

 <p>MILITARY INTERSTATE CHILDREN'S COMPACT COMMISSION</p>	<p>Number: 1-2020</p>
<p>Advisory Opinion issued by: Cherise Imai, Executive Director Richard L Masters, General Counsel</p>	<p>Dated: Sept. 25, 2020 Approved: November 19, 2020</p>
<p>Requestor: State of Arkansas</p>	
<p>DESCRIPTION:</p> <p>Are the families of U.S. Space Force members covered by the Compact?</p>	

I. Background

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

II. Issue

The Commissioner from Arkansas has requested guidance from the Military Interstate Children's Compact Commission concerning whether the families of U.S. Space Force members be covered by the Compact? The Commissioner asks some related questions including the following: Is some document required to state specifically that Space Force families are covered by the Compact? If so, what should that documentation be? Should the Compact statute be amended to cover families of the Space Force? What other methods are available to extend coverage to the families of the Space Force – e.g., could this be accomplished by a change to MIC3 rules? Could it be accomplished through each state's amending its state code outside of the Compact, but with identical verbiage? Could the method(s) of extending coverage to the families of the Space Force also be used to extend coverage to families of reserve Component service members?

III. Applicable Compact Provisions or Rules

Art. II A. of the Compact provides in relevant part as follows:

"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.1209 and 1211 (emphasis supplied).

Art. II, B. of the Compact provides in relevant part as follows:

“Children of military families” means: a school-aged child(ren), enrolled in Kindergarten through Twelfth (12th) grade, in the household of an **active-duty member** (emphasis supplied).

Art. III A. 1. of the Compact provides in relevant part as follows:

1. Except as otherwise provided in Section B, this compact shall apply to the children of **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. 1209 and 1211;

Art. III C. 4. of the Compact provides in relevant part as follows:

C. The provisions of this compact **shall not apply** to the **children of**:

4. other U.S. Dept. of Defense personnel and other federal agency civilian and contract employees **not defined as active-duty members of the uniformed services**.

IV. Review and Analysis

The MIC3 compact statute already defines “active duty” as 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.1209 and 1211. See Art. II A. Moreover, “children of military families” are defined to be school-aged children enrolled in grades K-12 who are in the household of **an active-duty member**.

As the U.S., Supreme Court has held with regard to statutory interpretation, “Applying ‘settled principles of statutory construction,’ we must first determine whether the statutory text is plain and unambiguous and . . . [i]f it is, we must apply the statute according to its terms.” *Carcieri v. Salazar*, 555 U.S. 379, 387 (2009); See also *Lamie v. U.S. Trustee*, 540 U.S. 526, 534 (2004) (“When the statute’s language is plain, the sole function of the courts – at least where the disposition required by the text is not absurd – is to enforce it according to its terms.”) (internal quotation marks omitted). While the Space Force is not specifically referenced in the above sections of the Compact, the compact provisions make it plain and unambiguous that applicability of the Compact, in this regard, is premised upon those service branches which are included in the “uniformed services” described in Title 10 U.S.C.1209 and 1211 of the U.S. Code. In fact, neither the Army, Navy, Marine Corps., Air Force nor Coast Guard are specifically identified in these sections of the U.S. Code. However, the active-duty members of the uniformed services now include all of the above uniformed services, including members of the Space Force who are on active duty.

Since the creation of the U.S. Space Force and inclusion by reference in this same section of the federal statutes as the other branches of the military are identified, no amendment to either the MIC3 compact statute or other state statutes is required. For the same reason, it is also unnecessary to amend the MIC3 rules.

This analysis is not applicable to the children of National Guard or Reserve members who are not on active duty because the above MIC3 statutory provisions specifically require that the service member in question must be “on active-duty orders,” and in Art. III C. 4. there is a specific exclusion of “other children of DoD personnel and other federal civilian and contract employees not defined as active-duty members of the uniformed services.” For this reason, an amendment to the Compact statute will be required for “reserve component service members

V. Conclusion

Based upon the plain meaning of the applicable provisions of the MIC3 compact statute and federal law active-duty members of the U.S. Space Force are included in the compact’s definition of “active-duty members of the uniformed services.” For this reason, the families of the U.S. Space Force members are covered by the Compact.