

MIC3 State Commissioner Guidance Developing a State Position on the National Guard and Reserve

Background

1. The compact covers, “*active duty members of the uniformed services, including members of the National Guard and Reserve on active duty orders (Title 10)*”
2. The state of Utah asked the Executive Committee to consider inclusion of dependents of the national guard and reserve under other titles (5, 32, etc.) citing these families move interstate under military orders.
3. In 2019, the Executive Committee created the *MIC3 National Guard and Reserve Coverage Task Force* (NGRTF). Members included:
 - a. Kathleen Berg, Hawaii Commissioner (Chair)
 - b. Darcy Benway, Illinois Commissioner
 - c. Brian Halstead, Nebraska Commissioner
 - d. Ben Rasmussen, Utah Commissioner
 - e. Terry Ryals, Alaska Commissioner
 - f. Hal Stearns, Montana Commissioner
 - g. Rosemarie Kraeger, Rhode Island Commissioner
4. The Task Force’s mission: *To collect and analyze relevant data in order to recommend whether MIC3 protections for military-connected students already in place for the children of these reserve component service members in Title 10 status should be expanded to cover children of members in other status situations, as well.*

Commission Discussion in 2019

At the 2019 Annual Business Meeting, NGRTF Chair, Commissioner Kathleen Berg provided a summary of the second meeting of the NGRTF held on October 23, 2019:

- Focused on how the state of Utah extended Compact coverage to National Guard and Reserve (NGR) connected families within their state by changing the compact statute.
- Current data stated there were about 1.5 million military-connected children total, including the NGR but not much supporting members being ordered to move interstate
- Explained the military is moving toward being more inclusive of the National Guard and Reserve members, regardless of the data.
- There was a national effort to extend coverage to treat all military families the same.
- Concluded her report by highlighting the states of Kentucky and Arkansas, which have external legislation that extends the provisions of the Compact to additional service-related groups (civilian and national guard and reserves).
- However, Utah amended their state compact statute creating a situation where Utah is out of compliance with the Compact and the other 50 members states.
- It was requested the NGRTF consider the fiscal impact on member states when making their final recommendation to the Commission. Commissioner Berg agreed that a cost analysis would be conducted.

NGRTF Meetings and Reporting

1. In 2019-2020, the NGRTF met six times.
2. A preliminary report was submitted to the Executive Committee in May 2020.
3. The final report was presented at the 2020 Annual Business Meeting on October 1-2, which included the projected financial impact by state (dues).

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NGRTF Recommendation Summary

(full version: https://mic3.net/wp-content/uploads/2020/10/NGRTF-Paper_FINAL_20201002-1.pdf)

The NGRTF recommended the MIC3 support expansion of Compact coverage to all members of the Selected Reserve - including Traditional, Active/Guard Reserve, and Military Technician (Dual Status) members - for moves related to changes in duty station and for deployments in any active duty status, including Title 10, Title 32, and State Active Duty (SAD).

This recommendation takes into account the following:

- The rule change process cannot be used to change Compact applicability, only Compact rules;
- The Commission may propose amendments to the Model Compact Language for enactment by the member states, but no amendment shall become effective and binding upon the Commission and the member states unless and until it is enacted into law by unanimous consent of the member states;
- States may not unilaterally amend the Model Compact Language in their law without risk to their Compact membership;
- Some member states have already enacted state legislation separate from their Compact statute to immediately extend coverage of the Compact within their states, but language differs among states;
- Expert legal counsel, at the expense of the Commission, will be required to research and create the specific language to accomplish the desired changes;
- There are numerous military support organizations that would endorse and likely assist MIC3 in any effort to expand Compact coverage to all members of the Selected Reserve—for example, the Enlisted Association of the National Guard of the United States (EANGUS), the National Guard Association of the United States (NGAUS), the Reserve Officers Association (ROA), and the Military Officers Association of America (MOAA). Other organizations, such as the National Governors Association (NGA), may be likely allies in any MIC3 effort to extend Compact support to include ALL military families.

ABM 2020 Outcome

- The Commission expressed appreciation for the work of the NGRTF.
- Commissioners did not feel comfortable adopting the NGRTF recommendation and requested the opportunity to share with their respective state councils.
- Several states expressed concern regarding the possible increase in annual Commission state dues with the addition of NGR dependents.
 - NGR - https://mic3.net/wp-content/uploads/2020/11/51-NGR-Data_20200731.pdf
 - Active Duty - https://mic3.net/wp-content/uploads/2020/11/50-AD-Data_20200731.pdf
- A motion was passed to forward the recommendation to the Executive Committee for further action. This action also allows states to meet with their state councils to develop a position on the issue.

Dues

- Expansion of the Compact to cover reserve component children is not an opportunity to increase revenues to the Commission.
- Inclusion of reserve component children should be accomplished without an increase in dues, if at all possible.

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- Courses of action to amend the Compact to include reserve component children will probably require a change to the dues formula to ensure that state dues are not increased.

Courses of Action

1. Amend the Compact Statute.
 - a. Pros – would extend compact coverage to all NGR dependents beyond Title 10 in the Compact.
 - b. Cons – the language would need to be adopted in statute by all 50+1 members before the coverage would be active; cost to the commission to fund this effort; time to work with states to pass the language; risk other unapproved modifications to the compact statute
 - c. Additional: Could state legislatures adopt an “administrative amendment” that clarifies that the Compact shall be applied to all children of military families?
2. Amend State Codes Outside of the Compact.
 - a. Pros – States could choose to do this independently; would be in effect immediately upon passage; would not increase annual state dues as it is outside of the compact.
 - b. Cons – Would not be uniform across all member states
 - c. Examples of separate, external language which extends Compact coverage:
 - i. Arkansas covers all NGR children, regardless of title.
<http://www.arkleg.state.ar.us/assembly/2019/2019R/Acts/Act939.pdf>
 - ii. Kentucky covers students of U.S. Department of Defense (USDOD) civilian employees
<https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=3244>
3. Create an “Enhanced” Compact
 - a. Explanation – The enhancement could include the additional language needed to extend coverage to reserve component families. The enhanced and the original compact would be binding on states that join the enhanced compact, but only the current MIC3 Compact would bind states that choose not to join. The Nursing Licensure Compact Commission used this model successfully.
 - b. Pros – States that wish to join the enhanced compact could do so, but no state would be required to.
 - c. Cons – The enhancement risks becoming too broad; states might choose to add measures to the enhancement that other states choose not to include; would the current national office staff be sufficient to administer both compacts; might complicate the dues formula if not all states join the enhanced compact.
4. Adopt a Memorandum of Agreement (MOA)
 - a. Explanation – The appropriate official in each state (governor, chief state school officer) could sign a MOA developed by the national office. The MOA would indicate that the signatory states would treat children of reserve component families as though the Compact covers them. Reserve component children would not be counted for purpose of calculating dues.
 - b. Pros – Avoids issues of compliance raised by amending the compact statutes; requires no change to dues formula.
 - c. Cons – Could be canceled by the same official who entered the MOA; might expire after a given period of time

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5. Take no action at this time.
 - a. Explanation – a Member State may feel no further action by the Commission is necessary at this time. Some states expressed the Compact was developed by the USDOD to address education challenges encountered by active duty children who move frequently based on their parents’ assignments – and covers the children that need to be covered. Which is why the National Guard and Reserve (beyond Title 10) was not included in the model compact. If the Compact is expanded, some other states expressed interest in expanding the Compact to cover civilian USDOD personnel, and/or all interstate transitioning students since their parents may relocate for jobs or career advancement.
 - b. Pros – This option would not require further action by the Commission. The dependents of National Guard and Reserve under Title 10 would continue to be covered under the Compact.

For Commissioner Action

1. Collect the following information on your state:
 - a. Currently, how many National Guard and Reserve service members are residing in your state, under titles (5, 10, 32)
 - b. Currently, how many NGR school-aged dependents between ages 5-18?
 - c. Over the past year, how many NGR families, as well as school aged dependents between ages 5-18, moved **interstate** under PCS orders? (Remember, the compact is interstate, not intrastate.)
2. Develop the position of your state council.
 - a. Consult with your state’s appointing authority, state council, and other stakeholders.
 - b. Provide supplemental information which can be found on the **ABM 2020 webpage** under “National Guard and Reserve Coverage Task Force”. Website: <https://mic3.net/2020-annual-business-meeting/>
 - i. Presentation (by HI Commissioner Berg)
 - ii. Presentation with Notes (by HI Commissioner Berg)
 - iii. NGRTF Survey Results (by state, if received)
 - iv. NGRTF Final Recommendation
 - v. Data (by state, includes possible dues amounts):
 1. National Guard and Reserve
 2. Active Duty
 - c. Discuss the pros and cons of each course of action.
3. **Provide a written report to the national office by August 31, 2021, stating the position of your state council.** The report should include:
 - a. which course(s) of action your state council favors and why;
 - b. any questions/concerns raised (provide supplemental data/documentation).
4. The item will be included in the Docket for discussion at the 2021 Annual Business Meeting. Be prepared to discuss and vote on behalf of your state.

Should you have any questions or need assistance, please contact the national office:

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