

November 16, 2009

Rules Committee  
Military Interstate Children's Compact Commission  
National Center for Interstate Compacts  
The Council of State Governments  
P.O. Box 11910  
Lexington, KY 40578-1910



*Excellence and Equity  
in Public Education  
through School Board  
Leadership*

**Re: *National School Boards Association (NSBA) Comments on Proposed Rules for Implementing the Interstate Compact on Educational Opportunity for Military Children***

Dear Committee Members:

The National School Boards Association (NSBA), representing over 95,000 local school board members through our state school boards associations, is pleased to offer our comments on the Proposed Rules to implement the Interstate Compact on Educational Opportunity for Military Children.

As you are aware, NSBA believes that states have the full authority for determining education policy and the framework for the delivery of educational services to their students, including entering into agreements with other states. The Compact, as activated, is very comprehensive and addresses those key areas of concern to military families. However, we continue to urge the Commission to re-affirm that states have the final decision-making authority regarding educational services.

NSBA appreciates the opportunity to review the Proposed Rules, and welcomes your continued support to ensure that local school districts retain maximum authority and flexibility. We do note, however, that some of the proposed rules, if not clarified, could result in misinterpretations and potential liability. Therefore, we urge the Commission to fully act on our recommendations.

#### **Adoption of rules; amendments**

Section 2.102(e): Provides that each person wishing to comment at public hearings a fair and reasonable opportunity; and further provides that no transcript of the public hearing is required, unless a written request for a transcript is made, in which case the person or entity making the request shall pay for the transcript.

NSBA Comment: NSBA urges the Commission to strengthen its position to ensure reasonable opportunity to comment by allowing both oral and written comments. Additionally, NSBA urges the Commission require transcripts of all public hearings as the information might be helpful in subsequent disputes, subsequent actions against defaulting states, and judicial enforcement. Additionally, NSBA believes transcripts are appropriate since implementation of the administrative rules involves the expenditure of public funds.

Section 2.102(g): Provides that the Interstate Commission shall consider all written and oral comments received following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held.

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#### **Office of Advocacy**

- *C.H. "Sonny" Savoie  
President*
- *Anne L. Bryant  
Executive Director*
- *Michael A. Resnick  
Associate  
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NSBA Comments: NSBA recommends clarification. As drafted, it implies that scheduled hearings could be cancelled. Perhaps the intention is that in the absence of formal comments being presented at a scheduled hearing, the Commission would still have the right to take action, which would be appropriate.

Section 2.102(h): Provides that the Commission shall take final action on proposed rules and determine the effective date of the rule by majority vote of a quorum of the commission.

NSBA Comment: NSBA recommends that the rules stay consistent by requiring a majority of those states present as long as the quorum is achieved. As drafted, a majority of the quorum could be less than those members present.

### **Data collection and reporting**

Section 2.103(b): Provides that each state shall report to the commission annually the number of students transferred to an LEA from another state and received from another state's LEA in the previous year.

NSBA Comment: This requirement extends beyond the scope of the Compact rules. There are significant numbers of student transfers being affected that do not fall under the Interstate Compact. Therefore, NSBA recommends that the reporting requirement be restricted to the number of eligible students under the Compact.

Section 2.103(c): Provides that required reports under 2.103 (a) and (b) shall be received by the Commission no later than June 30 of each year.

NSBA Comment: NSBA is concerned that the June 30 deadline could create administrative burdens on the LEAs and states. Given the range of school closing dates and end of the year reporting requirements that already exist, NSBA recommends that the deadline date be extended until August 1.

### **Dues formula**

Section 2.104(b): Provides that the Commission may consider the population of the states, the number of students subject to the compact within each state, and the volume of student transfers between states in determining and adjusting the assessment formula.

NSBA Comment: NSBA recommends clarification. The states need to be fully aware of the formula in preparing state budgets. Therefore is it necessary that the formula remain constant, recognizing that changes in the number of students subject to the compact may change.

Section 2104(c): Provides that the dues formula shall be based on the figure of one dollar per child of military families eligible for transfer under this compact.

NSBA Comment: NSBA urges the Commission to consider alternate formulas. As established, states with high numbers of military installations may already be impacted disproportionately than states with fewer military installations. Additionally, there are smaller states with proportionately more eligible students than some larger states. All these circumstances could result in unfair and inequitable assessments.

### **Eligibility for transfer and enrollment**

Section 3.101(a): Provides that in the event a state or LEA charges a fee for copies of educational records, such a fee shall not exceed the reasonable cost of reproduction.

NSBA Comment: NSBA recommends clarification. In addition to the cost of reproduction, there are other administrative costs to be considered. LEAs with high numbers of eligible students could have additional costs. Therefore, the rule should be modified to recognize all costs associated with the preparation and mailing of educational records.

Section 3.101(b): Provides that the school in the sending state will process and furnish the official education records to the school in the receiving state within ten (10) business days except for a designated school staff break including, but not limited to, spring, summer, or holiday.

NSBA Comment: NSBA recommends a more reasonable time requirement. For larger LEAs, 10 days do not represent a realistic requirement. The Commission could establish a range, allowing states to select appropriate targets based on their circumstances.

### **Application for transfer of student records and enrollment**

Section 3.102(b)(2): Provides that any student who transfers from an out-of-state nonpublic school and who does not meet regular age requirements for admission to a public school in the state being transferred, shall be admitted if the student meets age requirements for public schools within the state from which he or she is transferring, and if the transfer of the student's academic credit is acceptable under rules of the (receiving) school board (LEA).

NSBA Comment: NSBA recognizes the intent of the Commission to acknowledge transfers from nonpublic schools. However, the Commission must clarify that the scope of the Compact does not extend to nonpublic schools, and the Commission lacks authority to implement any rules within the nonpublic schools.

Section 3.102(a): Provides that compacting states shall give thirty (30) calendar days from the date of reenrollment to complete immunization and initial vaccinations.

NSBA Comment: NSBA recommends amending this rule, by granting authority to the LEAs to make such determinations. In some LEAs, enrollment is not permitted until all vaccinations and immunizations have been completed.

## **CHAPTER 400**

### **Graduation**

Paragraph (a) provides that the LEA administrative officials shall waive specific courses required for graduation if similar course work has been satisfactorily completed in another LEA or shall provide reasonable justification for denial. Additionally, should a waiver not be granted to a student who would qualify to graduate from the sending school, the LEA shall provide an alternate means of acquiring required coursework so that graduation may occur on time. Further, the receiving LEA may waive other requirements such as a graduation project, volunteer community service hours, or other state or LEA specific requirements.

NSBA Comment: NSBA supports granting LEAs the flexibility and authority. However, the rule should be clarified to state that the receiving LEA has sole authority for determining whether or not similar courses exist.

Paragraph (c): Provides that in cases where a student transferring at the beginning or during the senior year is ineligible to graduate from the receiving LEA after all alternatives have been considered, the sending and receiving LEA shall ensure the receipt of a diploma from the ending LEA, if the student meets the graduation requirements of the sending LEA.

NSBA Comment: NSBA supports the general intent of the proposed rule. However, it is unclear how the sending LEA could authorize the diploma for a student who is no longer enrolled in the LEA. Therefore, NSBA recommends inclusion of specific language that would supersede state requirements and authority.

### **Course placement**

Section 5.101(a): Provides that the receiving school may perform subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the course(s); e.g. Honors, International Baccalaureate, Advanced Placement, vocational, technical and career pathways; and may allow the student to attend similar educational courses in other schools within the LEA if the receiving school does not offer such educational courses.

NSBA Comment: NSBA supports LEA authority and flexibility.

### **Educational program placement**

Section 5.102(a): Provides that the receiving school may perform subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the course(s); e.g. gifted and talented programs, English as a second language, etc.; and may allow the student to attend similar educational courses in other schools within the LEA if the receiving school does not offer such educational courses.

NSBA Comment: NSBA supports LEA authority and flexibility.

### **Placement flexibility**

Section 5.104(a): Provides that LEA official shall have flexibility in waiving course/program prerequisites, or other preconditions for placement in courses/programs offered under the jurisdiction of the LEA

NSBA Comment: NSBA supports LEA authority and flexibility.

### **Absence as related to deploying activities**

Section 5.105(a): Provides that an eligible student shall be granted additional excused absences at the discretion of the LEA superintendent or head of school to visit with his or her parent or legal guardian relative to such leave or deployment of the parent or guardian; and grants authority to the LEA superintendent or head of school to provide a maximum number of additional excused absences.

NSBA Comment: NSBA supports LEA authority and flexibility.

## **CHAPTER 600**

### **Eligibility for enrollment**

Section 6.101(a): Provides for 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 to be enrolled without charge for tuition; but the non-custodial parent or other persons standing in loco parentis bear the responsibility for transportation to and from the school.

NSBA Comment: NSBA supports the option available to LEAs under these circumstances.

Section 6.101(b): Provides that the state and LEA shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities with consultation with the state high school athletic association to the extent they are otherwise qualified.

NSBA Comment: NSBA supports the authority and flexibility to LEAs under these circumstances.

### **Formal resolution of disputes and controversies**

Section 7.102: Provides for any unresolved controversy or dispute between or among compacting states that arises from or relates to the compact to be resolved by alternative dispute resolution processes including mediation and arbitration – with the assessed costs for arbitration and attorney fees to be borne by the party that did not prevail.

NSBA Comment: NSBA recommends clarification regarding how costs related to mediation are to be handled. Additionally, the Commission may wish to reconsider how costs related to arbitration are to be handled. As proposed, the potential for assuming the costs for arbitration serves as a disincentive. Perhaps the Commission wishes to consider a pool to be established to pay for the costs related to the use of alternative dispute resolution processes.

Thank you for the opportunity to share our concerns. Questions concerns our comments may be directed to Reginald M. Felton, director of federal relations at 703-838-6782, or by e-mail, [rfelton@nsba.org](mailto:rfelton@nsba.org).

Sincerely,



Michael A. Resnick  
Associate Executive Director

MAR: rf/kc

G:Adv/Reggie/11.16.09InterstateCompactComments