

New Compact Aims to Ease Education Challenges Faced by Military Children

by Mary Branham Dusenberry

As their parents move from base to base and state to state, children in military families often face major transition issues of their own.

Their school records may not arrive in a timely manner and the students miss out on advanced classes or classes that may serve their special needs. They may have to retake courses because the state they moved to has different requirements for graduation. On top of that, the children must deal with the emotional challenges of making new friends and becoming accustomed to a new school, all the while dealing with seeing a parent head off to another—possibly dangerous—assignment.

These issues and others are addressed in the new Interstate Compact on Educational Opportunity for Military Children under consideration in several states. The compact is designed to ease the trauma when children are uprooted from school as parents are transferred. Ten states must approve the agreement before it takes effect. Legislation proposing the compact has been introduced in 19 states; it's passed at least one chamber in 10 of those states. Kentucky and Kansas have both enacted the legislation.

The compact specifically addresses such things as kindergarten and first grade start age; immunization requirements; placement in courses ranging from gifted and talented programs, Advanced Placement and honors courses to assistance for special needs; and requirements for high school graduation.

"While many states and communities have responded on an ad hoc basis to ease the shift of military children, no comprehensive policy approach exists to improve the long-term educational transition and outcomes of this constituency. That's what this compact will do. It'll bring consistency and those families need consistency," said Charles Patterson, director of transition studies with the Nebraska-based Military Impacted Schools Association. Patterson is also the former superintendent for the school district in Killeen, Texas, home of Fort Hood.

The Council of State Governments' National Center for Interstate Compacts worked with the U.S. Department of Defense, educators and education groups, and organizations that work with military families to draft the compact. Legislators and officials from states with large military populations were briefed on the compact at a meeting in December.



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The Need for the Compact

Many of the challenges students face when changing schools are emotional and psychological. The compact addresses academic and procedural issues, which can add to that trauma, according to Thomas Hinton, senior state liaison with the Office of the Deputy Undersecretary of Defense.

"It's not so much the emotion, but it adds to the emotion," Hinton said.

The Department of Defense had worked for several years with school districts that serve large populations of military children to ensure transition issues were minimized. But, it wasn't enough. Officials thought the process could be improved and began to explore the option of an interstate compact, Hinton said.

"If there ever truly was an interstate component, this was one of those issues," he said. "It matters what happens in the state. It also matters when (students in military families) leave the state."

Addressing the problem, he said, could be done in one of two ways: through an interstate compact or through Congressional action. Defense department officials believed the issue should be handled within the principles of federalism, Hinton said, and chose the compact route.

An interstate compact is essentially a contract between participating states, according to Rick Masters, special counsel to CSG.

"Its principle advantage is that it provides states with an effective means and an enforceable means of addressing problems that transcend the borders of your state, even though your laws may differ, without relinquishing authority to the feds," Masters said.

Compacts are often used for issues in which states have traditionally exercised control and sovereignty, according to Masters. Education is one such issue.

"Our organization often reminds folks that kids serve too," said Joyce Raezer, chief operating officer of the National Military Family Association. "And we as a nation, I believe, have an obligation to our nation's children, to support them and enable them to enjoy a level playing field when it comes to educational opportunities. That, to me, is what this compact does."

According to William Harrison, a member of the Military Child Education Coalition's board of directors, the typical military child moves between six and nine times between kindergarten and high school graduation. As superintendent of Cumberland County, N.C., Schools, which serves Fort Bragg, Harrison is well aware of the tolls those moves can have on children.

Different states have different educational requirements, and Harrison said that's a good thing. "What's best for the state of Washington is not necessarily what's best for the state of North Carolina," he said. "The challenge that we have is within the context of individual requirements, how do we ensure that a child transferring from one place to another is not penalized? How do we ensure our military kids don't suffer because their parents chose to serve our great country?"

Leslye Arsht, U.S. deputy undersecretary of defense, said the compact has the potential to ease "the moving and academic pain that literally thousands of military children endure each and every year.

"There is nothing we can do that is more important to military families than to commit ourselves to preparing our children for their futures," she said.

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Interstate Compact on Educational Opportunity for Military Children

The advisory committee that drafted the Interstate Compact on Educational Opportunity for Military Children tried to strike a balance in the plan, according to Rick Masters, special counsel for The Council of State Governments.

“They were trying to find the lowest common denominator that will satisfy most states, but yet specific enough to deal with the problem,” he said.

Among the provisions of the compact proposal:

- Schools can use hand-carried education records to enroll and appropriately place students pending validation by official records—those sent from the sending school district to the receiving one.
- A sending school district will have 10 days after it receives such a request to process and furnish official records to the receiving school.
- States in the compact will give 30 days from the date of enrollment for students to obtain any immunizations required by the receiving state.
- Students will be allowed to continue their enrollment at grade level in the receiving state at the same grade level regardless of age.
- Students should be placed in educational courses—including Advanced Placement, honors, vocational and technical—and in educational programs, such as gifted and talented, based on their enrollment in the sending state and/or educational assessments conducted in the sending state, if the courses are offered. However, the receiving state can still conduct its own evaluation.
- Likewise, students should receive the same special education services they received in the sending state
- Local schools can waive course/program prerequisites for placement in courses/programs.
- Students should be granted additional excused absences for missed school related to the deployment activities of their parents. However, the compact allows the receiving state to determine how many additional excused absences should be granted.
- Local schools should waive specific courses—such as a state history class—required for graduation if similar course work has been satisfactorily completed in another state.
- States should accept exit or end-of-course exams required for graduation from the sending state; national norm-referenced achievement tests; or alternate testing in lieu of testing requirements in the receiving state.
- Students who transfer during the senior year of high school and who become ineligible to graduate from the receiving district should be able to receive a diploma from the sending district if the student meets graduation requirements of that district. The compact encourages both school districts to work together to achieve this result. If one jurisdiction is not a member of the compact, the member state will work with the nonmember state to achieve this result.



Dissolution Of The New Hampshire–Vermont Solid Waste Compact

Joseph F. Zimmerman

A compact agreement involving 28 towns in Vermont and New Hampshire will soon expire, after the towns voted in March 2006 to withdraw from the district created by the New Hampshire–Vermont Solid Waste Project Cooperative Agreement. The New Hampshire–Vermont Solid Waste Compact is an unusual one in that each municipality in each state was authorized to enter into an administrative agreement with one or more municipalities in the other state.

The Vermont towns withdrew from the district and signed a joint agreement with a landfill company to dispose of their waste beginning July 1, 2007, when the contract with Wheelabrator—which operated the incinerator—expired. Each New Hampshire town similarly withdrew from their district and entered into a contract with a disposal firm. All but one small New Hampshire town voted to dissolve the compact. The compact will shut down completely when a tax abatement dispute is settled by a court since all participants have voted to withdraw.

The process began more than a quarter century ago in 1981, when voters in 14 Vermont towns, under pressure from the state government to close their landfills, voted at their respective annual town meetings to organize the Southern Windsor/Windham Counties Solid Waste Management District. Voters in 14 New Hampshire towns at their respective annual town meetings and the City Council of Claremont were under similar pressure to close their landfills, so they organized the Sullivan County Regional Refuse Disposal District. Congress in 1982 granted its consent to the municipalities in each of the two districts to enter into a unique administrative agreement with the municipalities in the other state subject to the approval of the U.S. Environmental Protection Agency. No compact commission was created.

In 1989, the two districts signed the New Hampshire–Vermont Solid Waste Project Cooperative Agreement allowing the joint meetings of the two districts' boards to control the

project. EPA approved the agreement. The project contracted with Wheelabrator to operate an incinerator, but the recession in the early 1990s limited the project's ability to supply the required amount of waste and discouraged recycling. Wheelabrator in 1993 refused to accept any waste from the project because of two years of unpaid bills totaling more than \$1 million.

The project agreement provided for the two district governing bodies at a joint meeting to force member municipalities to pay their share, but this option was rejected by voters at town meetings and the project filed for Chapter 9 bankruptcy protection in an effort to pressure Wheelabrator to renegotiate a contract with more favorable terms, according to a 1996 article in the Vermont Law Review. In 1994, the U.S. Bankruptcy Court rejected the project's petition, and the districts subsequently assessed their respective member municipalities to collect the needed funds.

A renegotiated contract from 2000 to 2007 established a disposal fee of \$48.15 per ton for waste deliveries between 40,000 and 50,000 tons, and a fee of \$50 per ton for waste deliveries exceeding 50,000 tons. Although the contract provided an incentive to encourage recycling, the project did not encourage it as a municipal responsibility. Recycling would also necessitate an additional investment in trucks and recycling equipment.

Vermont towns were satisfied with the interstate administrative agreement and cooperated with each other, and their District Board meetings were routine. Claremont and several New Hampshire towns, on the other hand, became dissatisfied with the agreement. Many residents were unhappy that both the incinerator and the ash landfill were located in their state. Although it could be argued one facility should have been developed in each state, economics necessitated the two facilities be located in close proximity. The New Hampshire District Committee's meetings tended to be rancorous and disruptive with many inappropriate personal statements made, and the police had to be called to restore order, according to an April 17, 2000, article in Manchester's Union Leader. Opponents attended committee meetings and made long speeches or picketed meetings. Allegations were made that the incinerator was filthy and was "making children 'stupider,'" Denise Callum, interim project director, said in a 2001 interview.

The dissatisfaction with the compact led to its dormancy, but it is important to note the compact remains in effect as New Hampshire law, Vermont law and United States law. It can be reactivated in the future if the concerned towns and the City of Claremont decide to do so.

—Joseph Zimmerman is a professor of political science at Rockefeller College of the State University of New York at Albany. He is the author of more than 30 books and numerous articles, including articles on interstate cooperation: compacts and administrative agreements.

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About Compacts

- Compacts are rooted in Colonial history, and were used historically to resolve state boundary issues.
 - Compacts are contracts between two or more states, and can be enacted on a regional or national level.
 - The U.S. Constitution authorizes states to enact compacts in areas where states have traditionally exercised control and sovereignty. Compacts are protected under the Compact Clause of Article I of the Constitution.
 - Congressional consent is required only if a compact encroaches upon the authority of the federal government.
 - Congress has no standing to invalidate a compact for which consent is not required.
 - There are approximately 200 compacts in effect across the United States; 38 of those compacts are inactive or dormant.
 - Every state, on average, has adopted between 23 and 27 compacts.
 - The Port Authority of New York and New Jersey, created in 1921, was the first compact to create a regulatory style mechanism.
- Types of compacts can be very broadly divided into three general categories:
 - Those that settle boundary disputes.
 - Those that are merely advisory—akin to administrative agreements between states.
 - Administrative compacts which create ongoing administrative agencies with a variety of subjects they seek to control, such as state transportation, environmental matters, public safety, education and corrections.
 - Compact disputes can be, but are not required to be, brought before the U.S. Supreme Court as an original action.

Source: Rick Masters, special counsel for The Council of State Governments

The issue is so important, according to Rear Admiral L.R. Hering Sr., commander of the Navy Region Southwest in San Diego, that it could impact national security.

"Retention in the United States military is not made on the deck plates of ships, or in the seats of our tanks or in the cockpits of planes," he said. "It's made at the kitchen table. If you don't have the support of your spouse and your family that's affected by your choice of service...those individuals will separate from the United States military and the all-volunteer will become the draft in a time of war."

He urged state officials attending CSG's December legislative briefing to begin the process of making the compact a reality.

The Process

The education compact for military children has been in the works for 18 months. An advisory group comprised of school superintendents from military communities, education associations, state legislators and executive branch state officials, as well as CSG and Department of Defense staff, tried to address broadly the challenges of military moves in proposing the compact, the Department of Defense's Hinton said.

Now, legislators in states with large military populations are working to pass legislation enacting the compact. An estimated 15 to 20 states are home to the majority of families impacted by the compact, according to Keith Scott, director of CSG's National Center for Interstate Compacts. And Masters said 10 states control the majority of U.S. military operations. For those reasons, the advisory group decided the compact needed approval in 10 states before it takes effect.

The first state to enact the compact will become the offering jurisdiction, which, in effect, means that state would be asking other states to join. The language in the compact requires other

states to accept that offer by adopting nearly identical language, according to Masters.

"Once enacted," Masters said, "a compact takes precedence over conflicting statutes of the state."

States, he said, would not be free to contradict the contractual agreement. But that doesn't mean they lose total control.

"The only thing you're giving up is the right to act unilaterally," said Masters. States will still have "collective sovereignty" in the compact, he said.

Once 10 states approve the compact legislation, stakeholders will form an interstate commission, according to Scott. States would also need to form state councils and to designate a state liaison between the state and the interstate commission.

The interstate commission would be a joint agency of the member states and would help resolve disputes among member states, as well as make rules to achieve the purposes of the compact and issue advisory opinions concerning the meaning of the interstate compact rules and actions. The commission would also hire an executive director to handle administrative duties related to the compact.

The compact doesn't come without costs, though. Once the interstate commission is operational, participating states would pay \$1 per student covered under the agreement to fund the estimated \$630,389 budget, according to the draft of the compact. The budget includes funding for staff salaries, commission and committee meetings, rent and utilities for commission offices, and indirect costs such as accounting and human resources services.

—Mary Branham Dusenberry is managing editor for The Council of State Governments' State News magazine. The full version of this article ran in the February 2008 issue of State News.

Scott Named Director of National Center for Interstate Compacts



Keith A. Scott in August joined The Council of State Governments' Membership Services Group as the new director for the National Center for Interstate Compacts.

He oversees NCIC's initiatives and progress on several compact initiatives, including the Interstate Compact on Educational Opportunity for Military Children, the Interstate Compact for Juveniles and the Interstate Compact for the Placement of Children. He also works to develop new compact initiatives.

Scott received a bachelor's degree from the City University of New York, Hunter College and his juris doctorate from Capital University Law School in Columbus, Ohio. He is admitted to the Ohio Bar as well as the Federal Bar in the United States District Court for the Southern District of Ohio.

Prior to joining CSG, Scott worked as legal counsel to the Ohio secretary of state. Earlier in his legal career, he maintained a solo law practice that focused on real estate, immigration, closely held corporations, and bankruptcy.

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