

RULES COMMITTEE MINUTES

August 8, 2018

PRESENT	Mary Gable Kathleen Berg Daniel Dunham Alex Erwin Douglas Ragland	Maryland Commissioner Hawaii Commissioner Virginia Commissioner North Carolina Commissioner Alabama Commissioner	Chair
	Cherise Imai Rick Masters Lindsey Dablow Richard Pryor	MIC3 Executive Director General Counsel Training and Operations Associate Communications Associate	Secretary
EXCUSED	Taneka Miller	District of Columbia Commissioner	Vice Chair
ABSENT	Robert Staver Charles Tack	Pennsylvania Commissioner Arizona Commissioner Designee	
GUEST	Daron Korte	Minnesota Commissioner & Compliance Committee Chair	

ITEM 1 – CALL TO ORDER AND WELCOME

1. Committee Chair and Maryland Commissioner, Mary Gable, called the meeting to order at 2:04 PM EST.

ITEM 2 – AGENDA AND PREVIOUS MINUTES

2. Commissioner Kathleen Berg (HI) motioned to approve the agenda as amended, seconded by Commissioner Daniel Dunham (VA). Motion carried. Commissioner Dunham motioned to approve the July 11, 2018 minutes as submitted, seconded by Commissioner Berg. Motion carried.

ITEM 3 – OLD BUSINESS

3. ***Rules Change Proposal on State Council Annual Meetings*** – Chair Gable introduced invited guest Compliance Committee Chair Commissioner Daron Korte (MN) and asked him to provide the Rules Committee with background information and insight into the intent of the proposed Rules change.

Commissioner Berg made a motion to untable the proposed rules change regarding State Council Annual Meetings, seconded by Commissioner Dunham. Commissioner Korte explained the previous Compliance Chair Commissioner Pete LuPiba (OH) and Vice Chair Commissioner Laura Anastasio (CT) along with the full Compliance Committee explored the purpose and intent of Article VIII “State Coordination” within the Model Compact Language (MCL). This led to the development of the State Coordination Policy. The policy’s purpose was

to ensure the work Article VIII requires, council meetings, membership, and administration and management of the state's participation in the compact, was occurring.

After the State Coordination Policy took effect, discussion focused on the effectiveness of the State Councils in carrying out the requirements of Article VIII. Commissioner Korte confirmed the State Council language within the MCL is vague.

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. (Article VIII, para. 1)

The Compliance Committee, aligned with MIC3's Strategic Plan, began gathering information concerning the frequency of State Council meetings and membership. A majority of member states were holding and reporting State Council meetings, but there were seven states that had not reported a meeting of their Councils for the previous two fiscal years. At least one state reported it had not met, nor did it intend to. The Compliance Committee was concerned if the purpose of the State Council is to provide coordination among different agencies of government, local education agencies, and military installations regarding the Compact it seems it would be difficult to do that without having the council meet at least once per year. Commissioner Korte insisted the Compliance Committee does not wish to dictate how councils meet, whether in person or virtually, but felt it was important for the coordination of activities for the council to meet on an annual basis. No authority is provided within the current Rules to enforce or move forward requiring an annual meeting to perform those duties entailed under the Compact for state coordination.

The Compliance Committee purposed the attached Rules change which requires adding the definition of a "State Council". The proposed Rules change would require State Councils to meet once per year and the meeting dates, agenda, and minutes be provided to the National Office (NO).

Section "b" was developed because at least one state council delegates its duties to the State Education Agency. This section asks those states to provide information on how they are fulfilling the coordination requirement existing in Article VIII of the Compact.

Commissioner Korte stressed the State Council Annual Meeting Rule Draft is a draft and open to editing and change depending on the thoughts and feedback of the full Commission, but the Compliance Committee wanted to propose the Rules change so the discussion could take place.

Commissioner Berg asked if the MCL places a definite duty on the NO to monitor and be responsible for states executing the Rules outlined in the Compact. Is there another driver in the Compact Language that would support the NO collecting and retaining data on each state to insure they are performing their duty? General Counsel Rick Masters responded the statute vests the oversight authority to the Executive Committee (EXCOM). He clarified the duty is placed on the EXCOM and they delegate it to the NO to monitor and report back. Commissioner Berg explained the state legislature and departments of education are a Commissioner's constituency, and at the last meeting the Rules committee was hesitant to dictate a rule of this nature, unless there are issues being brought to the attention of the NO.

Commissioner Berg recommended providing a legal rationale that includes text from the MCL to validate the proposed Rules change.

Commissioner Korte confirmed the MCL outlines the Interstate Commission's authority to collect data:

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. Such methods of data collection, exchange and reporting shall, in so 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. (Article IX, Section I)

The language requires the Commission to collect standardize data concerning the educational transition of military families under the Compact through the Rules which will determine the data to be collected. The intent of the proposed Rule was not to dictate but to determine if coordination is taking place in those states that are not meeting and if not what could be done to assist them. This could be part of the conversation at the Annual Business Meeting.

Commissioner Korte discussed feedback the NO has received from individuals and organizations within the states that are not holding State Council meetings detailing the lack of support and effectiveness of the Compact. Executive Director Cherise Imai gave an overview of the amount and type of complaints the NO has received related to this topic. Commissioner Douglas Ragland (AL) voiced his support of the rule based on the issues he encountered when he was appointed.

Chair Gable stated requiring the date and agenda of the council meeting to demonstrate compliance was one thing but cautioned against requiring the Councils to provide minutes because they may not require minutes be taken. The Chair stated this was an area the proposed Rules language could be softened if the Rules Committee so desired.

The Chair reminded the Committee Members several years ago the Commission had the discussion about data collection and at the time the Commission did not feel it had the ability to collect data. Chair Gable asked if in the absence of data is holding a State Council meeting a demonstration of what is outlined in Article IX, Section I of the Model Language? Commissioner Berg responded Article IX would not work to support the proposal because the Commission in 2010 voted against compelling the states to collect data on the application of the IC. Commissioner Berg supported developing a legal rationale outlining the duty of the EXCOM and their role related to recording the compliance of member states in applying the Compact.

Commissioner Korte offered, in collaboration with Counsel Masters, to develop and distribute a rationale based on the MCL for the proposed rule change requiring annual state council meetings. Rules Committee members supported the development of the rationale for the proposed rule and discussed the role of their own state council.

The motion to approve the Rules Change Proposal on State Council Annual Meetings was unanimously approved. Motion carried. Chair Gable asked Commissioner Korte and Counsel Masters to share the rationale with the Rules Committee once it is completed. [OPEN]

4. ***FY2018 National Office Case/Inquiry Report*** – ED Imai presented the Case/Inquiry Report for FY18, which reflects only those cases received at the NO. The NO received a total of 31 cases, mainly from Compact Commissioners, School Liaison Officers, or from the state. More than half the cases referred were not Compact related but Commissioners did assist to resolve them. The majority of cases deals with Course Placement which mirrored FY17.

For training purposes the NO looks at “not applicable” case topics to determine trends for future training. The MIC3 Case and Inquiry Report is scrubbed for identifiers and is available in the Commissioner Only portion of MIC3’s website. All cases are tracked until they are resolved.

ITEM 4 – NEW BUSINESS

5. ***Promulgation of Rules and Rules Guide*** – ED Imai explained the Compact does not currently have a formal process for proposing a new rule or rule change. The draft document provided to the Members has been adapted from the Interstate Compact for Juveniles (ICJ) and is a starting point for the Committee’s discussion. The document contains a draft Rule Proposal Template to assist individuals who are developing rule language so it will accurately communicate the intent of the proposal.

Some language was heldover from the ICJ form and Members suggested editing the document to reflect MIC3’s Mission. Commissioner Berg suggested some changes in the wording under “Justification” to reflect the role of rules in the compact. Chair Gable asked if the reference throughout the document to “regional group of states” was from the original ICJ document, and ED Imai clarified that terminology was taken from the Compact Rules, Sec. 2.101, subsection (b) (3). The Chair asked for additional comments from the Committee Members, and there being none, the Chair expressed an interest in additional discussion at the September Rules Committee meeting. The Rules Committee agreed to continue discussion at its next meeting to allow NO staff time to edit and compile additional documents related to the topic and to allow additional time for Rules Committee members to review. [OPEN]

ITEM 5 – ADJOURNMENT

With no further business to discuss, Chair Gable adjourned the meeting at 3:03 PM EDT.

Respectfully submitted by:

Lindsey Dablow
Training and Operations Associate, Secretary

Next Meeting - Wednesday, September 5, 2018 at 2:00 PM EST.