

Testimony of Rick Masters - General Counsel for Interstate Commission on Educational Opportunity for Military Children

IN RE: SB 1506

Senate Committee on Veterans and Emergency Preparedness

February 12, 2014

Honorable Chair and Members of the Committee, I am Rick Masters, and I currently hold the position of General Counsel for the Interstate Commission on Educational Opportunity for Military Children which is the authorized governing body for the Interstate Compact on Educational Opportunity for Military Children of which forty-six (46) states and the District of Columbia are now members. I received my Juris Doctorate 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 6th and 10th 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 also served as General Counsel for the Council of State Governments ('CSG') where I have continued to act as Special Counsel to CSG for interstate compacts and the National Center for Interstate Compacts for the last fifteen (15) 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 adopted by 49 states, the Interstate Compact for the Placement of Children and the proposed Interstate Compact on Educational Opportunity for Military Children which is contained in SB 1506.

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 am a co-author of a book on the subject of interstate compacts published by the American Bar Association in 2007 containing the largest compilation of legal authorities and case citations ever published on the subject.

This compact originated as a **joint effort by the Council of State Governments and the U.S. Department of Defense** to address problems encountered 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 that 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 became effective upon the enactment of the compact by ten (10) states in 2008 and since that time thirty-six (36) additional states as well as the District of Columbia have joined the compact, for a total of forty-six (46) states plus DC. This year legislation is pending in all of the remaining four (4) non-member state legislatures, which in addition to Oregon are New York, Minnesota, and New Hampshire and it is hoped that by the end of the 2014 legislative cycle that every state in the union is also a member of the compact.

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 225-year history since the ratification of the Constitution, some 200 compacts have been adopted of which Oregon is a member of approximately thirty (30) interstate compacts including at least one (1) compact pertaining to education.

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.