

Testimony of Rick Masters, Special Counsel for Interstate Compacts
The Council of State Governments Re: Interstate Compact on Educational
Opportunity for Military Children

Before the PA Joint House Education, Intergovernmental Affairs and Veterans Affairs and Emergency Preparedness Committees

September 18, 2008 @ 9:30 a.m.

Honorable Chair and Members of the Committee, I am Rick Masters, Special Counsel for Interstate Compacts for the Council of State Governments. I hold a J.D. from the Brandeis School of Law of the University of Louisville and I am licensed to practice law in the Commonwealth of Kentucky as well as both of its U.S. District Courts, I am also admitted to practice before the U.S. Courts of Appeals for the 4th and 6th Circuits as well as the District of Columbia Circuit and the United States Supreme Court.

I was formerly an Assistant Attorney General for the Commonwealth of Kentucky and I am a former General Counsel for the Council of State Governments and have continued to serve as Special Counsel for Interstate Compacts for the last ten (10) years.

I have acted as the primary drafter of a number of national compacts including the Interstate Compact for Adult Offender Supervision, which has been adopted by all 50 states, D.C., Puerto Rico, and the U.S. Virgin Islands and the Interstate Compact for Juveniles, the Interstate Compact for the Placement of Children and the proposed Interstate Compact on Educational Opportunity for Military Children.

I have also provided legal advice to a number of existing compact commissions and have litigated court cases concerning disputes in which interstate compact provisions have been at issue in a number of U.S. District Courts and U.S. Courts of Appeals. In addition I was a co-author of a book on the subject of interstate compacts published by the American Bar Association in 2006 containing the largest compilation of legal authorities and case citations ever printed on the subject.

This project is a joint effort by the Council of State Governments and the U.S. Department of Defense to address problems encountered by children in grades K-12 who must transfer from one state public school district to another because one or both parents are active duty members of the U.S. military including members of the guard and reserves who are activated or deployed.

To give input into the drafting process **stakeholders involved in public school education in this country served as an advisory group, which directed the work of the drafting team. These groups included The National School Boards Association, The National Association of State Boards of Education, the National Education Association, The National Association of Elementary School Principals, The National PTA, The Military Impacted Schools Association, and the Education Commission of the States.**

In order to provide the desired uniformity to facilitate the transfer of these students from one state to another a compact mechanism is employed which will become effective upon the enactment of at least ten (10) states. Eleven states have already enacted the compact bringing it into effect and the first meeting of the interstate commission through which the activities of the compact will be coordinated is scheduled to meet later this year. Those states include Arizona, Colorado, Connecticut, Delaware, Florida, Kansas, Kentucky, Michigan, Missouri, North Carolina, and Oklahoma. Four other states, California, Washington, Illinois and Maryland have established task forces to review the compact and report back to their respective legislatures concerning passage of the bills and based on the reports to date all four (4) states are expected to introduce the compact in the upcoming sessions of their legislatures. Texas and Pennsylvania have introduced the compact legislation and a number of other states are actively reviewing the legislation for introduction in 2009 legislative sessions.

Interstate compacts are a time tested and court tested means of resolving interstate problems which are authorized under Article I, Section 10, Clause 3 of the U.S. Constitution. In our country's 220-year history some 200 compacts have been adopted of which Pennsylvania is a member of approximately 34 interstate compacts including two (2) education compacts.

Interstate compacts have been used for three primary purposes: 1) Boundary disputes between states' 2) Management of environmental resources 3) regulatory compacts which apply to a wide variety of multi-state problems including transportation, insurance regulation, taxation, interstate placement of foster and adopted children, criminal justice and corrections matters such as the transfer of adult offenders across state lines and education.

Compacts allow the states to exercise collective control over matters, which are traditionally regulated, by the states without surrendering state control to the federal government. Interstate compacts allow the states to avoid the problem of 'fifty (50) different sets of rules' with which to solve interstate problems through a uniform approach while still subject to joint state authority.

This Compact seeks to facilitate equal educational opportunity for the children of military members in four (4) major areas: 1) Enrollment; 2) Eligibility; 3) Placement; and 4) Graduation. For example:

Enrollment

To facilitate the enrollment of a transferred child the Compact provides that the receiving state school will accept a copy of the educational record from the parent if no “certified record” is available and gives the sending state ten (10) days after receipt of the request from the receiving state school to transfer the “official” record.

Eligibility

The compact recognizes that children of deployed military members should be provided with a reasonable opportunity to be included in extracurricular activities in the event of a missed tryout or induction process if the student is otherwise qualified.

Placement

Under the Compact there is a presumption that the sending state’s placement was correct and will be continued in that placement if the receiving state offers equivalent courses. However the receiving state may subsequently conduct its own testing of the student and reevaluate & change such placement on that basis after the student has transferred to the new school district. The Compact also recognizes the special education services already required under federal law through IDEA, ICP and ADA. The compact allows some flexibility for deployment related absences.

Graduation

The Compact provides that the states will make reasonable efforts to accommodate the transfer of equivalent courses to facilitate on time graduation including consideration of alternative exit exam requirement being met if the student has successfully completed another national norm-referenced achievement test for those students approaching graduation. If the foregoing steps are not reasonably possible, as an alternative the receiving state will cooperate with the sending state in order to facilitate graduation in the sending state.

In summary, the compact attempts to establish a ‘common denominator’ among the member states which will remove existing barriers to timely completion of the public education process for these students who by virtue of the decision and commitment of their parent to serve our country are, in many cases, being unfairly penalized.

Thank you for the opportunity to address the Committee about this important public policy matter and I will be happy to respond to any questions.

