



MILITARY INTERSTATE
CHILDREN’S COMPACT
COMMISSION

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Advisory Opinion issued by:
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Approved: June 16, 2022

Requestor: State of Hawaii

Description:

Does the Compact require or define accreditation for K–12 public schools?

I. Background

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

II. Issue

The Commissioner from Hawaii has requested guidance from the Military Interstate Children’s Compact Commission concerning (1) whether the Compact’s accreditation requirement applies to public schools of the sending state when a receiving state considers either initial enrollment or continued enrollment of a child for kindergarten or first grade or any other grade; and (2) what the definition of an "accredited school" is, as used in this rule.

III. Applicable Compact Provisions or Rules

SEC 3.102(b) of the Compact Rules provides in part that:

“Kindergarten and First grade entrance age – ... A student transferring after the start of the school year in the receiving State shall enter the school in the receiving State on their validated level from an accredited school in the sending State.”

IV. Review and Analysis

In the absence of a federal standard, the States have adopted various approaches to accreditation of their public schools. In some States, accreditation is required in order for a school to operate at all, while in other States, accreditation is only considered when a school’s graduates apply to funding programs for post-secondary education. Additionally, the definition of accreditation varies from State to State; some States rely on non-governmental organizations to evaluate and accredit K–12 schools, while others only provide government-based review and acceptance programs,

with no requirement or opportunity for external accreditation.

SEC 3.102(b) must be interpreted in a way that is reasonable in light of the circumstances in every State and that is harmonious with each State's understanding of accreditation. Given the wide variety of approaches that exist among the States, and in recognition of the axiom that no law should be read as to give rise to an absurd or impossible result, SEC 3.102(b) should be read as referring to "accredited schools" as that term is understood in the Sending State and only insofar as accreditation is required in the Sending State. To wit, where a Sending State requires accreditation for a certain school to operate in that State (whether public or private), then a Receiving State need not recognize a student's level in the Sending State unless the sending school is accredited as required under the Sending State's laws. By contrast, if the Sending State does not require or does not offer accreditation for a certain kind of school (whether public or private), then the receiving school should recognize a student's level in the Sending State regardless of the "accredited school" language in SEC 3.102(b).

Reading SEC 3.102(b) in context with the various state laws on K–12 accreditation is essential to arriving at a reasonable interpretation. Where there is so much variation among the States on this topic, the Compact must allow for an equal amount of flexibility in its application. Tying SEC 3.102(b)'s "accredited school" requirement to the law of the Sending State serves the purposes of the Compact while respecting the variations among the States. In the context of the initial questions from Hawaii, this would mean that: (1) the Compact's accreditation requirement applies only where the Sending State's laws require that a school be accredited; and (2) "accredited school" should be defined as it is defined in the laws of the Sending State.

This area also presents an opportunity for the Commission to clarify the term "accredited school" in a new Rule. Such a clarification would offer more reliable authority than this Advisory.

V. Conclusion

In summary, based on the relevant provisions of the Compact, referenced authorities and analysis, the foregoing provisions of the Compact will only require accreditation for a given school where the same is required under the laws of the Sending State.