

The Interstate Compact on Educational Opportunity for Military Children - Guidance for New York

In 2014, the State of New York adopted the Interstate Compact on Educational Opportunity for Military Children (the Compact) into law. The Compact addresses the challenges facing military children as a result of their frequent relocations. It establishes a framework for uniform treatment of military children as they transfer between school districts and states. The compact outlines the requirements that school districts must adhere to when enrolling and educating children of active duty military personnel. The following is a list of questions and answers that will provide guidance related to the implementation of the Compact.

Frequently Asked Questions (Updated November 2021)

The questions are grouped into the following categories:

- Overview
- Applicability: To Whom Does the Compact Apply?
- Enrollment, Placement, Attendance and Records
- Attendance
- On Time Graduation
- Post-Secondary Education

Overview

1. *Where does this Compact reside within the Laws of the State of New York and where can I find a copy of the Compact?*

When the law was enacted, it became [Education Law Article 66 – Interstate Compact on Educational Opportunity for Military Children](#), §3300 through §3318.

2. *How is New York ensuring that the Compact is being implemented?*

To assist in implementing this law equally across the state, §3308 called for the establishment of a Council to serve as an advisory body for state and local policy makers concerning operations and procedures of the compact. This Council is an executive entity of New York State, not an arm of the federal government. The Council exists with appointments from the Executive, Education Department, Senate, Assembly, The Adjutant General, the Division of Veterans' Affairs, a highly impacted school district's superintendent, as well as a BOCES superintendent. This appointment scheme provides for a wide spectrum of experience in both military and educational affairs and the Council will serve as a resource for all Districts and state entities.

3. *What is the role of the Compact Council?*

The role of the council is advisory in nature. They meet together to identify issues

facing children of active military personnel in the state. They make recommendations and provide technical assistance related to educational issues that arise for such children.

Applicability: To Whom Does the Compact Apply?

4. *How does this Compact affect my school district here in New York?*

All school districts must adhere to the rules in the compact when they have a child of active duty military personnel on their rolls.

5. *Which students do the provisions of the Compact cover?*

The provisions of the Compact cover the following:

- Family members of *active duty* military personnel who are **in transition** as a result of their military status are covered under the Compact. These include active uniformed service of the United States including members of the National Guard and Reserve on active duty; and
- Children of members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one year after medical discharge or retirement; and
- Children of members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of 1 year after death; and
- Children of Uniformed Members of the Commissioned Corps of the National Oceanic and Atmospheric Administration (NOAA), and United States Public Health Services (USPHS).

6. *Does the compact apply to private schools?*

No. The Compact applies to all public schools and charter schools, but no private schools or home-schooled students.

7. *What is the definition of active duty military personnel?*

“Active duty” means full-time duty status in the active uniformed service of the United States, including members of the National Guard on active duty orders, and Reserve on active duty orders.

8. *What does it mean to be “in transition”?*

In “transition” means either:

- The formal and physical process of transferring from school to school as a result of military orders; or
- The period of time that a student moves from one school in the sending state to another school in the receiving state.

9. *My district is not located near a military installation. How does this Compact affect my district?*

Active duty military personnel can be assigned to recruiting stations, graduate and academic programs, or to Reserve and National Guard units as advisors all over the state of New York. Therefore, there is the possibility that they may live almost anywhere, and in any district within New York. The Compact applies to the children of transitioning active duty military personnel, so could potentially impact any district in New York.

10. We have a National Guard armory in our District, and it has just been called to active duty to support overseas activities being conducted by the military. Does the Compact apply?

If the unit has been activated into **Federal** service, and is now under **Federal** control, the Compact applies. If it was activated for a statewide emergency, the Compact would not apply.

11. Why is the National Guard addressed in the Compact? Guard members are typically local residents. How does the compact apply to Guard units?

The Compact addresses deployments. Guard units are eligible for deployment, and this sometimes necessitates children being placed in a non-custodial parent situation. In these cases, the Compact would apply to affected students and impact both the district of residence and the district of location of the student.

12. What does the Compact cover?

The Law covers a broad range of factors including:

- Educational and enrollment records (§3304)
- Eligibility for enrollment (§§ 3304 and 3306)
- Graduation requirements (§3307)
- Placement and attendance (§3305)

Enrollment, Placement, Attendance and Records

13. What is a district's obligation when it comes to enrollment of a child of active duty military personnel?

The law requires that a district must ensure the smooth transition and timely enrollment of the student. In November 2021, Education Law §3304 was amended to require advanced enrollment. School districts must permit preliminary enrollment by remote registration, without charge, for students covered under the Interstate Compact.

§ 3304-a. Advance enrollment. A student whose parent or guardian is being relocated to the state under military orders and is transferred or is pending transfer to a military installation within the state shall be deemed to be a resident pupil of a school district for the purposes of enrollment pursuant to section three thousand two hundred two of this title, provided that such parent or guardian provides a school district an address that the student will reside within the boundaries of the district in which the student is to be enrolled. A school district shall permit a student to enroll preliminarily by remote registration without charge and shall not require the student or the parent or guardian of the student to physically appear at a location within the district for the purpose of enrolling the student provided the parent or guardian of the student provide a school district with military orders that a parent or guardian will be stationed in this state during the current or following school year and an address within the boundaries of the district in which the student will reside and is to be enrolled.

14. If a military child arrives in our school, are there any special procedures we should follow with regard to student records?

The law requires that the “sending school” provide the family with an unofficial set of records to be hand carried to their new “receiving school.” Guidance staff should appropriately place the child based on the information contained in these unofficial

records pending receipt of the official records and validation of that placement. If a military child is leaving your school district, you will become the “sending school” and must provide similar, unofficial records to the military parents to carry to their next assignment and the new “receiving school.”

15. How long will it take to get official records to validate the placement?

Ideally it should take no more than 10 days. All fifty states, including the District of Columbia, have adopted the Compact, each “sending school” should be working toward that same goal of 10 days or as soon after that as is reasonably possible.

16. What happens if the sending school is overseas?

Department of Defense Education Activity and International Schools are expected to comply with the requirements to provide for a timely transmission of official records and the provision of unofficial records to be hand carried. If for any reason school districts are not receiving records from schools within or outside the United States in a timely manner, please notify the council at MilitaryCompact@nysed.gov for assistance.

17. If a district is made aware that a child of active duty military personnel will be coming in the future, what do they do?

The district should open a channel of communication with the family and begin accumulating information. A student whose parent or guardian is being relocated to the state under military orders and is transferred or is pending transfer to a military installation within the state shall be deemed to be a resident pupil of a school district for the purposes of enrollment. The district should make all possible arrangements to get the child properly enrolled and arrange for attendance as soon as possible. Additional information may be referenced in FAQ #13.

18. In what grade level should a student be placed when transitioning from another state under Compact rules?

Initially students should be allowed to continue their enrollment at a grade level in New York, commensurate with their grade level at a local education agency in the sending state at the time of transition. A student who has completed a grade level in a sending state shall initially be eligible for the next highest grade level in New York regardless of age. After transition, subsequent evaluations conducted by the receiving school can be performed in order to ensure appropriate placement.

19. If a military child does not meet the age requirement for enrollment in kindergarten or first grade in New York, but they were enrolled in school in another state, how does the Compact address this?

A child who has been enrolled in, and attending a *public* school in another state, shall be allowed to continue their enrollment in the New York State receiving school and shall be promoted upon satisfactorily completing the requisite grade level work, regardless of age. In practice, most states age requirements are stricter than those in New York, so this should rarely be an issue. It is important to note that the child not only have been enrolled in a public school in the sending state, but also have been in attendance in that school. Mere enrollment is not sufficient; attendance must be included in the record, even if for only one day.

20. What is the receiving district's responsibility when it comes to placing a transitioning student into educational course work?

The receiving school shall initially honor the placement of a student in courses based upon the student's enrollment in the sending state's school, if the courses are offered and there is space available. These courses include but are not limited to honors, International Baccalaureate, Advanced Placement, vocational, technical and career pathway courses.

21. If the school district contracts with a BOCES to offer coursework or services for district students, must the school district offer enrollment to a transitioning student into such courses?

Yes. To the extent there is space available transitioning students must be able to continue enrollment in courses started at the previous school.

22. How do we address children with special education needs who are covered under the Compact?

Schools are required to comply with the Individuals with Disabilities Education Act (IDEA) and Part 200 of Commissioner's Regulations.

23. What is the receiving district's responsibility when it comes to placing a transitioning student into educational programs such as Gifted and Talented?

The receiving school shall initially honor the placement of a transitioning student in such programs, based upon current educational assessments conducted at the sending school, provided that programs exist and there is space available. The receiving New York school may perform subsequent evaluations to ensure appropriate placement of the student.

24. If a student is living in temporary housing while the parent is in transition, must the district of location of the temporary housing enroll the student?

Yes. Regardless of where the student is residing, they are entitled to a free, appropriate public education in the district of location until they move to permanent housing. It is not unusual for military families to reside in hotels or with friends while the military member moves to a new assignment. While in this status they are entitled to all rights and considerations a district resident would accrue.

25. What if a transitioning military child is placed in the care of a non-custodial parent or person standing in loco parentis that resides outside the school district of enrollment? Must the school district continue enrollment even if the student no longer resides within the district boundary?

Yes. The student may continue to attend the school within New York, without the payment of tuition, in which he or she was enrolled while residing with the custodial parent until the child completes the highest grade level in such school district. The understanding is that the student would be temporarily with the non-custodial parent or person while the active duty member is on deployment. Therefore, to eliminate the necessity for the child to transfer schools (and districts) in the parent's absence, the child is allowed to remain in the current district/school so there is no disruption to the child's education. The child may remain in attendance until the parent returns from deployment at which time the residency would be with the parent(s). A school district

may request a copy of the orders to verify deployment.

26. *Must the school district continue to provide transportation to a student who is placed outside the district boundary with a non-custodial parent?*

There is no requirement to provide transportation to the transitioning student beyond that which is required under existing school district policy.

27. *Are there any other enrollment related issues addressed in the Compact?*

Transitioning military children shall have the opportunity to participate in all extracurricular activities for which they are qualified regardless of application deadlines. In a practical sense, that means a transitioning military child who wishes to participate in extracurricular activities, may do so regardless of the enrollment deadline.

28. *How does opportunity to participate apply to interscholastic athletics?*

For questions related to interscholastic athletics, contact the [New York State Public High School Athletic Association](#).

29. *Who is responsible for implementing these provisions for military students?*

In accordance with Chapter 328 of the Laws of 2014, section 100.20 of the Commissioner's Regulations make it clear that notwithstanding any other provision of law or regulation to the contrary, school districts and charter schools shall comply with the provisions of Education Law §§ 3300-3318 relating to educational records, enrollment, placement decisions, excused absences, residency determinations and graduation requirements for military students.

Attendance

30. *Are districts required to allow additional excused absences for students of active duty members of the uniformed services under the provisions of the Compact?*

In cases where a student whose parent or legal guardian is an active duty member of the uniformed services and has been called to duty for, is on leave from, or immediately returned from a combat zone or combat support posting, the superintendent of schools may consider granting additional excused absences in these limited circumstances. The Council recognizes that the student's place is in school as attendance is a predictor of academic success. However, it is recommended that the superintendent work individually with families in these limited circumstances to develop a plan where the student can spend additional time with their parent or guardian, without jeopardizing their academic progress.

On Time Graduation

31. *The Compact addresses on-time graduation as a priority. What should we know with regard to that aspect of the law?*

The Compact states that:

- Specific required courses shall be waived if similar coursework has been satisfactorily completed.
- Receiving schools shall accept exit or end of course exams required for graduation from sending state, or national norm-referenced achievement test, or alternative testing, in lieu of testing requirements for graduation.

- If there is no way to complete the necessary coursework for an on-time graduation, the receiving school shall work with the sending school to ensure receipt of an on-time diploma from the sending school, assuming the student meets the graduation requirements of that school.

32. The Compact states that district administration may waive specific courses required for graduation if similar coursework was completed at a sending school. Is this true?

Yes. Under [Commissioner's Regulations 100.5\(d\)\(5\)](#) principals have the authority to grant credit for work done outside a New York State high school. If a student has successfully completed a similar course in the sending school, the principal may accept that course in lieu of the New York State required course for graduation.

33. What flexibilities exist for students to meet assessment requirements for graduation?

The Compact provides that States shall accept in lieu of testing requirements for graduation:

- Exit or end of course exams required for graduation from the sending state,
- National norm referenced achievement tests; or
- Alternative testing

34. May a receiving school accept a passing score (if so stated) on another state's assessment (or other assessment listed above) in lieu of a required Regents examination for graduation?

Yes. Moreover, regulations provide that a public school district or charter school shall accept the following to meet the diploma requirements for such students in New York State:

- (1) Exit or end of course examinations required for graduation in the sending state, where the principal from the school in the sending state attests in writing to the principal of the school in New York that the student has achieved a satisfactory passing score on such exam(s) and that the student has met the proficiency standards for the course(s) assessed in the sending state; provided that, prior to accepting such exam(s), the principal of the school in the New York state may request additional information regarding the course(s) and exam(s) from the principal of the school in the sending state;
- (2) National norm referenced achievement tests, where the principal from the school in the sending state attests in writing that the student has achieved a score equal to or greater than the national grade equivalent corresponding to the grade in which the corresponding Regents examination required for graduation is typically administered; and
- (3) Where the principal of the school in New York state has accepted course credit for a course that would typically culminate in an examination required for graduation in New York State, the principal of the school in New York state shall accept any corresponding alternative end of course local examination for such course(s), where the principal from the school in the sending state attests in writing that the student has achieved a score on such exam that meets the proficiency standards for the course assessed in the sending state; provided that, prior to accepting such exam(s), the principal of the school in New York state may request additional information regarding the course(s) and exam(s) from the principal of the school in the sending state.

In addition, all students, including students of military families, who spent three or fewer semesters in a New York State school prior to returning to a New York school in grade 11 or later, are eligible for the existing assessment exemptions outlined in [Commissioner's Regulations part 100.5\(d\)](#).

35. Is there a limit to the number of alternatives to Regents examinations under the Military Compact that a student may use toward meeting the diploma requirements?

No.

36. If a student uses alternatives to Regents examinations under the Military Compact can they qualify for the honors designation on their diploma?

Any student who substitutes more than 2 examinations for required Regents examinations in order to earn a diploma in New York State, cannot qualify for the honors designation on their diploma. Additional information can be referenced on the [Endorsements and Seals](#) webpage.

37. Can a student use alternative assessments under the Military Compact to earn the Regents Diploma with Advanced Designation?

Yes. The alternative assessments permitted under the Military Compact may be applied to any diploma type.

38. Can a student use alternative assessments under the Military Compact to earn the mastery in science and/or the mastery in mathematics endorsement?

No. In order to earn mastery, students need to earn an 85 or above on three Regents exams in science and/or three Regents exams in mathematics. Since this endorsement is dependent upon Regents exam scores, the endorsement cannot be granted without taking the associated Regents exams.

Note that students with exemptions due to COVID-19 may earn the mastery endorsement if they meet one of the following conditions:

- pass 3 math and/or 3 science Regents Examinations with a score of 85 or higher; or
- pass 2 math and/or 2 science Regents Examinations with a score of 85 or higher and are granted an exemption on a third math and/or science Regents Examination; or
- pass 1 math and/or 1 science Regents Examination with an 85 or higher and earn a final course grade of 85 or higher in 2 additional math and/or science courses culminating in a Regents Examination for which they are granted an exemption.

Additional information can be referenced on the [Endorsements and Seals](#) webpage.

39. What happens if a transitioning student enrolls in a New York State high school during senior year? What flexibilities are districts able to utilize to ensure on time graduation?

Districts must avail themselves of all the flexibilities in [Commissioner's Regulations part 100.5\(d\)](#) governing transfer students. If a student is unable to complete the graduation requirements on time, the district must work with the previous school from the sending state to ensure the completion of diploma requirements from the sending state. The student would complete his/her education in New York but receive his/her diploma from the sending school.

40. What happens if the sending school does not cooperate in the facilitation of on time graduation for a transitioning student?

All fifty states, as well as the District of Columbia, and the DoDEA schools have agreed to the Compact provisions. In the event the district is unable to secure cooperation from the sending school, the New York State Compact Council will attempt to facilitate a solution. Contact MilitaryCompact@nysed.gov for assistance.

41. Do the assessment exemptions due to COVID-19 cancellations apply to transfer students?

If a high school granted transfer credit for a course that typically culminates in a Regents Examination, Department Approved Alternative, or a Pathway Exam in the school granting credit, and the student intended to take the assessment in June/August 2020, January 2021, or June/August 2021, the student is eligible for the exemption.

Additional information can be referenced in the following FAQs:

- [June/August 2020](#)
- [January 2021](#)
- [June/August 2021](#)
- [January 2022](#) (*United States History and Government* only)

Post-Secondary Education

42. Does the compact make any provisions for military students attending college in New York State?

The Compact does not address post-secondary education. However, any member, spouse, or dependent of a member of the Armed Forces on full time active duty and stationed in New York, whether or not a resident, is entitled to attend colleges and community colleges in the SUNY and CUNY systems at a tuition rate no greater than that imposed for resident students.

Revision Log:

04/09/19 – Added Questions 35, 36, and 37

10/26/20 – Amended Questions 33, 35-37; Added Questions 38 and 41

04/22/21 – Amended Questions 36, 38, and 41

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