

	<p>Number: 6-2017</p>
<p>Advisory Opinion issued by: Cherise Imai, Executive Director Richard L Masters, General Counsel</p>	<p>Dated: August 14, 2017 Approved: August 17, 2017</p>
<p>Requestor: Washington State</p>	
<p>Description: Whether the provisions of the Interstate Compact on Educational Opportunity for Military Children ("MIC3") apply to Spouses of military members.</p>	

I. **Background**

Pursuant to Article X, Section C. of the Interstate Compact on Educational Opportunity for Military Children (hereinafter 'Compact') the State of Washington has submitted a request for an advisory opinion concerning clarification of an issue pertaining to the Compact.

II. **Issue**

The Commissioner from Washington would like further guidance from the Military Interstate Children's Compact Commission concerning whether the provisions of the Compact are applicable to spouses of military members.

III. **Applicable Compact Provisions or Rules**

Article III, Section A. 1.- 3. of the Compact provides:

*"Except as otherwise provided in Section B., this compact shall apply **to the children of:***

1. *Active duty members of the uniformed services . . . "*
2. *Members or veterans of the uniformed services . . . and*
3. *Members of the uniformed services who die on active duty". . . (emphasis added).*

IV. **Review and Analysis**

Article I stating the purpose of the Compact and Article II containing definitions both refer to "children of military families in a manner which seems broad enough to permit the

conclusion that a spouse might be included. However, Article III, *Section A. 1. – 3.* explicitly limits the applicability to the “children of active duty members.”

As the United States Supreme Court has wisely counseled, “we must “interpret the statute ‘as a symmetrical and coherent regulatory scheme,’ and ‘fit, if possible, all parts into a harmonious whole” *FDA v. Brown & Williamson Tobacco Corp.* 529 U.S. 120, 133 (2000). While it is theoretically possible that a married child of a military member who lives with their spouse in the home of a ‘military member’ might argue that as a son or daughter ‘in-law,” that MIC3 might be applicable, this limiting language will be problematic in most if not all cases because the MIC3 rules aren't permitted to exceed the authority granted in the compact statute. “No matter how it is framed, the question a court faces when confronted with an agency's interpretation of a **statute** it administers is always, simply, *whether the agency has stayed within the bounds of its statutory authority.*” *City of Arlington v. F.C.C.*, 133 S.Ct. 1863, 1868 (2013)

In this instance, the limiting language of Article III, Section A. must be read in conjunction with the language of the earlier provisions of Article I and II which refer to “children of military families” which read by themselves might provide a permissible inference that a “child” or “children” of military families could include a spouse of a military member who has not yet reached the age of majority and so could still be considered a child of a military family as well as a spouse. However, when read together with the provisions of Article III which explicitly refer to the “children of military members” etc., it becomes clear that the intent of the compact is to limit its application to the “offspring” by birth or adoption of military members and not inclusive of a spouse who is still a minor.

V. Conclusion

In summary, by its explicit terms the provisions of the MIC3 statute are not applicable to spouses of active duty military members. While any accommodations of military family Members which states are willing to provide are permissible, based upon the above referenced statutory provisions accommodation of students who are the spouses but not the children of active duty military members cannot be required under the current provisions of the Compact.