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2010 Commissioner Training

November 15, 2010

Commission Structure & Role of the Executive Committee

BG (R) Norman Arflack,
Executive Director

Rick Masters,
General Counsel

National Commission Duties

- Establish by-laws for the Commission's governance and for directing the Commission's actions or conduct.
- Establish rules to effectively and efficiently achieve the purposes of the Compact.
- Monitor compliance and initiate interventions to address and correct noncompliance.
- Coordinate training and education regarding regulations.
- Elect the Executive Committee and establish other committees as necessary.

State Structure

State Council

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graph TD; SC[State Council] --- GR[Governor Representative]; SC --- LR[Legislative Representative]; SC --- MR[Military Representative]; SC --- SSE[State Superintendent of Education  
Dist. Supt. of High % Military Children]; SC --- OAM[Other Appointed Members];
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Governor Representative

Legislative Representative

Military Representative

State Superintendent of Education
Dist. Supt. of High % Military Children

Other Appointed Members

- Provide mechanism for empowerment of Compact process;
- Assist in developing Compact policy;
- Determine qualifications for membership on Council;
- Appoint Acting Commissioner when Commissioner is unable to attend.

Ex-Officio Role

- Serve as principal liaison between the Commission and the designating organization
- Serve in an advisory capacity to the Commission
- Attend Interstate Commission meetings and committee meetings
- Represent the Commission at functions/events as requested by the Chair
- Participate in Commission and committee meetings as requested by the Chair

Executive Committee

- Serves as:
 - Oversight committee for compact operations of the Commission
 - *Without power to amend rules or the Compact*
 - Board of Trustees to the National Office
- Members include:
 - Chairperson
 - Vice-Chairperson
 - Treasurer
 - Region Chairs (East, South, Mid-West, & West)
 - Committee Chairs (Appointed by the Chairperson)

Responsibilities of the Executive Committee

- Manage the Commission in the same manner in which other national not-for-profit organizations are administrated.
- Areas of responsibility include:
 - Budget
 - Staff appointments and retention
 - Physical infrastructure
 - Long range planning



Officers

- Chairperson
 - Call and presides at all Commission & Executive Committee meetings
- Vice-Chairperson
 - Performs duties of Chairperson in his or her absence
- Treasurer
 - Acts as custodian of funds and monitors administration of fiscal policies and procedures with Executive Director

Commissioner Ensures...

- Compact mission & purpose are promoted
- Appointment is compliant with Statute
- State Council is functioning
- Adequate Resources are available to the Compact Office
 - Staff
 - Training
 - Technology Capabilities

Commissioner Ensures...

- Dues are paid
- Informal disputes are handled
- Working relationships are developed and maintained with
 - National Office
 - Education Departments
 - State Council Members
 - Other Commissioners
 - Military Installations

MIC 3 Committees

Standing Committees

- Training Education & Public Relations
- Compliance
- Rules
- Finance



Training Committee

- Provides Training
- Develops & Approves Training Materials
 - Curriculums/Manuals
 - Commissioner, State Council, Legal
 - Training Bulletins

Requesting Training

- Commissioner contacts National Office – per the Technical & Training Assistance Policy
- National Office consults with Training Chair and then schedules and coordinates the training

Compliance Committee

- Monitors State's Compliance
- Develops Enforcement Procedures
 - Draft & propose policy
 - Initiate interventions to address and correct non-compliance.
 - Recommend penalties for defaulting states
 - Fines
 - Remedial training and technical assistance
 - Suspension and termination of membership in the Compact

Rules Committee

- Receive referred proposals from:
 - Majority of Commissioners at ABM
 - Region
 - Standing Committee
- Provide draft to all Commissioners for review and comment (*post on MIC 3 website*)
- Prepare final draft, based on comments;

Adoption of Rules

- Submit to Commission for consideration
- Publish text and notice of public hearing, not later than 30 days prior to scheduled vote
- Interstate Commission shall take final action on the proposal by a majority vote.

Finance Committee

- Chaired by Treasurer
- Monitors:
 - Budget
 - Financial Practices

MIC 3 Budget

- Fiscal year is July 1- June 30.
- The Executive Committee approves the budget presented by the Executive Director.
- The Treasurer presents the budget to the Commission at the annual business meeting for the upcoming fiscal year.

Finance Reports

- The Executive Director shall submit financial reports to the Treasurer and Executive Committee.
- The Commission shall be audited each year.
- The Council of State Government performs all accounting functions for the Commission.

Current Dues Formula
MIC 3 Rule 2.102 (b):

“The dues formula shall be based on the figure of one dollar per child of military families eligible for transfer under this Compact.”

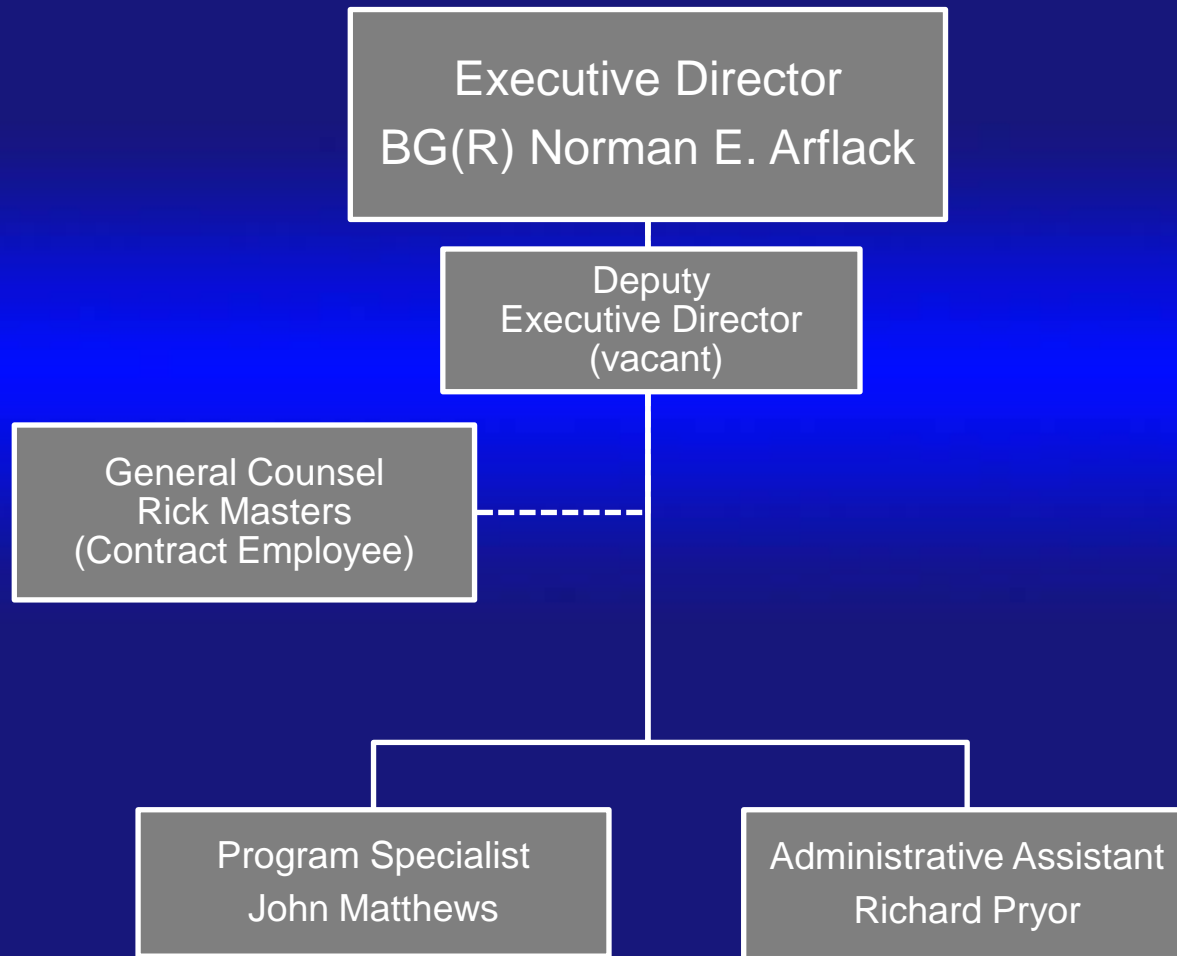
Commission Dues

- Executive Director shall submit invoices to the states for dues prior to the beginning of each state's fiscal year payable upon.
- State will receive reminder notice 30 days following beginning of signatories' fiscal cycle.
- State will receive delinquent notice 90 days following beginning of signatories' fiscal cycle.
- State will receive delinquent notice 120 days following beginning of signatories' fiscal cycle and the issue is referred to the Compliance Committee.

National Office

BG (R) Norman Arflack, MIC 3 Executive
Director

MIC3 Organization



Role of National Office

- Secretary/Clearing house to the Commission
 - Documents
 - Meeting Minutes
 - Commission Business
- Resource Center
 - Technical & Training Assistance
 - Publications
 - Website
 - Directory of States Compact Offices
 - Legal Assistance/Opinions

Services Provided

#1 Priority is to serve the Commission

- Assist Commission, Committees & Regions in carrying out respective missions/goals
- Logistical support
 - Teleconference/Web conferences
 - On-site Meetings/Trainings

Training Assistance

- Materials up-to-date
 - Presentations
 - Student Manuals
 - Supplemental Materials
 - Rules
 - Legal

Technical Assistance

- Use additional technologies
 - Surveys
 - Reports
 - Utilize Technology for Special State Meetings
 - Online Communication Tools
 - Blogs
 - Discussion Forums
 - Social Networks

MIC 3 Website

- #1 communication/resource center
- Devoted staff-updated frequently
- Directory of State Compact Offices
- Comments Databases
- Discussion Forums

Administrative Policy

- Accessing the Executive Director
- Accessing Legal Counsel
- Advisory Opinion Policy
- MIC 3 Travel Policy
- MIC 3 Ex Officio Travel Policy
- MIC 3 Alcohol Policy
- Communicating with Members of the Public
- Guidelines for Handling Closed Session Minutes

Additional MIC 3 Policies To Be Developed

- Responsibility Charting
- Compliance Guidelines
- Investigating Allegations of Non-Compliance
- Dues Enforcement
- ICJ Financial Policy
- Training Policy for: Becoming a Certified Trainer
- Training Policy for: Training Certification Course
- Technical & Training Assistance Policy

Contact

- Interstate Commission on Educational Opportunity for Military Children
PO Box 11910
Lexington KY 40578-1910
(859) 244-8069 Phone
(859) 244-8001 Fax
- Commission Website
www.mic3.net



Legal Foundation

Rick Masters, General Counsel

Interstate Compacts

- Agreements between states authorized under Article I, Section 10, Clause 3 of the U.S. Constitution – the “Compact Clause”
- “No State shall, without the Consent of Congress . . . enter into any Agreement or Compact with another State”
- The U.S. Supreme Court has consistently held that Congressional consent is only required for compacts that tend to increase the political power of the states in a manner that encroaches upon or interferes with the just supremacy of the United States.

[U.S. Steel Corp. v. Multi-state Tax Commission, 434 U.S. 452 (1978)]

Compacts

- Approximately 200 compacts formed since the founding of the U.S.
 - About 38 are inactive
 - On average, each state is a member of 23 compacts

- Creation of the Port Authority of New York and New Jersey in 1921 signaled a new era in regulatory compacts.



Uses of Interstate Compacts

- Long history of compacts pre-dates the Constitution
- Flexibility evident in variety of forms and uses:
 - Scope: bi-state, regional, national
 - Creation: negotiated
 - Purpose: fixed agreements, advisory boards, regulatory entities
 - Issues: transportation, environment, taxation, education, health, emergency management, corrections and public safety

Uses of Compacts cont.

- Many well known compacts:
 - NY-NJ Port Auth. Compact of 1921
 - Colorado River Compact (1929)
 - Interstate Compact on the Placement of Children (1960)
 - Washington Metropolitan Transit Authority Compact (1966)
- Increasingly common, broader in scope, more frequent use for regulatory purposes.

3 Primary Purposes

- Resolve boundary disputes;
- Institutionalize and manage interstate issues pertaining to allocation of natural resources;
- Create on-going administrative agencies that have jurisdiction over a wide variety of concerns:
 - State transportation
 - Taxation
 - Environmental matters
 - Regulation
 - Education
 - Corrections
 - Public safety

- A state legislature's ability to delegate regulatory authority to an administrative agency is "*one of the axioms of modern government*"

-- Justice Felix Frankfurter

- Extends to the creation of interstate commissions by compact

-- *West Virginia ex rel. Dyer v. Sims*,
341 U.S. 22 (1951)

Rulemaking Power

- Commission rules must be adopted in a manner that is substantially similar to the process of the Model State Administrative Procedures Act.
- Once adopted, the rules have the force and effect of statutory law and supersede any inconsistent state laws.
- Majority of state legislatures can reject a proposed rule.

Enforcement Power

- Commission has authority to enforce the compact and its rules upon the states by:
 - Requiring remedial training
 - Requiring mediation/arbitration of dispute
 - Imposing monetary fines on a state
 - Seeking relief in federal court, most likely by obtaining an injunction to curtail state action or compel compliance

Compact Statute

- Each State has passed similar legislation becoming Signatories to the Interstate Compact.
- Each Commissioner should become very familiar with the language of their State Statute.

Liability

Types of Public Acts

Generally two categories:

- Discretionary: acts in which the public employee has the freedom to exercise good judgment and care in carrying out an act. These acts are not mandatory in the sense of imposing an affirmative duty.
- Ministerial: acts that a public employee is required by law to fulfill. Most often these acts are defined by “shall”; they impose a mandatory duty without regard to discretion.

MIC 3 Does Not Confer a Private Right of Action by a Student or Parent

- Without explicit language in the compact an intent to confer an individual right of action is not presumed. *Doe v. Pa. Bd. Of Prob. & Parole*, 513 F.3d 95 (2008).
- Art. XI D.1 limits liability of MIC 3 commissioners, agents, & employees to that of other state officials, employees, and agents.

Questions