

NATIONAL GUARD AND RESERVE COVERAGE TASK FORCE (NGRTF) MINUTES
Monday, June 15, 2020

PRESENT	Kathleen Berg Darcy Benway Brian Halstead Ben Rasmussen Terry Ryals Hal Sterns	Hawaii Commissioner Illinois Commissioner Nebraska Commissioner Utah Commissioner Alaska Commissioner Montana Commissioner	Chair
STAFF	Cherise Imai Lindsey Dablow	Executive Director Training and Operations Associate	Secretary
EXCUSED	Rosemarie Kraeger	Rhode Island Commissioner	

ITEM 1 – CALL TO ORDER

1. Chair Kathleen Berg (HI) called the meeting to order at 1:00 PM EST. Roll call was conducted by MIC3 Training and Operations Associate Lindsey Dablow and a quorum was established.

ITEM 2 – AGENDA AND MINUTES

2. Commissioner Darcy Benway (IL) motioned to approve the agenda as presented. The motion was seconded by Commissioner Hal Stearns (MT). Motion carried.

3. Commissioner Brian Halstead (NE) moved to approve the February 14, 2020 meeting minutes with corrections. The motion was seconded by Commissioner Ben Rasmussen (UT) Stearns. Motion carried.

ITEM 3 – OLD BUSINESS

4. **NGRTF Survey of States Mission** – Chair Berg reviewed the survey questions which were revised based on the feedback from the committee at the last meeting. Additional clarifications were made by members who requested staff to revise the draft further prior to release.

5. Members discussed the survey release and deadline and providing two weeks for responses.

ITEM 4 – NEW BUSINESS

6. **Article: SECDEF: Guard Best Suited for ‘Historic Response’ Chair 6/9/20** – Chair Berg included the recent article to provide general information on the recent activation of the guard and reserve to assist with COVID-19 response and use of the military as law enforcement in communities. She noted federal law prohibited active duty services to provide law enforcement in states.

7. **Reserve Officers Association Letter** – Chair Berg reported the letter was received by Commission Chair Don Kaminar which parallels the prior letter from the National Guard Bureau in October. A response was sent from Chair Kaminar informing them of the Commission point of contact.

8. **Data Request to the National Guard and Reserves: Discussion with Brig Gen Ryan**

Okahara, Commander, HIANG Chair – Chair Berg reported she contacted Brig Gen Okahara as a first attempt to obtain information on the guard transitions and frequency. The Bureau personnel, in order to progress in the structure, they need experience in the state units. An estimated 30 enlisted and 30 officers are assigned to states, essentially moving from a Title 10 active duty guard (AGR) status (assigned to the Bureau) to a Title 32 status. They are like active duty, except they do not go overseas, and they report directly to the Governor. Chair Berg asked Commissioner Stearns about the Army Guard and he responded he did not know. Based on this estimate, it was reasonable to conclude up to some personnel would transition under these circumstances.

9. **Data Request to the Air Force Reserve Command/Personnel (AFRC/A1)** – Chair Berg submitted a request for data on how often AGRs (Active/Guard Reserve); MTs (dual status Military Technicians); and TRs (Traditional Reservists) move locations as part of a change in their military jobs.

10. Chair Berg reported a case in which a Reserve Colonel working at US Pacific Command as an AGR Title 32 who moved from Hawaii to Washington DC to work for the National Guard Bureau. When she moved and enrolled her child in the Washington DC school, she noted on her registration she was active duty, the school assumed she was Title 10, and no distinction was made between the guard and the active duty service. Therefore, it is likely similar cases occur in which the national guard personnel are accommodated under the compact without reference to their title status.

11. **Preliminary Report to the EXCOM** – Chair Berg reported three criteria are utilized for the NGRTF recommendation: need, choice and fairness. The “need” references the history of the compact rules when it was developed by the initial working group. The understanding at that time was the guard and reserve did not move. Currently, we understand the guard and reserve do move, although not at the same frequency as the regular active duty and the move is impactful for those families. She concluded the guard and reserve have the same “need” as active duty families when they move.

12. Regarding “choice”, Chair Berg stated the active duty has to follow orders to move. In the military full-time you belong to the service “24/7” with no overtime, no unions and very limited choice about where you work. National Guard and Reserves differs somewhat. Usually, they don’t order members to change units and duty stations. Moves appear to be personal or career choices. For DoD civilian employees, their full-time job doesn’t legally obligate them to move. Thus, the reason why the civilian employees are not covered under the compact is that they have a choice regarding moving.

13. Lastly the question of “fairness” deals with “leveling the playing field” and not creating a class of privileged kids in a school. The question is, what has changed in order to consider inclusion of the guard and reserve today? The history of the involuntary activation of the guard and reserve shows very limited use of reserve forces until after the end of the Cold War (1991), when the active services were all downsized and many bases closed. In the 28+ years since, activation of the national guard and reserve accelerated, especially after 11 September 2001. And frequently they are being called up to assist with the unrest in urban cities, assistance after natural disasters, and now for the pandemic effort.

14. She referenced the military’s Total Force strategy for the last 30 years, meaning the active duty depends on the guard and reserve. So if we want to address the issue, it deals with

the Selected Reserve (which includes all seven of the reserve components: Army Reserve and Army National Guard, Air Force Reserve and Air National Guard, Navy Reserve, Marine Corps Reserve, and Coast Guard Reserve), both full-time support personnel and traditional members.

15. Commissioner Benway asked if we are pushing for law, why shouldn't the compact apply to every student in every school? In her district, they apply the compact to every transitioning student – whether the parent is employed by the military or a private company. What the compact does for military kids is right for all kids – why aren't we pushing for all kids to be covered under the compact?

16. Commissioner Halstead concurred with Commissioner Benway's statement. In Nebraska, they utilize the compact for all students and the law does not distinguish between military or civilian students. If a transitioning student moves into the district, the charge is to take care of that student. He noted the issue is that state legislators wanted or see it that way, as they are dealing with power and money, which have created barriers to the mobility of military students. He was unsure if the commission, or if he as the Commissioner, had the authority or power to address the inequity. He added the Governor's Association, Department of Defense, and National Guard Bureau have that power and clout to address and advocate for this legislation.

17. Chair Berg concurred Hawaii had the same thoughts and concerns expressed by Commissioner Benway. She said to address the issues at that time, a power group – in this case the military – were the vehicle for change to advocate for the active duty families.

18. Commissioner Benway stated when the compact was discussed in Illinois, initially there was a lot of resistance to adoption of the statute, not because of what it did for kids, but because it distinguished military kids over other kids. She surmised if was stated it was good for all kids, it would be easier to address the issues, then addressing it through the compact itself. If we have to go back to all 50 states to amend the compact, it will be easier to pass if we apply it to all kids. It is an issue that some kids are being denied the same opportunities that military kids have.

19. Chair Berg highlighted other documents that task force members could review for data and background information; she provided a handout with titles and internet links to access them.

20. **Task Force Recommendation: Discussion of Key Factors to Consider** – Chair Berg stated the recommendation should include **who** would be recommended to be covered and **how** it would be done. Initially, we thought there was only one way to extend compact coverage, which is to propose an amendment to the Model Compact Language. Every state would have to agree and then actually amend their state statute in exactly the same way. The change in coverage would not be effective until all 51 statutes were amended. It would require development of the amendment language and extended support to all states to adopt the language. She stated the Utah solution, which modified the compact language by changing the definition of active duty is legally problematic and couldn't be adopted. Another option is for individual states to extend compact coverage via state statute separate from their compact legislation, like Kentucky has for extending coverage to DoD civilian employees, and Arkansas for national guard and reserve members.

21. Chair Berg reported she asked ED Imai to seek legal counsel on the Utah alteration to see if it was a viable solution and what it would accomplish. The draft response from the CSG legal staff

was that it was legally problematic. That lawyer did mention the possibility of using our rule changing process, and ED Imai will follow up about that. She noted that Rick Masters has stated a rule change could not be used to change compact applicability, which is woven into the Model Compact Language in multiple places.

22. Commissioner Benway stated strongly supported extending compact coverage to all students and utilization of other stakeholder groups to advocate for the initiative.

23. Members agreed to schedule a call once the results of the survey were available.

ITEM 5 – ADJOURNMENT

24. With no further business to conduct, Chair Berg adjourned the meeting at 2:07 PM EST.

Respectfully submitted by,
Cherise Imai
Executive Director