



Tier Group 3 Meeting Notes
August 29, 2022
2:00 PM – 3:00 PM ET

Table with 3 columns: Category (PRESENT, EXCUSED, STAFF), Name, and Title. Lists attendees and staff members for the meeting.

ITEM 1 – CALL TO ORDER

1. The meeting was called to order at 2:04 PM ET by Tier Group 3 Facilitator and Utah Commissioner Ben Rasmussen.

ITEM 2 – ROLL CALL

2. Executive Director (ED) Cherise Imai provided opening comments and conducted roll call. As this is not a formal committee of the Commission, per Robert’s Rules, a quorum is not required. ED Imai announced the video recording would be distributed to Members who were unable to attend the meeting.

ITEM 3 – DEPARTMENT OF DEFENSE STATE LIAISON OFFICE (DSLO) PROPOSAL

3. Chair Laura Anastasio updated the Tier Group on developments related to the Compact Citation Correction and expanding coverage of the Compact to include all families of the National Guard and Reserve (NGR) issue discussed at the May 2022 Tier Group meetings. The DSLO proposed instead of changing the language of “Active Duty” from Section to Chapter, altering the definition to “members of the National Guard and Reserve on active-duty orders.” The second step of their proposal was to utilize the Commission’s Rule-making process to define what “active duty” means. Chair Anastasio noted this would allow the Commission to specifically define “active duty” and which groups the Compact covers, but making a statutory change means all the member states would have to agree to the change.

4. Chair Anastasio explained Commission Rules have to be adopted by a majority of member states which could mean a Rule is adopted and enforced that not all the member states agree with. She reminded the group that some states currently have the correct citation, but the proposal would require

all 51 to amend their statute language instead of 49. The Chair stated this action would provide an opportunity for legislators to make additional changes to the language creating compliance issues for those states. She noted this proposal would be expensive for the Commission because of the tracking it would require.

5. Chair Anastasio concluded her remarks stating financial support for the initiative was requested from the DSLO but was told financial support would not be available to assist the Commission with this issue. The Chair yielded the floor to General Counsel Stuart Michael of Embry, Merritt, Womack, and Nance, PLLC.

ITEM 4 – GENERAL COUNSEL DOCUMENT REVIEW

6. Mr. Michael reviewed the *Application to Military Interstate Children’s Compact to NGR Members (February 16, 2022)* memo. The memo provided legal guidance on the five (5) options available to the Commission for expanding coverage of the Compact provisions to NGR families. Mr. Michael noted the memo recommended adopting statute language external to the Compact language as the most effective method for providing the same protections to the NGR population.

7. Mr. Michael reviewed the *Citation Correction in MIC3 Compact (August 5, 2022)* memo. This memo provided a detailed review by state of the Compact citation correction and ranked the states by priority to provide a roadmap for correcting the citation error over the course of three years. The final memo, *Citation Correction in MIC3 Compact (May 16, 2022)*, was a one-page memo Commissioners could provide to the state legislatures explaining why the citation needs to be corrected.

8. Mr. Michael noted the Commission needs to correct the citation error and if it also decided it wanted to expand coverage under the Compact to include all members of the NGR then the DSLO proposal does address both those items. However, if the Commission does not support expanding coverage under the Compact to include all members of the NGR then the proposal by DSLO would not be a suitable solution.

ITEM 5 – DISCUSSION

9. Commissioner Felicia Gonzales (NV) asked General Counsel to clarify the DSLO proposal versus the other options available to the Commission. General Counsel explained the first option is for the Commission can correct the language “Section” to “Chapter” in the 49 member states where it is listed incorrectly. He noted the second option is to change the sentence in the statute to “members of the National Guard and Reserve on active-duty orders.” Then the Commission would use its Rule-making process to define “active duty” and could expand coverage under the Compact to include all members of NGR. This action would have to take place in all 50 states and the District of Columbia.

10. Commissioner Rasmussen asked which proposal the Commission would be asked to vote on at the Annual Business Meeting (ABM). Mr. Michael explained that would be determined by the wording of the motion made during the ABM and provided examples of possible motions.

11. Commissioner Clarke Orzalli (MA) asked which entity, DSLO or the Council of State Governments (CSG), developed the Model Compact Language that had the citation error and shouldn’t that organization share in the expense of fixing the citation correction. Mr. Michael answered the DSLO has acknowledged that the original language produced by their office may have had the incorrect citation. Mr. Michael stated in conversations with the DSLO this was not an issue the Department of Defense (DoD) would be willing to assist with financially. ED Imai and Chair Anastasio provided additional information to the Members on this topic. Commissioner Orzalli stated he was surprised an entity that helped establish the Compact and has acknowledged the mistake originated with their office

would be unwilling to help correct it. Chair Anastasio noted the DSLO office did agree to help with the legislative side of correcting the statute but wasn't able to assist financially.

12. Commissioner Rasmussen asked if there was a proposal on how the Commission would pay for the citation correction. ED Imai responded the current proposal was to use the Commission's Reserve Fund to pay for the citation correction. She noted the Commission worked hard to build its Reserve Fund so it would have that money on hand should it be needed. She stated the Finance Committee would be reviewing this item during their next committee meeting. Commissioner Rasmussen asked if CSG was the only organization able to assist the Commission with this or were there other defense organizations that could help. ED Imai explained no other organizations were contacted and CSG is working with DSLO to establish a spouse licensure compact to they were the logical choice to assist with the correction.

ITEM 9 – ADJOURNMENT

13. There being no further discussion the meeting was adjourned at 2:47 PM ET.