombudsman with parents – initiate with PLUK's departure

Montana Code Annotated 2019

TITLE 20. EDUCATION

CHAPTER 1. GENERAL PROVISIONS

Part 2. Miscellaneous Provisions

Enactment -- Interstate Compact On Educational Opportunity For Military Children -- Provisions

20-1-230. Enactment -- Interstate Compact on Educational Opportunity for Military Children -- provisions. The Interstate Compact on Educational Opportunity for Military Children is enacted into law and entered into with all other jurisdictions joining in the compact in the form substantially as follows:

ARTICLE

I

PURPOSE

(1) It is the purpose of this compact to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by:

(a) facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous school districts or variations in entrance or age requirements;

(b) facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content, or assessment;

(c) facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities;

(d) facilitating the on-time graduation of children of military families;

(e) providing for the promulgation and enforcement of administrative rules implementing the provisions of this compact;

(f) providing for the uniform collection and sharing of information between and among member states, schools, and military families under this compact;

(g) promoting coordination between this compact and other compacts affecting military children; and

(h) promoting flexibility and cooperation between the educational system, parents, and the student in order to achieve educational success for the student.

(2) The purpose of the legislation and the Interstate Compact is not to supersede the sovereignty of any member state but instead to facilitate the collective exercise of each state's sovereignty to allow a uniform solution without federal intervention. No provision of the Interstate Compact may be construed as a waiver of any state's sovereignty.

ARTICLE

II

DEFINITIONS

As used in this compact, unless the context clearly requires a different construction, the following definitions apply:

(1) "Active duty" means full-time duty status in the active uniformed service of the United States, including members of the national guard and reserve on active duty orders pursuant to 10 U.S.C. 12301(d) and 12304.

(2) "Children of military families" means school-aged children enrolled in kindergarten through 12th grade, in the household of an active duty member.

(3) "Compact commissioner" means the voting representative of each member state appointed pursuant to Article VIII of this compact.

(4) "Deployment" means the period 1 month prior to the service member's departure from the service member's home station on military orders though 6 months after return to the service member's home station.

(5) "Education records" means those official records, files, and data directly related to a student and maintained by the school or local education agency, including but not limited to records encompassing all the material kept in the student's cumulative folder, such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.

(6) "Extracurricular activities" means voluntary activities sponsored by the school or local education agency or an organization sanctioned by the local education agency. Extracurricular activities include but are not limited to preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.

(7) "Interstate Commission on Educational Opportunity for Military Children" or "Interstate Commission" means the commission that is created under Article IX of this compact.

(8) "Local education agency" means a public authority legally constituted by the state as an administrative agency to provide control of and direction for kindergarten through 12th grade public educational institutions.

(9) "Member state" means a state that has enacted this compact.

(10) "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other facility under the jurisdiction of the department of defense, including any leased facility, that is located within any state.

(11) "Nonmember state" means a state that has not enacted this compact.

(12) "Receiving state" means the state to which a child of a military family is sent, brought, or caused to be sent or brought.

(13) "Rule" means a written statement by the Interstate Commission promulgated pursuant to Article XII of this compact that is of general applicability, that implements, interprets, or prescribes a policy or provision of the compact, or that is an organizational, procedural, or practice requirement of the Interstate Commission and has the force and effect of statutory law in a member state. The term includes the amendment, repeal, or suspension of an existing rule.

(14) "Sending state" means the state from which a child of a military family is sent, brought, or caused to be sent or brought.

(15) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other U.S. territory.

(16) "Student" means the child of a military family for whom the local education agency receives public funding and who is formally enrolled in kindergarten through 12th grade.

(17) "Transition" means:

- (a) the formal and physical process of transferring from school to school; or
- (b) the period of time during which a student moves from one school in the sending state to another school in the receiving state.

(18) "Uniformed service" means the army, navy, air force, marine corps, or coast guard.

(19) "Veteran" means a person who served in the uniformed services and who was discharged or released from service under conditions other than dishonorable.

ARTICLE APPLICABILITY

III

(1) Except as otherwise provided in subsection (3), this compact applies to the children of:

- (a) active duty members of the uniformed services as defined in this compact, including members of the national guard and reserve on active duty orders pursuant to 10 U.S.C. 12301(d) and 12304;
- (b) members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of 1 year after medical discharge or retirement; and
- (c) members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of 1 year after death.

(2) The provisions of this compact apply only to local education agencies as defined in this compact.

(3) The provisions of this compact do not apply to the children of:

- (a) inactive members of the national guard and military reserves;
- (b) members of the uniformed services now retired, except as provided in subsection (1);
- (c) veterans of the uniformed services, except as provided in subsection (1); and
- (d) other U.S. department of defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

ARTICLE EDUCATIONAL RECORDS AND ENROLLMENT

IV

(1) In the event that official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records from a local education facility, as defined by federal law, containing uniform information as determined by the Interstate Commission. Upon receipt of the unofficial education records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records, pending validation by the official records, as quickly as possible.

(2) Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official education record from the school in the sending state. Upon receipt of this request, the school in the sending state shall process and furnish the official education records to the school in the receiving state within 10 days or within a time that is reasonably determined under the rules promulgated by the Interstate Commission.

(3) Receiving states shall give 30 days from the date of enrollment or a time as is reasonably determined under the rules promulgated by the Interstate Commission for students to obtain any immunizations required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within 30 days or within a time that is reasonably determined under the rules promulgated by the Interstate Commission.

(4) Students must be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level, including kindergarten, from a local education agency in the sending state at the time of transition regardless of age. A student that has satisfactorily completed the prerequisite grade level in the local education agency in the sending state must be eligible for enrollment in the next highest grade level in the receiving state regardless of age. A student transferring after the start of the school year in the receiving state shall enter the school in the receiving state on the student's validated level from a school in the sending state.

ARTICLE PLACEMENT AND ATTENDANCE

V

(1) When the student transfers before or during the school year, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending state school, educational assessments conducted at the school in the sending state, or both, if the courses are offered and space is available. Course placement includes but is not limited to honors, international baccalaureate, advanced placement, and vocational, technical, and career pathways courses. Continuing the student's academic program from the previous school and promoting placement in academically and career challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the courses.

(2) The receiving state school shall initially honor placement of the student in educational programs based on space availability and current educational assessments conducted at the school in the sending state or participation or placement in like programs in the sending state. Such programs include but are not limited to gifted and talented programs. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student. This section does not require a local education agency to create programs or offer services that were not in place prior to the enrollment of the student unless the programs or services are required by federal or state law.

(3) (a) In compliance with the federal requirements of the Individuals with Disabilities Education Act, 20 U.S.C. 1400, et seq., the receiving state shall initially provide comparable services to a student with disabilities based on the student's current individualized education program.

(b) In compliance with the requirements of section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, and with Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. 12131 through 12165, the receiving state shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or Title II plan, to provide the student with equal access to education. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

(4) Local education agency administrative officials have flexibility in waiving course or program prerequisites or other preconditions for placement in courses or programs offered under the jurisdiction of the local education agency.

(5) A student whose parent or legal guardian is an active duty member of the uniformed services, as defined by the compact, and has been called to duty for, is on leave from, or has immediately returned from deployment to a combat zone or combat support posting must be granted additional

excused absences at the discretion of the local education agency superintendent to visit with the student's parent or legal guardian relative to the leave or deployment of the parent or guardian.

ARTICLE VI
ELIGIBILITY

(1) A special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law, is sufficient for the purposes of enrollment and all other actions requiring parental participation and consent.

(2) A local education agency is prohibited from charging local tuition to a transitioning military child placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent.

(3) A transitioning military child, placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent may continue to attend the school in which the child was enrolled while residing with the custodial parent.

(4) State and local education agencies shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified.

ARTICLE VII
GRADUATION

In order to facilitate the on-time graduation of children of military families, states and local education agencies shall incorporate the following procedures:

(1) Local education agency administrative officials shall waive specific courses required for graduation if similar course work has been satisfactorily completed in another local education agency or shall provide reasonable justification for denial. If a waiver is not granted to a student who would qualify to graduate from the sending state, the local education agency shall provide an alternative means of acquiring required coursework so that graduation may occur on time.

(2) (a) In lieu of testing requirements for graduation in the receiving state, states shall accept:

- (i) exit or end-of-course exams required for graduation from the sending state;
- (ii) national norm-referenced achievement tests; or
- (iii) alternative testing.

(b) In the event that the above alternatives cannot be accommodated by the receiving state for a student transferring to the school during the student's senior year, the provisions of subsection (3) of this article apply.

(3) If a military student transferring at the beginning of or during the student's senior year is ineligible to graduate from the receiving local education agency after all alternatives have been considered, the sending and receiving local education agencies shall ensure the receipt of a diploma from the sending local education agency if the student meets the graduation requirements of the sending local education agency. In the event that one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with subsections (1) and (2) of this article.

ARTICLE VIII
STATE COORDINATION

(1) Each member state shall, through the creation of a state council or use of an existing body or board, provide for the coordination among its agencies of government, local education agencies, and

military installations concerning the state's participation in and compliance with this compact and Interstate Commission activities. While each member state may determine the membership of its own state council, its membership must, at a minimum, include the state superintendent of public instruction, a superintendent of a school district with a high concentration of military children, a representative from a military installation, one representative each from the legislative and executive branches of government, and other offices and stakeholder groups that the state council considers appropriate.

(2) The state council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact.

(3) The compact commissioner responsible for the administration and management of the state's participation in the compact must be appointed by the governor or as otherwise determined by each member state.

(4) The compact commissioner and the military family education liaison designated herein are ex-officio members of the state council unless either is already a full voting member of the state council.

ARTICLE IX
INTERSTATE COMMISSION ON EDUCATIONAL
OPPORTUNITY FOR MILITARY CHILDREN

The member states hereby create the Interstate Commission on Educational Opportunity for Military Children. The activities of the Interstate Commission are the formation of public policy and are a discretionary state function.

(1) The Interstate Commission is a body corporate and joint agency of the member states and has all the responsibilities, powers, and duties set forth herein and additional powers that may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of this compact.

(2) (a) The Interstate Commission consists of one voting representative from each member state who is that state's compact commissioner.

(b) Each member state represented at a meeting of the Interstate Commission is entitled to one vote.

(c) A majority of the total member states constitute a quorum for the transaction of business unless a larger quorum is required by the bylaws of the Interstate Commission.

(d) A representative may not delegate a vote to another member state. In the event that the compact commissioner is unable to attend a meeting of the Interstate Commission, the governor or state council may delegate voting authority to another person from the state for a specified meeting.

(e) The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication.

(3) The Interstate Commission consists of ex-officio, nonvoting representatives who are members of interested organizations. The ex-officio members, as defined in the bylaws, may include but may not be limited to members of the representative organizations of military family advocates, local education agency officials, parent and teacher groups, the U.S. department of defense, the education commission of the states, the Interstate Agreement on the Qualification of Educational Personnel, and other interstate compacts affecting the education of children of military members.

(4) The Interstate Commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.

(5) The Interstate Commission shall establish an executive committee, whose members must include the officers of the Interstate Commission and any other members of the Interstate Commission as determined by the bylaws. Members of the executive committee shall serve 1-year terms. Members of the executive committee are entitled to one vote each. The executive committee has the power to act on behalf of the Interstate Commission, with the exception of rulemaking, during periods when the Interstate Commission is not in session. The executive committee shall oversee the day-to-day activities of the administration of the compact, including enforcement and compliance with the provisions of the compact and its bylaws and rules and other duties considered necessary. The U.S. department of defense shall serve as an ex-officio, nonvoting member of the executive committee.

(6) The Interstate Commission shall establish bylaws and rules that provide for conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

(7) Public notice must be given by the Interstate Commission of all meetings, and all meetings must be open to the public except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and its committees may close a meeting or portion thereof if it determines by a two-thirds vote that an open meeting would be likely to:

- (a) relate solely to the Interstate Commission's internal personnel;
- (b) disclose matters specifically exempted from disclosure by federal and state statute;
- (c) disclose trade secrets or commercial or financial information that is privileged or confidential;
- (d) involve accusing a person of a crime or formally censuring a person;
- (e) disclose information of a personal nature when disclosure would constitute a clearly unwarranted invasion of personal privacy;
- (f) disclose investigative records compiled for law enforcement purposes; or
- (g) specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.

(8) For a meeting or portion of a meeting closed pursuant to this provision, the Interstate Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exemptible provision. The Interstate Commission shall keep minutes, which shall fully and clearly describe all matters discussed in a meeting, and shall provide a full and accurate summary of actions taken and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action must be identified in the minutes. All minutes and documents of a closed meeting must remain under seal, subject to release by a majority vote of the Interstate Commission.

(9) The Interstate Commission shall collect standardized data concerning the educational transition of the children of military families under this compact as directed through its rules, which shall specify the data to be collected, the means of collection, and data exchange and reporting requirements. The methods of data collection, exchange, and reporting must, in so far as is reasonably possible, conform to current technology, and the Interstate Commission shall coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules.

(10) The Interstate Commission shall create a process that permits military officials, education officials, and parents to inform the Interstate Commission if and when there are alleged violations of the compact or its rules or when issues subject to the jurisdiction of the compact or its rules are not addressed by the state or local education agency. This section may not be construed to create a

private right of action against the Interstate Commission, any member state, or any local education agency.

ARTICLE
POWERS AND DUTIES OF THE INTERSTATE COMMISSION

X

The Interstate Commission may:

- (1) provide for dispute resolution among member states;
- (2) adopt rules that have the force and effect of law and are binding in the compact states to the extent and in the manner provided in this compact and take all necessary actions to effect the goals, purposes, and obligations as enumerated in this compact;
- (3) issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact and its bylaws, rules, and actions;
- (4) monitor compliance with the compact provisions, the rules adopted by the commission, and the bylaws;
- (5) establish and maintain offices, which must be located within one or more of the member states;
- (6) purchase and maintain insurance and bonds;
- (7) borrow, accept, hire, or contract for services of personnel;
- (8) establish and appoint committees, including but not limited to an executive committee as required by subsection (5) of Article IX of this compact, which has the power to act on behalf of the Interstate Commission in carrying out its powers and duties under this compact;
- (9) elect or appoint officers, attorneys, employees, agents, or consultants, fix their compensation, define their duties, and determine their qualifications, and establish the Interstate Commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel;
- (10) accept any and all donations and grants of money, equipment, supplies, materials, and services and receive, utilize, and dispose of it;
- (11) lease, purchase, accept contributions or donations of, or otherwise own, hold, improve, or use any property, whether real, personal, or mixed;
- (12) sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, whether real, personal, or mixed;
- (13) establish a budget and make expenditures;
- (14) adopt a seal and bylaws governing the management and operation of the Interstate Commission;
- (15) report annually to the legislatures, governors, judiciary, and state councils of the member states concerning the activities of the Interstate Commission during the preceding year. The reports must also include any recommendations that may have been adopted by the Interstate Commission.
- (16) coordinate education, training, and public awareness regarding the compact and its implementation and operation for officials and parents involved in such activity;
- (17) establish uniform standards for the reporting, collecting, and exchanging of data;
- (18) maintain corporate books and records in accordance with the bylaws;

(19) perform functions that may be necessary or appropriate to achieve the purposes of this compact;

(20) provide for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.

ARTICLE

XI

ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

(1) The Interstate Commission shall, by a majority of the members present and voting, within 12 months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including but not limited to:

- (a) establishing the fiscal year of the Interstate Commission;
- (b) establishing an executive committee and other committees as may be necessary;
- (c) providing for the establishment of committees and for governing any general or specific delegation of authority or function of the Interstate Commission;
- (d) providing reasonable procedures for calling and conducting meetings of the Interstate Commission and ensuring reasonable notice of each meeting;
- (e) establishing the titles and responsibilities of the officers and staff of the Interstate Commission;
- (f) providing a mechanism for concluding the operations of the Interstate Commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations;
- (g) providing startup rules for initial administration of the compact.

(2) The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson, a vice chairperson, and a treasurer, each of whom has authority and duties as specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice chairperson, shall preside at all meetings of the Interstate Commission. The officers shall serve without compensation or remuneration from the Interstate Commission. However, subject to the availability of budgeted funds, the officers must be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the Interstate Commission.

(3) The executive committee has authority and duties as set forth in the bylaws, including but not limited to:

- (a) managing the affairs of the Interstate Commission in a manner consistent with the bylaws and purposes of the Interstate Commission;
- (b) overseeing an organizational structure and appropriate procedures for the Interstate Commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and
- (c) planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations in order to advance the goals of the Interstate Commission.

(4) The executive committee may, subject to the approval of the Interstate Commission, appoint or retain an executive director for a period, upon terms and conditions, and for compensation as the Interstate Commission considers appropriate. The executive director shall serve as secretary to the Interstate Commission, but may not be a member of the Interstate Commission. The executive director shall hire and supervise other persons as authorized by the Interstate Commission.

(5) The Interstate Commission's executive director and its employees are immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred or that the person had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities. However, that person is not protected from suit or liability for damage, loss, injury, or liability caused by the person's intentional or willful and wanton misconduct.

(6) The liability of the Interstate Commission's executive director and employees or Interstate Commission representatives, acting within the scope of their employment or duties for acts, errors, or omissions occurring within their state, may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection may be construed to protect a person from suit or liability for damage, loss, injury, or liability caused by the person's intentional or willful and wanton misconduct.

(7) The Interstate Commission shall defend the executive director and its employees and, subject to the approval of the attorney general or other appropriate legal counsel of the member state represented by an Interstate Commission representative, shall defend the Interstate Commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities if the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of the person.

(8) To the extent not covered by the state involved, the member state, the Interstate Commission, or the representatives or employees of the Interstate Commission must be held harmless in the amount of a settlement or judgment, including attorney fees and costs, obtained against those persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities or that the persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities if the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of the persons.

ARTICLE

XII

RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

(1) The Interstate Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of this compact. Notwithstanding the foregoing, in the event the Interstate Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this compact or the powers granted under the compact, then such an action by the Interstate Commission is invalid and has no force or effect.

(2) Rules must be made pursuant to a rulemaking process that substantially conforms to the Model State Administrative Procedure Act revised as of 2012 as may be appropriate to the operations of the Interstate Commission.

(3) Not later than 30 days after a rule is promulgated, any person may file a petition for judicial review of the rule. However, the filing of a petition does not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the Interstate Commission consistent with applicable law and may not find the rule to be unlawful if the rule represents a reasonable exercise of the Interstate Commission's authority.

(4) If a majority of the legislatures of the member states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the compact, then the rule has no further force and effect in any member state.

ARTICLE
OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

XIII

(1) Each member state shall enforce this compact to effectuate the compact's purposes and intent.

(2) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact that may affect the powers, responsibilities, or actions of the Interstate Commission.

(3) The Interstate Commission is entitled to receive all service of process in any such proceeding and has standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Interstate Commission renders a judgment or order void as to the Interstate Commission, this compact, or promulgated rules.

(4) The purpose of this compact is not to supersede the sovereignty of any member state but instead to facilitate the collective exercise of each state's sovereignty to allow a uniform solution without federal intervention. No provision of the interstate compact may be construed as a waiver of a state's sovereignty.

(5) If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the bylaws or promulgated rules, the Interstate Commission shall:

(a) provide written notice to the defaulting state and other member states of the nature of the default, the means of curing the default, and any action taken by the Interstate Commission. The Interstate Commission shall specify the conditions by which the defaulting state is required to cure its default.

(b) provide remedial training and specific technical assistance regarding the default.

(6) If the defaulting state fails to cure the default, the defaulting state must be terminated from the compact upon an affirmative vote of a majority of the member states and all rights, privileges, and benefits conferred by this compact must be terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default, except that in the event of a default by this state, its total financial responsibility is limited to the amount of its most recent annual assessment.

(7) Suspension or termination of membership in the compact may be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate must be given by the Interstate Commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

(8) The state that has been suspended or terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of suspension or termination up to a maximum amount of \$5,000 multiplied by the number of years that the state has been a member of the compact. In the event that this state is suspended or terminated, its total financial responsibility is limited to the amount of its most recent annual assessment.

(9) The Interstate Commission may not bear any costs relating to any state that has been found to be in default or that has been suspended or terminated from the compact unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.

(10) The defaulting state may appeal the action of the Interstate Commission by petitioning the U.S. district court for the District of Columbia or the federal district where the Interstate Commission has its principal offices. The prevailing party must be awarded all costs of litigation, including reasonable attorney fees.

(11) The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes that are subject to the compact and that may arise among member states and between member and nonmember states.

(12) The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

ARTICLE
FINANCING OF THE INTERSTATE COMMISSION

XIV

(1) The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

(2) The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff, which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount must be allocated based upon a formula to be determined by the Interstate Commission, which shall promulgate a rule binding upon all member states to the limits as specified herein.

(3) The annual assessment applicable to this state may not exceed an amount equal to \$2 multiplied by the latest available number of children of military families in this state.

(4) This state may not be held liable for the payment of any special assessment or other assessment other than the annual assessment in the amount established by subsection (3).

(5) The Interstate Commission may not incur obligations of any kind prior to securing the funds adequate to meet those obligations, and the Interstate Commission may not pledge the credit of any of the member states except by and with the authority of the member state.

(6) The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission are subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission must be audited yearly by a certified or licensed public accountant, and the report of the audit must be included in and become part of the annual report of the Interstate Commission.

(7) All expenditures for the state, including withdrawal or dissolution costs, or both, may not exceed an amount of \$5,000 annually.

ARTICLE
MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT

XV

(1) Any state is eligible to become a member state, except that in the case of this state, withdrawal from the compact may also be accomplished by statutorily allowing for expiration of this section.

(2) Withdrawal from the compact must be by the enactment of a statute repealing the compact, except in the case of this state, withdrawal from the compact may also be accomplished by statutorily allowing for the expiration of this section.

(3) The Interstate Commission may propose amendments to the compact for enactment by the member states. An amendment may not become effective and binding upon the Interstate Commission and the member states unless it is enacted into law by unanimous consent of the member states.

ARTICLE
WITHDRAWAL AND DISSOLUTION

XVI

(1) Once effective, the compact continues in force and remains binding upon each and every member state. However, a member state may withdraw from the compact by specifically repealing the statute that enacted the compact into law, except that in the case of this state, withdrawal from the compact may also be accomplished by statutorily allowing for expiration of this section.

(2) Withdrawal from this compact must be by the enactment of legislation repealing the compact except in the case of this state, withdrawal from the compact may also be accomplished by statutorily allowing for the expiration of this section.

(3) The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state, except that if this state elects to withdraw from the compact by statutorily allowing for the expiration of this section, this state shall notify the chairperson of the commission when it becomes evident that the expiration will take effect. The Interstate Commission shall notify the other member states of the withdrawing state's intent to withdraw within 60 days of its receipt of the notice.

(4) The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal up to a maximum amount equal to \$2 multiplied by the latest available number of children of military families in this state.

(5) Reinstatement following withdrawal of a member state may occur upon the withdrawing state reenacting the compact or upon a later date as determined by the Interstate Commission.

(6) (a) This compact dissolves on the date of the withdrawal or default of the member state that reduces the membership in the compact to one member state.

(b) Upon the dissolution of this compact, the compact becomes null and void and is of no further force or effect and the business and affairs of the Interstate Commission must be concluded and surplus funds must be distributed in accordance with the bylaws.

ARTICLE
SEVERABILITY AND CONSTRUCTION

XVII

(1) The provisions of this compact are severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact are enforceable.

(2) The provisions of this compact must be liberally construed to effectuate its purposes.

(3) Nothing in this compact may be construed to prohibit the applicability of other interstate compacts to which the states are members.

ARTICLE
BINDING EFFECT OF COMPACT AND OTHER LAWS

XVIII

(1) Nothing in this compact prevents the enforcement of any other law of a member state that is not inconsistent with this compact. All member states' laws conflicting with this compact are superseded to the extent of the conflict.

(2) All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.

(3) All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

(4) In the event that any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, that provision is ineffective to the extent of the conflict with the constitutional provision in question in that member state.

ARTICLE
STATE COUNCIL - CREATION

XIX

The state council on educational opportunity for military children must be created and consist of:

- (1) the following voting members:
 - (a) the superintendent of public instruction, who shall serve as the chairperson;
 - (b) the superintendent of a school district that includes a high concentration of military children, appointed by the governor;
 - (c) a representative of a military installation, appointed by the governor;
 - (d) a legislator, appointed by the senate president;
 - (e) a representative of the executive branch of government, appointed by the governor; and
 - (f) any other individuals recommended by a majority of the members of the state council listed in subsections (1)(a) through (1)(e); and
- (2) the following nonvoting members:
 - (a) the compact commissioner appointed under Article XX; and
 - (b) the military family education liaison, appointed under Article XXI.

ARTICLE
COMPACT COMMISSIONER - APPOINTMENT AND DUTIES

XX

The governor shall appoint a compact commissioner who is responsible for the administration and management of the state's participation in the compact on educational opportunity for military children.

ARTICLE
MILITARY FAMILY EDUCATION LIAISON - APPOINTMENT AND DUTIES

XXI

The state council shall appoint a military family education liaison to assist military families and the state in facilitating the implementation of the compact on educational opportunity for military children.

ARTICLE
PROVISION OF FUNDING - ADJUTANT GENERAL

XXII

Each state's equivalent of a department of military affairs under the adjutant general shall pay all expenses incurred by the state to participate in the compact on educational opportunity for military children, including the reimbursement of actual and necessary expenses incurred by members of the state council.

History: En. Sec. 1, Ch. 321, L. 2013.

Effective 1/24/2018

Part 9
Interstate Compact on Educational Opportunity for Military Children

53E-3-901 Title -- Interstate Compact on Educational Opportunity for Military Children.

This part is known as the "Interstate Compact on Educational Opportunity for Military Children."

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-902 Article I -- Purpose.

It is the purpose of this compact to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by:

- (1) facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous school district or variations in entrance or age requirements;
- (2) facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content, or assessment;
- (3) facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities;
- (4) facilitating the on-time graduation of children of military families;
- (5) providing for the promulgation and enforcement of administrative rules implementing the provisions of this compact;
- (6) providing for the uniform collection and sharing of information between and among member states, schools, and military families under this compact;
- (7) promoting coordination between this compact and other compacts affecting military children; and
- (8) promoting flexibility and cooperation between the educational system, parents, and the student in order to achieve educational success for the student.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-903 Article II -- Definitions.

- (1) As used in this compact, unless the context clearly requires a different construction:
 - (a) "Active duty" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve.
 - (b) "Children of military families" means a school-aged child, enrolled in Kindergarten through Twelfth grade, in the household of an active duty member.
 - (c) "Compact commissioner" means the voting representative of each compacting state appointed pursuant to Article VIII of this compact.
 - (d) "Deployment" means the period one month prior to the service member's departure from their home station on military orders through six months after return to their home station.
 - (e) "Education" or "educational records" means those official records, files, and data directly related to a student and maintained by the school or local education agency, including but not limited to records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance and of academic work completed, records

of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.

- (f) "Extracurricular activities" means a voluntary activity sponsored by the school or local education agency or an organization sanctioned by the local education agency. Extracurricular activities include, but are not limited to, preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.
 - (g) "Interstate Commission on Educational Opportunity for Military Children" means the commission that is created in Section 53E-3-910 and generally referred to as Interstate Commission.
 - (h) "Local education agency" means a public authority legally constituted by the state as an administrative agency to provide control of and direction for Kindergarten through Twelfth grade public educational institutions.
 - (i) "Member state" means a state that has enacted this compact.
 - (j) "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility, which is located within any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other U.S. Territory. The term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.
 - (k) "Non-member state" means a state that has not enacted this compact.
 - (l) "Receiving state" means the state to which a child of a military family is sent, brought, or caused to be sent or brought.
 - (m) "Rule" means a written statement by the Interstate Commission promulgated pursuant to Section 53E-3-913 that is of general applicability, implements, interprets, or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the Interstate Commission, and has the force and effect of a rule promulgated under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and includes the amendment, repeal, or suspension of an existing rule.
 - (n) "Sending state" means the state from which a child of a military family is sent, brought, or caused to be sent or brought.
 - (o) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other U.S. Territory.
 - (p) "Student" means the child of a military family for whom the local education agency receives public funding and who is formally enrolled in Kindergarten through Twelfth grade.
 - (q) "Transition" means:
 - (i) the formal and physical process of transferring from school to school; or
 - (ii) the period of time in which a student moves from one school in the sending state to another school in the receiving state.
 - (r) "Uniformed services" means the same as that term is defined in Section 68-3-12.5.
 - (s) "Veteran" means a person who served in the uniformed services and who was discharged or released therefrom under conditions other than dishonorable.
- (2) The definitions described in Section 53E-1-102 do not apply to this compact.

Amended by Chapter 186, 2019 General Session

53E-3-904 Article III -- Applicability.

- (1) Except as otherwise provided in Subsection (3), this compact shall apply to the children of:
 - (a) active duty members of the uniformed services as defined in this compact, including members of the National Guard and Reserve;
 - (b) members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one year after medical discharge or retirement; and
 - (c) members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one year after death.
- (2) The provisions of this interstate compact shall only apply to local education agencies as defined in this compact.
- (3) The provisions of this compact do not apply to the children of:
 - (a) inactive members of the National Guard and military reserves;
 - (b) members of the uniformed services now retired, except as provided in Subsection (1); and
 - (c) veterans of the uniformed services, except as provided in Subsection (1), and other U.S. Department of Defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-905 Article IV -- Educational records and enrollment -- Immunizations -- Grade level entrance.

- (1) Unofficial or "hand-carried" education records. In the event that official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the Interstate Commission. Upon receipt of the unofficial education records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.
- (2) Official education records or transcripts. Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official education record from the school in the sending state. Upon receipt of this request, the school in the sending state will process and furnish the official education records to the school in the receiving state within 10 days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.
- (3) Immunizations. Compacting states shall give 30 days from the date of enrollment or within such time as is reasonably determined under the rules promulgated by the Interstate Commission, for students to obtain any immunization required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within 30 days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.
- (4) Kindergarten and First grade entrance age. Students shall be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level, including Kindergarten, from a local education agency in the sending state at the time of transition, regardless of age. A student that has satisfactorily completed the prerequisite grade level in the local education agency in the sending state shall be eligible for enrollment in the next highest grade level in the receiving state, regardless of age. Students transferring after the start of the school year in the receiving state shall enter the school in the receiving state on their validated level from an accredited school in the sending state.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-906 Article V -- Course placement -- Attendance -- Special education services -- Flexibility -- Absences related to deployment.

- (1) When the student transfers before or during the school year, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending state school and/or educational assessments conducted at the school in the sending state if the courses are offered. Course placement includes but is not limited to Honors, International Baccalaureate, Advanced Placement, vocational, technical, and career pathways courses. Continuing the student's academic program from the previous school and promoting placement in academically and career challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the course.
- (2) The receiving state school shall initially honor placement of the student in educational programs based on current educational assessments conducted at the school in the sending state or participation or placement in like programs in the sending state. Such programs include, but are not limited to gifted and talented programs and English as a Second Language (ESL). This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.
- (3)
 - (a) In compliance with the federal requirements of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. Section 1400 et seq., the receiving state shall initially provide comparable services to a student with disabilities based on the student's current Individualized Education Program (IEP).
 - (b) In compliance with the requirements of Section 504 of the Rehabilitation Act, 29 U.S.C. Section 794, and with Title II of the Americans with Disabilities Act, 42 U.S.C. Sections 12131-12165, the receiving state shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or Title II Plan, to provide the student with equal access to education. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.
- (4) Local education agency administrative officials shall have flexibility in waiving course or program prerequisites, or other preconditions for placement, in courses or programs offered under the jurisdiction of the local education agency.
- (5) A student whose parent or legal guardian is an active duty member of the uniformed services, as defined by the compact, and has been called to duty for, is on leave from, or immediately returned from deployment to a combat zone or combat support posting, shall be granted additional excused absences at the discretion of the local education agency superintendent to visit with his or her parent or legal guardian relative to such leave or deployment of the parent or guardian.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-907 Article VI -- Eligibility -- Enrollment -- Extracurricular activities.

- (1) Special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law, shall be sufficient for the purposes of enrollment and all other actions requiring parental participation and consent.

- (2) A local education agency shall be prohibited from charging local tuition to a transitioning military child placed in the care of a non-custodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent.
- (3) A transitioning military child, placed in the care of a non-custodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent, may continue to attend the school in which the student was enrolled while residing with the custodial parent.
- (4) State and local education agencies shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-908 Article VII -- Graduation -- Waiver -- Exit exams -- Senior year transfers.

In order to facilitate the on-time graduation of children of military families, states and local education agencies shall incorporate the following procedures:

- (1) Local education agency administrative officials shall waive specific courses required for graduation if similar coursework has been satisfactorily completed in another local education agency or shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school, the local education agency shall provide an alternative means of acquiring required coursework so that graduation may occur on time.
- (2) States shall accept:
 - (a) exit or end-of-course exams required for graduation from the sending state;
 - (b) national norm-referenced achievement tests; or
 - (c) alternative testing, in lieu of testing requirements for graduation in the receiving state. In the event the above alternatives cannot be accommodated by the receiving state for a student transferring in the student's Senior year, then the provisions of Subsection (3) shall apply.
- (3) Should a military student transferring at the beginning or during the student's Senior year be ineligible to graduate from the receiving local education agency after all alternatives have been considered, the sending and receiving local education agencies shall ensure the receipt of a diploma from the sending local education agency, if the student meets the graduation requirements of the sending local education agency. In the event that one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with Subsections (1) and (2).

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-909 Article VIII -- State coordination -- Membership of State Council.

- (1) Each member state shall, through the creation of a State Council or use of an existing body or board, provide for the coordination among its agencies of government, local education agencies, and military installations concerning the state's participation in, and compliance with, this compact and Interstate Commission activities. While each member state may determine the membership of its own State Council, its membership shall include at least:
 - (a) the state superintendent of education;
 - (b) a superintendent of a school district with a high concentration of military children;
 - (c) a representative from a military installation;
 - (d) one representative each from the legislative and executive branches of government; and

- (e) other offices and stakeholder groups the State Council considers appropriate.
- (2) A member state that does not have a school district that contains a high concentration of military children may appoint a superintendent from another school district to represent local education agencies on the State Council.
- (3) The State Council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact.
- (4) The compact commissioner responsible for the administration and management of the state's participation in the compact shall be appointed in accordance with Section 53E-3-921.
- (5) The compact commissioner and the designated military family education liaison shall be ex-officio members of the State Council, unless either is already a full voting member of the State Council.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-910 Article IX -- Creation of Interstate Commission.

- (1) The member states hereby create the "Interstate Commission on Educational Opportunity for Military Children." The activities of the Interstate Commission are the formation of public policy and are a discretionary state function.
- (2) The Interstate Commission shall:
 - (a) Be a body corporate and joint agency of the member states and have all the responsibilities, powers, and duties set forth in this compact, and any additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of this compact.
 - (b) Consist of one Interstate Commission voting representative from each member state who shall be that state's compact commissioner.
 - (i) Each member state represented at a meeting of the Interstate Commission is entitled to one vote.
 - (ii) A majority of the total member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.
 - (iii) A representative may not delegate a vote to another member state. In the event the compact commissioner is unable to attend a meeting of the Interstate Commission, the Governor or State Council may delegate voting authority to another person from their state for a specified meeting.
 - (iv) The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication.
- (3) Consist of ex-officio, non-voting representatives who are members of interested organizations. Such ex-officio members, as defined in the bylaws, may include but not be limited to, members of the representative organizations of military family advocates, local education agency officials, parent and teacher groups, the U.S. Department of Defense, the Education Commission of the States, the Interstate Agreement on the Qualification of Educational Personnel, and other interstate compacts affecting the education of children of military members.
- (4) Meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.
- (5) Establish an executive committee, whose members shall include the officers of the Interstate Commission and other members of the Interstate Commission as determined by the bylaws. Members of the executive committee shall serve a one-year term. Members of the executive committee shall be entitled to one vote each. The executive committee shall have the power to act on behalf of the Interstate Commission, with the exception of rulemaking, during

periods when the Interstate Commission is not in session. The executive committee shall oversee the day-to-day activities of the administration of the compact including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other duties considered necessary. The U.S. Department of Defense shall serve as an ex-officio, nonvoting member of the executive committee.

- (6) Establish bylaws and rules that provide for conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.
- (7) Give public notice of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and its committees may close a meeting, or portion of the meeting, where it determines by two-thirds vote that an open meeting would be likely to:
 - (a) relate solely to the Interstate Commission's internal personnel practices and procedures;
 - (b) disclose matters specifically exempted from disclosure by federal and state statute;
 - (c) disclose trade secrets or commercial or financial information which is privileged or confidential;
 - (d) involve accusing a person of a crime, or formally censuring a person;
 - (e) disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
 - (f) disclose investigative records compiled for law enforcement purposes; or
 - (g) specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.
- (8) Cause its legal counsel or designee to certify that a meeting may be closed and shall reference each relevant exemptible provision for any meeting, or portion of a meeting, which is closed pursuant to this provision. The Interstate Commission shall keep minutes which fully and clearly describe all matters discussed in a meeting and provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in the minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Interstate Commission.
- (9) Collect standardized data concerning the educational transition of the children of military families under this compact as directed through its rules which shall specify the data to be collected, the means of collection, and data exchange and reporting requirements. Such methods of data collection, exchange, and reporting shall, as far as is reasonably possible, conform to current technology and coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules.
- (10) Create a process that permits military officials, education officials, and parents to inform the Interstate Commission if and when there are alleged violations of the compact or its rules or when issues subject to the jurisdiction of the compact or its rules are not addressed by the state or local education agency. This section may not be construed to create a private right of action against the Interstate Commission or any member state.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-911 Article X -- Powers and duties of the Interstate Commission.

The Interstate Commission shall have the following powers:

- (1) To provide for dispute resolution among member states.
- (2) To promulgate rules and take all necessary actions to effect the goals, purposes, and obligations enumerated in this compact. The rules shall have the force and effect of rules promulgated under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and shall be binding in the compact states to the extent and in the manner provided in this compact.
- (3) To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules, and actions.
- (4) To monitor compliance with the compact provisions, the rules promulgated by the Interstate Commission, and the bylaws. Any action to enforce compliance with the compact provision by the Interstate Commission shall be brought against a member state only.
- (5) To establish and maintain offices which shall be located within one or more of the member states.
- (6) To purchase and maintain insurance and bonds.
- (7) To borrow, accept, hire, or contract for services of personnel.
- (8) To establish and appoint committees including, but not limited to, an executive committee as required by Subsection 53E-3-910(5), which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties.
- (9) To elect or appoint officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties and determine their qualifications, and to establish the Interstate Commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel.
- (10) To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it.
- (11) To lease, purchase, accept contributions, or donations of, or otherwise to own, hold, improve, or use any property - real, personal, or mixed.
- (12) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property - real, personal, or mixed.
- (13) To establish a budget and make expenditures.
- (14) To adopt a seal and bylaws governing the management and operation of the Interstate Commission.
- (15) To report annually to the legislatures, governors, judiciary, and state councils of the member states concerning the activities of the Interstate Commission during the preceding year. The reports shall also include any recommendations that may have been adopted by the Interstate Commission.
- (16) To coordinate education, training, and public awareness regarding the compact and its implementation and operation for officials and parents involved in such activity.
- (17) To establish uniform standards for the reporting, collecting, and exchanging of data.
- (18) To maintain corporate books and records in accordance with the bylaws.
- (19) To perform any functions necessary or appropriate to achieve the purposes of this compact.
- (20) To provide for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-912 Article XI -- Organization and operation of the Interstate Commission -- Executive committee -- Officers -- Personnel.

- (1) The Interstate Commission shall, by a majority of the members present and voting, within 12 months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as necessary or appropriate to carry out the purposes of the compact, including, but not limited to:
 - (a) establishing the fiscal year of the Interstate Commission;
 - (b) establishing an executive committee, and other committees as necessary;
 - (c) providing for the establishment of committees and for governing any general or specific delegation of authority or function of the Interstate Commission;
 - (d) providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each meeting;
 - (e) establishing the titles and responsibilities of the officers and staff of the Interstate Commission;
 - (f) providing a mechanism for concluding the operations of the Interstate Commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations; and
 - (g) providing start up rules for initial administration of the compact.
- (2) The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson, a vice-chairperson, and a treasurer, each of whom shall have the authority and duties specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice-chairperson, shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the Interstate Commission.
- (3) The executive committee shall have the authority and duties set forth in the bylaws, including, but not limited to:
 - (a) managing the affairs of the Interstate Commission in a manner consistent with the bylaws and purposes of the Interstate Commission;
 - (b) overseeing an organizational structure within, and appropriate procedures for the Interstate Commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and
 - (c) planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations in order to advance the goals of the Interstate Commission.
- (4) The executive committee may, subject to the approval of the Interstate Commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation, as the Interstate Commission may consider appropriate. The executive director shall serve as secretary to the Interstate Commission, but may not be a member of the Interstate Commission. The executive director shall hire and supervise other persons authorized by the Interstate Commission.
- (5) The Interstate Commission's executive director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that the person had a reasonable basis for believing occurred, within the scope of Interstate Commission employment, duties, or responsibilities; provided that, the person may not be protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of the person.
 - (a) The liability of the Interstate Commission's executive director and employees or Interstate Commission representatives, acting within the scope of the person's employment or duties

for acts, errors, or omissions occurring within the person's state may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any action. Nothing in this Subsection (5)(a) shall be construed to protect a person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of the person.

- (b) The Interstate Commission shall defend the executive director and its employees and, subject to the approval of the Attorney General or other appropriate legal counsel of the member state represented by an Interstate Commission representative, shall defend the Interstate Commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities; provided that, the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of the person.
- (c) To the extent not covered by the state involved, the member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney fees and costs, obtained against a person arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that the person had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities; provided that, the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of the person.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-913 Article XII -- Rulemaking -- Authority -- Procedure -- Review -- Rejection by Legislature.

- (1) The Interstate Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of this compact. Notwithstanding the foregoing, in the event the Interstate Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this compact, or the powers granted in accordance with this compact, then the action by the Interstate Commission shall be invalid and have no force or effect.
- (2) Rules shall be made pursuant to a rulemaking process that substantially conforms to the Model State Administrative Procedure Act, of 1981, Uniform Laws Annotated, Vol. 15, p.1 (2000) as amended, as may be appropriate to the operations of the Interstate Commission.
- (3) Not later than 30 days after a rule is promulgated, any person may file a petition for judicial review of the rule; provided that, the filing of a petition may not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the Interstate Commission consistent with applicable law and may not find the rule to be unlawful if the rule represents a reasonable exercise of the Interstate Commission's authority.
- (4) If a majority of the legislatures of the compacting states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the compact, then the rule shall have no further force and effect in any compacting state.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-914 Article XIII -- Oversight -- Enforcement -- Dispute resolution -- Default -- Technical assistance -- Suspension -- Termination.

- (1) Each member state shall enforce this compact to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated in accordance with the compact shall have standing as a rule promulgated under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (2) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the Interstate Commission.
- (3) The Interstate Commission shall be entitled to receive all service of process in any proceeding, and have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Interstate Commission shall render a judgment or order void as to the Interstate Commission, this compact, or promulgated rules.
- (4) If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or promulgated rules, the Interstate Commission shall:
 - (a) Provide written notice to the defaulting state and other member states, of the nature of the default, the means of curing the default, and any action taken by the Interstate Commission. The Interstate Commission shall specify the conditions by which the defaulting state shall cure its default.
 - (b) Provide remedial training and specific technical assistance regarding the default.
- (5) If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the member states and all rights, privileges, and benefits conferred by this compact shall be terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.
- (6) Suspension or termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Interstate Commission to the Governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.
- (7) The state which has been suspended or terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of suspension or termination, not to exceed \$5,000 per year, as provided in Subsection 53E-3-915(5), for each year that the state is a member of the compact.
- (8) The Interstate Commission may not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.
- (9) The defaulting state may appeal the action of the Interstate Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Interstate Commission has its principal offices. The prevailing party shall be awarded all costs of the litigation including reasonable attorney fees.
- (10) The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states and between member and non-member states.
- (11) The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-915 Article XIV -- Financing of the Interstate Commission.

- (1) The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.
- (2) In accordance with the funding limit established in Subsection (5), the Interstate Commission may levy and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff which shall be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, which shall promulgate a rule binding upon all member states.
- (3) The Interstate Commission may not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the member states, except by and with the authority of the member state.
- (4) The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.
- (5) The Interstate Commission may not assess, levy, or collect more than \$5,000 per year from Utah legislative appropriations. Other funding sources may be accepted and used to offset expenses related to the state's participation in the compact.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-916 Article XV -- Member states -- Effective date -- Amendments.

- (1) Any state is eligible to become a member state.
- (2) The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 10 of the states. The effective date shall be no earlier than December 1, 2007. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The governors of non-member states or their designees shall be invited to participate in the activities of the Interstate Commission on a non-voting basis prior to adoption of the compact by all states.
- (3) The Interstate Commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding upon the Interstate Commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-917 Article XVI -- Withdrawal -- Dissolution.

- (1) Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that, a member state may withdraw from the compact by specifically repealing the statute which enacted the compact into law.
- (2) Withdrawal from this compact shall be by the enactment of a statute repealing the same.

- (3) The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other member states of the withdrawing state's intent to withdraw within 60 days of its receipt of the notification.
- (4) The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, not to exceed \$5,000 per year, as provided in Subsection 53E-3-915(5), for each year that the state is a member of the compact.
- (5) Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon a later date determined by the Interstate Commission.
- (6) This compact shall dissolve effective upon the date of the withdrawal or default of a member state which reduces the membership in the compact to one member state.
- (7) Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect. The business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-918 Article XVII -- Severability -- Construction.

- (1) The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is considered unenforceable, the remaining provisions of the compact shall be enforceable.
- (2) The provisions of this compact shall be liberally construed to effectuate its purposes.
- (3) Nothing in this compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-919 Article XVIII -- Binding effect of compact -- Other state laws.

- (1) Nothing in this compact prevents the enforcement of any other law of a member state.
- (2) All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.
- (3) All agreements between the Interstate Commission and the member states are binding in accordance with their terms.
- (4) In the event any provision of this compact exceeds the statutory or constitutional limits imposed on the legislature of any member state, that provision shall be ineffective to the extent of the conflict with the statutory or constitutional provision in question in that member state.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-920.1 State council -- Creation.

The State Board of Education shall create a state council described in Section 53E-3-909 to accomplish the duties described in Section 53E-3-909.

Enacted by Chapter 246, 2019 General Session

53E-3-921 Appointment of compact commissioner.

The governor, with the consent of the Senate, shall appoint a compact commissioner to carry out the duties described in this part.

Renumbered and Amended by Chapter 1, 2018 General Session

I would like to share my family's story with you. This story is true for most ART/MILTECH families although each has its own plot twist but the author is the same, the MIC3 counsel.

When I met my husband, he was already a commissioned officer about to begin his active duty(AD) commitment. His AD time consisted of 5 years at 2 different bases. After serving, we returned to home state to begin our family with the support of our extended family. My husband wanted to continue to serve his country so we decided that being a reservist would be a good fit for our family since the requirement, at the time, was one weekend a month and two additional weeks throughout the year.

He served in this capacity for almost ten years although the role of our military was changing. Reservists were taking on additional duties as our active duty were sent overseas. Our base commander asked my husband to become an Air Reserve Technician(ART) as he had great leadership skills and as a couple we were very involved with our folks and the base.

My husband joined the ART program with the understanding that we would be required to move our family from time to time. Our family was young so we felt the kids would be more resilient as they had yet to have their independence from us. Our first PCS came one year into my husband's new job. We were moving to Patrick AFB on the Florida Space Coast in MAY! We literally arrived two weeks before the end of school and quickly found out this was not going to be an easy road. Our children were going to be required to take final exams although different textbooks had been used as well as different materials covered. I can understand the need for discovery to find out the depth of their knowledge although there was a grade attached that dealt blows to their self-esteem. Both of our children were at the top of classes in the state we left and had not been handed their first grades below an "A" ever. IF we had been covered by the MIC3 compact our children would have tested at their outbound school, as well as the receiving school to help with continuity as well as helping the child to succeed. Let's be honest, moving and being the "new" kid is hard enough but to then be judged immediately and have your academic record impacted—CRUSHING.

Through a lot of conversation with school officials and the board—the State of Florida agree to VIEW ALL MILITARY children the same. They did allow our children the same accommodations that Active Duty children under title 10 would receive. This was a victory for our children although short lived as we were only in Florida for 16 months.

We PCS'd to Minneapolis ARS when our children were in 7th and 9th grades. Minnesota did not have an active duty base so they were not familiar with the MIC3 compact and how it worked for AD military children. I set out to educate them and worked to get our children's needs met. Once again, we were able to come to an understanding so our children were not disadvantaged. They were allowed help through the school to cover the academic gaps as well as the ability to try out for sports **regardless** of the deadlines since we were subject to the government's timeline to move. All in all, this relationship served us well for the 2+years we were on station.

We were once again poised to PCS, this time to Wright Patterson AFB, OH. The thought that my husband and I shared was that although both children were in high school now—this state has such a strong military presence we should not have any issues. BOY—WERE WE WRONG!!!

We moved in November. Both of our children were members of that national honor society sporting GPA's above a 3.3. We quickly learned that the academic gaps were huge and help would be needed. We went to school administration as well as the School Liaison Officer(SLO) Andrea Attaway-Young and started asking questions as well as inquiring about our children being able to get involved in choir, sports and clubs. We were immediately told that we would need to get private tutors, UNLESS our children were **failing**-they were under no obligation to do anything. Regarding the sports and extra-curricular activities, nothing would be offered as we did not move on an Active Duty Order(title 10). We appealed to every entity we could for help including MIC3 Legal counsel and the MIC3 Commissioner, although the common consensus was that we moved because WE CHOOSE TO-NOT BECAUSE THE GOVERNMENT ORDERED US TO.

THEY COULD NOT HAVE BEEN MORE INCORRECT!! An ART or MILTECH is moved on the average of every 1-3 years—more often than most Active Duty. These folks are REQUIRED to have a civilian job to perform their military duties. They do the same job Monday thru Friday as they do on their military weekends. One job cannot be done without the other.

Our time in Ohio was challenging in all aspects of our life to say the least. On a personal front-one of our children faced a health crisis resulting in multiple hospitalizations, 6 months in a wheelchair as well as NOT being able to attend her senior year of high school. Personally, I received my cancer diagnosis, while our daughter was in the wheelchair and still our family persevered. Both of our children did graduate in that state although when it was time for us to PCS to Hill AFB, UT, they wanted to move with us. They both felt as though they never fit in in Ohio and were never really afforded the opportunity to do so. To this day-there is conversation in our home about how things might have been different if they could have done the things the other military children could, but couldn't, as a result of being excluded from the compact.

During my husbands ART career, he has had to spend time away from our family YEARLY whether for deployments, training, planning conferences or manning issues. There are some AD folks that NEVER deploy or need to leave their base for any reason. It ABSOLUTELY galls me that Rick Masters, Tom Ruttan, Norman Arflack and other individuals who serve on the MIC3 Counsel REFUSE to see that the ARTS/MilTECHS serve shoulder to shoulder with their AD counterparts regardless of the piece of paper that facilitates the move. This being said---OUR children should receive the same benefits as the AD children do.

I know that I cannot go back in time and change things for our children, but I can't help but speak up for the families out there that are still being affected by the current legislation. I have attached some of the correspondence regarding this issue over the years. The one I would like to bring to your attention is the one from Retired General Arflack where he equates my husband and his service to a postal worker. I don't know of any postal workers who wear chem gear and a flak jacket to perform their job(Attachment #1) My husband has taken an oath to protect and serve our country just as any military member does. General Arflack even refused to address my husband by his earned rank. Being equated to a postal worker was highly inaccurate and disrespectful.

We have been insulted and disadvantaged long enough. Our families serve right alongside of their military members. Until this change comes about families will continue to CHOOSE to live apart rather than uproot their families.

It is time to do what is morally correct and amend the compact to include ALL military children. It's time to do the right thing.

Respectfully,

Jackie Newman
First Lady of Maintenance for the 419th FW
937-750-1097
Newmxg.87@gmail.com

ATTACHMENT #1

Norman Arflack narflack@csg.org Dec 3, 2012

To 'ithangsup@aol.com' ithangsup@aol.com

Cc Rick Masters rmasters@csg.org, Richard Pryor rpryor@csg.org, John Matthews jmatthews@csg.org

Name: Brett Newman

Email: ithangsup@aol.com

Question/Comment: BG (ret) Arflack - I respectfully submit to you that ART officers are dual status, we move under direction of our command, in military and civilian capacity. We move with two orders; one military, one civilian. We sign a mobility statement. I don't know of a postal worker or state guardsman that is required to sign a mobility statement as a requisite of their job. Therefore, I find your decision to exclude the children of ARTs discriminatory. They endure deployments and moving around the country also, and shouldn't be excluded from the advantages that active duty or NOAA children are granted with MIC3. I respectfully request you seriously reconsider this topic for further discussion.

Mr. Newman,

Thank you for contacting MIC3 via our website. The decision relative to dual status personnel wasn't based on whether or not it is their decision to relocate due to their technician status but on the Article III section a of the Compact that states:

"Except as otherwise provided in Section B, this compact shall apply to the children of: 1. active duty members of the uniformed services as defined in this compact, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Section 1209 and 121"

Although not involved in the process I am certain that the drafters of the original Compact documents carefully considered their decision to limit the protections of the Compact to family members of service members serving in title 10 status. This issue has been vetted by our General Council and while we both understand your concerns our ability to apply the compact is dictated by legislation enacted in the member states, as well as Compact rules and Commission bylaws. I hope that you understand that this is not our independent decision but based on the law as it is currently written.

Please feel free to contact me or Rick Masters our General Council if my explanation lacks clarity or you have further questions.

Sincerely,

BG(R) Norman E. Arflack

Executive Director,
Interstate Commission on
Educational Opportunities for Military Children
2760 Research Park Drive P.O. Box 11910
Lexington, KY 40578-1910
W: 859-244-8069
F: 859-244-8001

www.mic3.net
narflack@csg.org

ATTACHMENT #2

Newman, Brett A Col USAFR AFRC 445 MXG/CC (Brett.Newman@wpafb.af.mil)

To:you + 1 more Details

Good afternoon Andrea - Based on the decision not having changed in a year, there is an apparent refusal to do the right thing for ART children. In my position I have waiver authority on training. Using the current logic, I should just send technicians to school even if they have training that can be substituted for current requirements. Doing so would waste time and tax payers money. I'm fairly certain BG Arflack and Mr. Rutan wouldn't want me to do that, would you? The bottom line is, the solution is zero sum.

Meaning, it doesn't cost MIC3 any money to do the right thing and include the children of ARTs in the compact language.

BRETT A. NEWMAN, Col, USAFR
Commander, 445th Maintenance Group
(937) 257-0381 DSN: 787-0381

-----Original Message-----

From: Attaway-Young, Andrea M Civ USAF AFMC 88 ABW/CVL

Sent: Tuesday, December 18, 2012 11:58 AM

To: ithangsup@aol.com

Cc: Newman, Brett A Col USAFR AFRC 445 MXG/CC

Subject: RE: question

Mrs. Newman,

Thanks for your follow up email.

I already have launched the question about ART eligibility in regards to the Military Education Compact to other SLOs, as I too am eager to find out if others have addressed this issue. I will share what I learn soonest.

Based on these responses, I will determine the way ahead concerning who might be contacted (regional/national) level.

Respectfully,

Andrea

Andrea Attaway-Young
WPAFB School Liaison Officer
(937) 656-0942 or DSN 986-0942
E-Mail: Andrea.Attaway-Young@WPAFB.AF.MIL

-----Original Message-----

From: ithangsup@aol.com [mailto:ithangsup@aol.com]

Sent: Tuesday, December 18, 2012 10:52 AM

To: Attaway-Young, Andrea M Civ USAF AFMC 88 ABW/CVL

Cc: Newman, Brett A Col USAFR AFRC 445 MXG/CC

Subject: question

Hello Andrea--I read the latest email from Mr Rutan. I have to ask at this point what other resources and options do we have available to us to hopefully get someone to hear what we are saying instead of reciting the same excuses differently.

My thinking is this--

1. Can we reach out to SLO's at other bases(not too many that are not in compact) to see if they have encountered this and what course of action they took?
2. Is there someone who oversees education at a regional or national level above Mr. Rutan that we could address?

As you know Andrea-the ART world is always in motion and we do not know if we may have to deal this situation elsewhere before our children have graduated high school. Our concern is also all the other ART children whose parents have to move to support their country.

Sincerely,
Jackie Newman

ATTACHMENT #3

Mon, Oct 5, 2015 6:26 pm
Ronald Fogleman (rfbuzzard1@aol.com)
To:you Details
Mrs. Newman

Thank you for the follow up note relative to your issue with the MIC3 not applying to ARTs. As I stated to you on Saturday evening I was unfamiliar with MIC3. I have taken the time to research the subject to include reading the General Counsel's ruling on your request while your family was in Ohio.

After reviewing the Commission's charter and it's purpose I can see how the GC arrived at the conclusion he did, however, I do not think the issue has been addressed thru the proper channels to get the kind of resolution you seek. All the Ohio request did was ask for a ruling on how to interpret the existing charter. The problem is that the charter clearly excludes the families of ARTs. The charter needs to be revised to reflect to new realities of the service of our AFRES and ANG ARTs. This is a subject the the Air Reserve Forces/ANG HQs should address with the DOD representative to the Commission. That person is currently listed as a Kathleen Facon, MIC3 Ex-Officio Member/Military/DoD Representative. I do not currently know who it is within the Reserves and Guard that looks after the interests of their ARTs but those offices should discuss this issue with Ms. Facon and explain how the past 15 years has changed the utilization and employment of the ARTs. Hopefully she can be convinced to work on behalf of the ARTs to change the MIC3 Charter. Ms. Facon's email address and phone number are in the public domain.

I recommend you ask the AFRES/ANG personnel system to address the issue with the DoD representative on the Commission.

Regards,

Ron Fogleman

Office of the Secretary of the Navy
1051 Navy Pentagon
Washington, DC 20350-1051

Office of the Secretary of the Army
101 Army Pentagon
Washington, DC 20310-0101

Office of the Secretary of the Air Force
1670 Air Force Pentagon
Washington, DC 20330-1670

FEB 23 2018

MEMORANDUM FOR THE NATIONAL GOVERNORS ASSOCIATION

SUBJECT: Consideration of Schools and Reciprocity of Professional Licensure for Military Families in Future Basing or Mission Alternatives

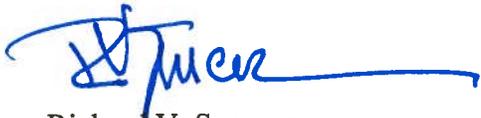
Thank you for your support of our men and women in the military. We are often asked what communities can do to support those who serve. While focus on the mission is always our priority, the factors military families cite most frequently as drawbacks to military service include military dependent's difficulty assimilating into local school systems following a duty station transfer, the quality of schools available for their children, and the ability of spouses to obtain jobs and sustain careers. With that in mind, we will encourage leadership to consider the quality of schools near bases and whether reciprocity of professional licenses is available for military families when evaluating future basing or mission alternatives.

Military families relocate frequently. The services endeavor to schedule transfers to minimize impact on the academic year, but this is not always possible. As a result, incoming students face difficulties transferring credits between school systems, adjusting to varied curriculum, and joining sports teams or clubs after the start of the school year. Exclusion from extra-curricular activities is particularly challenging for our military children, as they are critical to social development and self-esteem. Some school systems recognize this and accommodate military families during transfers. These schools should be commended and emulated.

Facilitating military spouses in continuing their work in a new place of residence without delays or extra expense is also important. Spouses in professionally licensed fields such as medical, legal, engineering, education, accounting, or the cosmetic arts face challenges due to delays or cost of transferring licenses to a new state or jurisdiction. Eliminating or mitigating these barriers will improve quality of life for our military families, and ease the stress of transferring duty stations with consideration for long-term career implications.

We realize improving schools and changing laws or regulations regarding professional licensure will take time. Over the long term, however, leaders who want to make a difference for the military and our missions will make the most impact if we focus on what matters. Reciprocity on licensure and the quality of education matter.

Thank you for your help and attention. We look forward to continuing to work with you and thank you again for your support of our men and women in the military.



Richard V. Spencer
Secretary of the Navy



Mark T. Esper
Secretary of the Army



Heather Wilson
Secretary of the Air Force



ENLISTED ASSOCIATION OF THE NATIONAL GUARD OF THE UNITED STATES

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October 18, 2019

Mr. Don Kaminar
Chairman, Military Interstate Children's Compact Commission
1776 Avenue of the States
Lexington Kentucky 40511

Dear Mr. Kaminar:

On behalf of the Enlisted Association of the National Guard of the United States (EANGUS), which represents the interests of over a million members of the Air and Army National Guard, family members, retirees, and survivors, I am writing to you in regards to the efforts of the National Guard and Reserve Task Force's deliberations to study the inclusion of National Guard and Reserve in the education protections offered by the Military Interstate Children's Compact.

Since the terrible terrorist attacks on September 11, 2001, the National Guard has morphed from a strategic reserve to an operational force and has been serving side by side with its active duty counterparts in the Army and Air Force in deployments across the globe and for national emergencies here in America. One consequence of this change in mission is the increased mobility of our Guard members and their families. Although not active duty most of the time, they still fulfill valuable missions including readiness for mobility, and they move intrastate and interstate for career advancement and assignment. Many of them are federal military technicians and drilling reservists who are outside the protections of the Compact.

Unfortunately, the Compact does not meet the needs of all military children, regardless of status. This iniquity should be resolved so that all military children will enjoy the protections of the Compact. We highly encourage the Commission to find a solution to protect all military children and not just one segment of that society. We look forward to seeing the outcome of the Task Force and Commission's work.

Sincerely,

A handwritten signature in blue ink, appearing to read "Frank Yoakum".

SGM Frank Yoakum, U.S. Army Retired
Executive Director, EANGUS



NATIONAL GUARD BUREAU

1636 DEFENSE PENTAGON
WASHINGTON DC 20301-1636

Don Kaminar
Chair, Military Interstate Children's Compact Commission
1776 Avenue of the States
Lexington, Kentucky 40511-8536

Dear Mr. Kaminar:

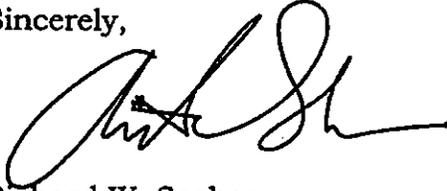
We are writing to you today in regards to the Military Interstate Children's Compact Commission's National Guard and Reserve Taskforce's (NGRTF) efforts to study the inclusion of the Guard and Reserve in the education protections offered by the Compact.

The demands placed on our Guard and Reserve service members over the last 18 years are unprecedented in our nation's history. Once a strategic force, the National Guard and Air Force Reserve continue to evolve into an operational force, like our active duty counterparts. With that comes an ever-changing environment and demands placed upon our Guard and Reserve members and their families. One of the most significant changes is the need for Guard and Reserve service members and their families to move about the country to support our mission. Ever growing numbers of our members move, like our active duty counterparts, for career development and professional growth opportunities. In fact, it is not uncommon for some of our units to have elements of the unit located in multiple states resulting in guardsmen and reservists moving between those states in order to advance their military career. For the National Guard and Reserve, these opportunities are not always in an active Title 10 status. Many, if not most, of them move as federal military technicians or drill status guardsmen and reservists but their children are unfairly left outside the protections of the Compact.

The Military Interstate Children's Compact has done important work to protect the interests our active duty, Public Health Service, and National Oceanic and Atmospheric Administration families. It is our understanding that the current Compact may fall short of meeting the needs of all military children, regardless of status, as they move about the country as required by the military mission. As such we support efforts that work to extend protections to all military children.

Thank you for taking the initiative to study this issue. We look forward to seeing the outcome of the Commission's work.

Sincerely,



Richard W. Scobee
Lieutenant General, U.S. Air Force
Chief of Air Force Reserve



Joseph L. Lengyel
General, U.S. Air Force
Chief, National Guard Bureau

cc:

Cherise Imai, Executive Director, MIC 3
Brig Gen (Ret) Kathleen Berg, NGRTF Committee Chair
Brian Garrett