

CHAPTER IV

Issues Concerning NC Public Schools

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NORTH CAROLINA

BAR ASSOCIATION

seeking liberty + justice

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Issues Concerning NC Public Schools

NC Bar Association/LAMP
Military and Veterans Legal Issues
Doug Taggart and Kirk Warner
11/13/2018



The Lawyer's Role

- Assist transitioning military dependents
- Understand:
 - [NC DPI System](#)
 - [Interstate Compact on Educational Opportunities for Military Children](#)
 - [Military Interstate Children's Compact Commission \(MIC3\)](#)



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Lawyer's Role (2)

- Counsel clients (military and schools)
- Special POAs
- Education-related POAs and Affidavits
- Non-Custodial POAs
- Guardian or Legal Custodian Affidavits
- Family Care Plans
- Family Law Issues
- Military Children Behavior Issues



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Deployments

- Single or Dual-Serving Parents
- Behavior issues before, during and after (reintegration) combat deployments
- Non-Custodial Caregivers
- Caregiver, Parent, Guardian, or Legal Custodian Affidavits
- Family Care Plans
- Exceptional Children Policies



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Dispute Resolution and Rules

- NC DPI Dispute Resolution processes
- Administrative remedies must be exhausted before litigation
- Interstate Compact Promulgated Rules supersede state laws to the contrary and are binding.
- Interstate Commission provides dispute resolution, guidance (opinions) and mediation between the states.



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A Lawyer's Key Contacts

- Key Resources and Contacts:
 - [NC Department of Public Instruction](#)
 - [Local School Boards](#)
 - [School Superintendents](#)
 - [Military Installation School Liaison Officers](#)
 - [Local Education Agency School Military Liaison Counselors](#)



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Understanding:

THE NC PUBLIC EDUCATION SYSTEM



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Interstate Compact on Educational Opportunity for Military Children - History

- 1998 - [Military Child Education Coalition](#) forms
- 1999 - Army / MCEC Secondary Education Transition Study
- MOA for school systems, DOE's and military installations
- 2009 – EMC21 (SETSII)



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Overview of the Compact - 2009

- 11 states have enacted – NC is 11th
- 27 states have active legislation
- Member states work together to ease transition issues in public education for military children moving between member states as a result of a military move.



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Overview of the Compact - 2018

- All 50 States are Signatories!
- Statute Reference:
- https://www.ncleg.net/enactedlegislation/statutes/html/bysection/chapter_115c/gs_115c-407.5.html



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Overarching Areas

- Records and Enrollment
- Graduation
- Placement and Attendance
- Extracurricular participation



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Records & Enrollment

- Unofficial records provided to family to enroll in receiving state
- Receiving school must enroll and place student
- Sending state has 10 business days to provide official education records to receiving state's enrolled school/system after Receiving state request.



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Records & Enrollment (2)

- Immunization records in 30 days
- Immunization series started in 30 calendar days
- Allows enrollment for kindergarten if of legal age in the sending state.



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Graduation

- Flexibility for school to offer course waivers for similar course work. Denial requires justification.
- Waiving graduation project requirements allowed, most typically for transfer in senior year.
- Exit exams from receiving state shall be accepted. (more flexibility here as well)



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Graduation (2)

- Transfers during senior year – allows receiving and sending state to work together to figure out which state has best path to meet graduation requirements for issue of diploma.
- Most scenarios resolved in receiving state, but not always.



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Placement & Attendance

- Course placement – match placed courses as closely as possible, subsequent evaluations may override allowances.
- Education program placement – receiving state can use out-of-state assessments/evaluations for initial placement.



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Placement & Attendance

- Provide comparable services for EC students based on IEP.
- Reaffirms Section 504 of Rehabilitation Act for reasonable accommodations and modification to address needs of students with disabilities



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Enrollment

- Chapter 600 - ELIGIBILITY
SEC. 6.101 Eligibility for Enrollment
- (a) A custody order, special power of attorney, or other applicable document relative to the guardianship of a child of a military family and executed under the applicable law of each member state shall be sufficient for the purposes of enrollment and all other actions requiring parental participation and consent. A special power of attorney form, which is acceptable in some jurisdictions, can be obtained through the JAG offices pursuant to Military Family Care Plan regulations.



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Enrollment (2)

- (1) A local education agency shall be prohibited from charging local tuition to a transitioning military child placed in the care of a non-custodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent. Tuition may be charged for optional programs offered by the LEA.



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Enrollment (3)

- (2) A transitioning military child, placed in the care of a non-custodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent, may continue to attend the school in which he/she was enrolled while residing with the custodial parent.



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Enrollment (4)

- (3) The local education agency shall not charge tuition. In addition, transportation to and from school is the responsibility of the non-custodial parent or other persons standing in loco parentis.



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Enrollment

- Non-custodial caregivers are challenges for school systems
- <https://www.ncsba.org/policy/sample-policies/>
- [SBA Model Affidavit](#) – Caregiver Adult
- [SBA Model Affidavit](#) – Parent, Guardian or Legal Custodian
- Not all LEAs utilize the SBA policies or samples



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Extracurricular Participation

- Tough for local school systems to balance.
- Required to facilitate opportunity for transitioning military children inclusion in extracurricular activities, regardless of application deadlines.., to the extent they are otherwise qualified.



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Scenarios

- Time of year affects inquiry types
- Enrollment is ongoing challenge especially for school systems further from active duty installations. Awareness has improved though.
- Early Testing for PCS
- On-time Graduation



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Upcoming Changes

- Early Remote Enrollment allowed once deployment/transfer orders are issued rather than required to be domiciled in the state to enroll.
- [Section 7.18.\(a through d\) of Session Law 2018-5, SB 99](#)
- Effective: January 2019



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Education for Educators

- Compact provides flexibility for course-waivers that aren't often utilized.
- Can work as sending state to issue diploma if NC grad requirements met with senior year course work in another state.
- **Compact Rules Booklet**
 - <http://www.mic3.net/assets/rules-2018-re-print-rev-19-jul-2018.pdf>



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Education for Educators

- Clearinghouse for Military Family Readiness – Penn State
- Excellent Online Module !!! USE IT!
 - School Resources for Military Connected Children
 - <https://schoolresources.militaryfamilies.psu.edu/>



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Education for Educators

- Military installations have resources for school age military dependents:
- [School Liaison Officers](#)
- EFMP – [Exceptional Family Member Program](#)
- Four High-Density Military Local Educational Agencies have a [Military Liaison Counselor](#)



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EC Resources

- [EC Policies \(Children with Disabilities\)](#)
- [EC Dispute Resolution](#)
- 919 807 3969



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Military Liaison at DPI

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– 919-807-3346

Troops to Teachers Program Coordinator,
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