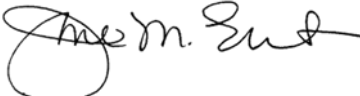






THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

**TO:** P-12 Education Committee

**FROM:** Jhone M. Ebert 

**SUBJECT:** Proposed Amendment of Section 100.5 of the Regulations of the Commissioner of Education and Proposed New Section 100.20 of the Regulations of the Commissioner of Education to Implement the Interstate Compact on Educational Opportunity for Military Children and Provisions Relating to Transfer Credits and Diploma Requirements for Physical Education

**DATE:** August 31, 2017

**AUTHORIZATION(S):**  

## SUMMARY

### Issue for Decision

Should the Board of Regents amend section 100.5 and add a new section 100.20 to the Commissioner's Regulations to implement the Interstate Compact on Educational Opportunity for Military Children and other provisions relating to exemptions from the assessment requirements for transfer students and diploma requirements for physical education?

### Reason(s) for Consideration

Required by State statute (Chapter 328 of the Laws of 2014) and Review of Policy.

### Proposed Handling

This proposed rule is being presented to the P-12 Education Committee for adoption as a permanent rule at the September 2017 Regents meeting. A copy of the proposed amendment is included as Attachment A.

## **Procedural History**

A Notice of Proposed Rule Making was published in the State Register on June 29, 2017. Supporting materials are available upon request from the Secretary to the Board of Regents. Following the 45-day public comment period required under the State Administrative Procedure Act, the Department received several comments on the proposed amendment. An assessment of the public comment received is included as Attachment B.

## **Background Information**

In 2014 the Governor signed into law Chapter 328 of the Laws of 2014 entitled the Interstate Compact on Educational Opportunity for Military Children. The purpose of the law is to remove barriers to educational success faced by children of military families because of frequent moves and deployment of their parents. The law provides for the establishment of a State Commission to facilitate the transition of students who transfer in and out of New York State schools as a result of such status. The Commission is comprised of appointees from the Governor's office, the Senate and Assembly, the State Education Department, various military representatives, a District Superintendent and a local superintendent from a region that serves a large number of military students. (See Attachment 1: "NYS Interstate Compact Council Members").

After several meetings, the Commission has identified certain areas of the Commissioner's Regulations which must be amended or added to conform with the new law (see below):

### **Educational Records, Enrollment and Immunizations**

Education Law §3304, as added by Chapter 328 of the Laws of 2014, provides that if official education records cannot be released to the parents for purposes of transferring to another school, the custodian of the records in the sending state shall prepare and furnish to the parent a set of unofficial records. Upon receipt of the unofficial records by the school in the receiving state, the student must be enrolled and placement decisions must be made in accordance with the information on unofficial records and then later validated. It also requires that states that enter into the interstate compact, including New York State, give families 30 days from the date of enrollment to obtain any immunizations required by the receiving state.

### **Placement decisions**

Education Law §3305, as added by Chapter 328 of the Laws of 2014, requires that when a student transfers before or during the school year, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending state school and/or educational assessments conducted at the school in the sending state if the courses are offered and there is space available as determined by the local educational agency. It also requires the receiving school to initially honor placement of the student in programs based on current educational assessments conducted in the sending school state or participation/placement in like programs in the

sending state, including but not limited to gifted and talented programs and English as a second language. It further provides school districts with flexibility to waive course or program prerequisites, or other preconditions for placement in courses or programs offered under the jurisdiction of the school district.

### Residency Determinations

Education Law §3306, as added by Chapter 328 of the Laws of 2014, requires that a properly executed special power of attorney (in New York, a special designation of person in parental relation pursuant to General Obligations Law), shall be considered sufficient for the sole purpose of establishing residency of a transferring student into a public school district and for all other actions in the school district requiring parental participation and consent. A transitioning child placed in the care of such a person may continue to attend the school in New York within which he or she was enrolled while residing with the custodial parent until the child completes the highest grade level in such school.

### Graduation Requirements

Education Law §3307, as added by Chapter 328 of the Laws of 2014, requires local educational agencies (LEA) to waive specific courses required for graduation if similar coursework has been satisfactorily completed in another LEA or shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school, the LEA shall provide an alternative means of acquiring required coursework so that graduation may occur on time. Section 3307(2) of Education Law also requires states to accept (a) exit or end of course exams required for graduation from the sending state; (b) national norm referenced achievement tests; and (c) alternative testing, in lieu of testing requirements for graduation in the receiving state.

### Assessment Requirements

The assessment requirements for a Regents or local diploma call for 1 Regents examination in each discipline (ELA, Math, Science, Social Studies) and 1 Pathway option. The pathway provisions and the existing waiver of certain exams based upon a student's entrance date (students who transfer in grade 11 are exempt from the Global History and Geography Regents examination; students who transfer in grade 12 are exempt from the Global and Science Regents examinations), do provide some flexibility in meeting the requirements. This provision however, does not apply to students who spend as little as 1 day enrolled in a New York State high school prior to grade 11. The exemption provisions currently in place only cover a student who enters a New York high school for the first time in grade 11. Students of military families often transition in and out of the state multiple times in a 4 year period.

In addition, a transfer student may have taken a comparable course in a subject leading to a Regents exam years earlier in their sending school. Upon entry into a New York high school, students often need to schedule review classes or retake courses in order to prepare for an assessment covering instruction they completed earlier in their high school career.

## Proposed Regulatory Amendments

In accordance with Chapter 328 of the Laws of 2014, the Department recommends creating a new section 100.20 of the Commissioner's Regulations to 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 covered under the new law.

Moreover, the proposed amendment provides 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 the receiving state that the student has achieved a satisfactory passing score on such exam(s) and that he/she 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 receiving 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 the sending 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 the receiving 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 the receiving state may request additional information regarding the course(s) and exam(s) from the principal of the school in the sending state.

If none of the alternatives outlined above can be accommodated by the principal of the school in the receiving state for a student transferring into such school at the beginning of or during grade 12, then the principal of the school in the receiving state shall provide written notice to the principal of the school in the sending state which shall include notice that the school district in the sending state shall ensure that the student receives a

diploma from the school district in the sending state if the student meets the graduation requirements of the school district in the sending state. In the event that the sending state is not a member of the interstate military compact, the receiving state shall use best efforts to facilitate on-time graduation of the student using the exams described above.

In addition, the proposed amendment would stipulate that 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, would also be subject to the existing assessment exemptions for Global and Science outlined in the current regulation.

### Physical Education Requirements

Currently, the diploma requirements require that a student complete 2 units of credit in Physical Education (PE) and that students participate in PE every semester they are enrolled in school, even if they have met the required 2 credits and remain in school beyond their senior year. According to the 2016 Shape the Nation Report published by the Society of Health and Physical Education, 9 states require  $\frac{1}{2}$  credit in PE, 19 states require 1 credit, 5 states require 1.5 credits and only 4 states require 2 credits in PE.

Students who transfer to New York high schools part way through high school are finding themselves severely under credited in PE because their sending state did not require instruction in PE every semester. This often results in, at best, course selections being impacted due to the necessity to enroll in 2 or 3 PE courses each semester to catch up, or at worst, students not graduating on time.

Therefore, the Department further proposes a revision to section 100.5(d)(5) of Commissioner's Regulations to allow all students (not just students of military families), who transfer into a registered New York state high school from another state, to be exempt from the required two units of credit requirement in physical education to meet the diploma requirements. Instead, such students shall be required to enroll in physical education courses every semester they are in a registered New York State high school, and shall earn  $\frac{1}{4}$  unit of credit for each semester of physical education completed in a registered New York State high school to meet the diploma requirements.

The Department further proposes an amendment to allow students who have earned the required number of credits in physical education to meet the diploma requirements, but may need more than 8 semesters to graduate due to other course or assessment deficiencies, to be permitted to stop enrolling in physical education courses. Often students need to return beyond their senior year to make up a failed course or attend preparatory sessions to pass failed assessments, and the current regulation requires these students to enroll in physical education courses for those semesters as well, even though they have met the required number of diploma credits for graduation. The proposed amendment will eliminate this requirement.

### Recommendation

Department staff recommends that the Board of Regents take the following action:

VOTED: That section 100.5 of the Regulations of the Commissioner of Education be amended and that a new Section 100.20 of the Regulations of the Commissioner of Education be added, as submitted, effective September 27, 2017.

**Timetable for Implementation**

If adopted at the September 2017 meeting, the proposed amendment will become effective as a permanent rule on September 27, 2017.

## NYS Interstate Compact Council Members \* 5/1/17

Attachment 1

Name	Title or affiliation if applicable	Appointment: (Governor, NYSED, Senate, Assembly etc.)
<b>Debra Jackson</b>	NYS Compact Commissioner	Governor
<b>MaryEllen Elia</b>	NYSED Commissioner	Commissioner (or a designee named)
<b>Marybeth Casey</b>	NYSED Associate Office of Curriculum and Instruction	Designee for the NYSED Commissioner
<b>James Koch</b>	District Business Manager, Indian River CSD	Governor
<b>PARENT TBD</b>		Governor
<b>Stephen J. Todd</b>	BOCES District Superintendent	NYSED Commissioner
<b>Frank Sheboy</b>	Highland Falls CSD Superintendent	NYSED Commissioner
<b>Salvatore Nicosia</b>	Community Member	President Pro Tem of the Senate
<b>Lisa Beatha</b>	Community Member	President Pro Tem of the Assembly
<b>Major General Anthony P. German</b>	Adjutant General and commissioner of the Division of Military and Naval Affairs	Governor
<b>Robert Conway</b>	Counsel, Division of Military & Naval Affairs	Designee for Major General Anthony P. German
<b>COL Eric Hesse</b>	NYS Director of Veterans' Affairs	Governor
<b>Robert Zayes</b>	NYSPHSAA Executive Director	n/a
<b>Michi Carl</b>	School Liaison Officer (Army)	n/a
<b>Matthew Rogers</b>	School Liaison Officer (Army)	n/a
<b>Lisa Sheehan</b>	School Liaison Officer (Army)	n/a
<b>Wendy Delaney</b>	Child and Youth Programs Director (Navy)	n/a
<b>Jason Gilliland</b>	Coordinator of Veteran and Military Affairs; SUNY New Paltz	n/a
<b>Diana Pasterchick</b>	Coordinator of Veteran and Military Affairs; SUNY Albany	n/a

## Attachment A

### AMENDMENT OT THE REGUALTIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 101, 207, 305, 3300-3318 of the Education Law, as amended by Chapter 328 of the Laws of 2014.

1. Paragraph (4) of subdivision (a) of section 100.5 of the Regulations of the Commissioner of Education is amended, to read as follows:

(4)(i) [All] Except as otherwise provided in subparagraph (ii) of this paragraph, all students shall have earned the equivalent of two units of credit in physical education in accordance with the requirements set forth in section 135.4(c)(2)(ii) of this Title. Such units of credit shall not count towards the required units of credit set forth in paragraphs (1) and (2) of this subdivision for those students who enter grade nine before the 2001-2002 school year. Beginning with the 2001-2002 school year and thereafter, such units of credit in physical education shall count toward the required total. A student who has completed the diploma requirements as set forth in paragraphs (1) and (2) of this subdivision in fewer than eight semesters, and who is otherwise eligible to receive a diploma, shall not be required to continue enrollment in high school for the sole purpose of completing the physical education requirements as set forth in this paragraph. Any student who has completed eight semesters in a registered New York State high school or a high school outside the registered New York state high school awarding the credits, and who has accumulated the required units of credit in physical education to meet the diploma requirements, shall not be required to continue enrollment in physical education courses for any additional semesters.

(ii) Students who enter a registered New York State high school and have completed one or more semesters in a high school outside New York State shall be exempt from the required two units of credit requirement in physical education for a diploma. Instead, such



students shall be required to enroll in physical education courses every semester they are in a registered New York State high school, and shall earn ¼ unit of credit in physical education for each semester completed in a registered New York State high school to meet the diploma requirements.

2. Subparagraphs (iii) and (iv) of paragraph (5) of subdivision (d) of section 100.5 of the Regulations of the Commissioner of Education is amended, to read as follows:

(5) Transfer credit. Transfer credit is awarded for work done outside the registered New York State high school awarding the credit.

(i) . . .

(ii) . . .

(iii) (a) . . .

(b) Students who enter a registered New York State high school for the first time in grade 11 in the 2002-2003 school year and thereafter, or who reenter a registered New York State high school in grade 11 after having been enrolled in a registered New York State high school for three or fewer semesters, other than those students who have received home instruction pursuant to section 100.10 of this Part in New York State or who have been enrolled in a registered or non-registered public or nonpublic New York State high school, in order to receive a high school diploma must pass the Regents [Comprehensive Examination ] examination in English Language Arts, a Regents examination in mathematics, a Regents examination in United States history and government, and a Regents examination in science, or approved alternatives. The principal may exempt such student from the requirement for the Regents examination in global history and geography ordinarily taken and passed before the date of the student's entry. Additionally, for such student who first enters grade 11 in a registered New York

State high school, or who reenter a registered New York State high school in grade 11 after having been enrolled in a registered New York State high school for three or fewer semesters, in the 2018-2019 school year and thereafter, the principal may exempt the student from the two units of credit requirement in global history and geography by substituting two units of credit in social studies.

(iv)

(a) . . .

(b) Students who enter a registered New York State high school for the first time in grade 12 in the 2004-2005 school year and thereafter, or who reenter a registered New York State high school in grade 12 after having been enrolled in a registered New York State high school for three or fewer semesters, other than those students who have received home instruction pursuant to section 100.10 of this Part in New York State or who have been enrolled in a registered or non-registered public or nonpublic New York State high school in order to receive a high school diploma must pass the Regents [Comprehensive] [E]xamination in English, a Regents examination in mathematics, and a Regents examination in United States history and government, or approved alternatives. The principal may exempt such student from the requirement for the Regents examination in science and the Regents examination in global history and geography ordinarily taken and passed before the date of the student's entry. Additionally, for such student who first enters grade 12 in a registered New York State high school in the 2019-2020 school year and thereafter, or who reenter a registered New York State high school in grade 12 after having been enrolled in a registered New York State high school for three or fewer semesters, the principal may exempt the student from the two units of

credit requirement in global history and geography by substituting two other units of credit in social studies.

3. Section 100.20 of the Regulations of the Commissioner of Education shall be added, to read as follows:

§100.20 Graduation and Diploma Requirements for Students Covered Under the Interstate Compact on Educational Opportunity for Military Children

(a) Notwithstanding any other provision of law or regulation to the contrary, in order to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents, school districts and charter schools that receive public funding and serve students of active duty military families who are formally enrolled in kindergarten through twelfth grade shall comply with the provisions of Education Law §§ 3300-3307 and this section relating to educational records, enrollment, placement decisions, excused absences, residency determinations and graduation requirements.

(b) For purposes of this section:

(1) Military children shall mean those children for which the “interstate compact on educational opportunity for military children” applies as set forth in Education Law §3303;

(2) Receiving state shall mean New York State, the State to which a child of a military family is sent, brought, or caused to be sent or brought; and

(3) Sending state shall mean the state from which a child of a military family is sent, brought, or caused to be sent or brought.

(c) Graduation and diploma requirements. Notwithstanding any other provision of law or regulation to the contrary, in accordance with Education Law §3307(2), 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 the receiving state that the student has achieved a satisfactory passing score on such exam(s) and that he/she 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 receiving 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 the receiving 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 the receiving 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 the receiving state may request additional information regarding the course(s) and exam(s) from the principal of the school in the sending state.

(d) If none of the alternatives in subdivision (c) of this section can be accommodated by the principal of the school in the receiving state for a student

transferring into such school at the beginning of or during grade 12, then the principal of the school in the receiving state shall provide written notice to the principal of the school in the sending state which shall include notice that the school district in the sending state shall ensure that the student receives a diploma from the school district in the sending state if the student meets the graduation requirements of the school district in the sending state. In the event that the sending state is not a member of the interstate military compact, the receiving state shall use best efforts to facilitate on-time graduation of the student using the exams described in subdivision (c) of this section.

**100.5, 100.20  
ASSESSMENT OF PUBLIC COMMENT**

Since publication of the proposed amendment in the State Register on June 28, 2017, the State Education Department received the following comments:

1. COMMENT: I thank and commend the Board of Regents and the State Education Department for the proposed amendments to regulation that will ease transitions for children from military families. Our region of the state has nearly 7000 military children, and these proposed amendments will help educators to better meet the needs of this unique student population. I urge the Board of Regents to fully adopt these proposed changes in regulation, and I thank the Regents and SED for this consideration.

RESPONSE: Since the comment is supportive, no response is necessary.

2. COMMENT: I am writing to specifically address the changes relating to implementing the Interstate Compact for Educational Opportunity for Military Children proposed in CR 100.5 and 100.20.

By way of background, I am a retired Army officer. I have three daughters, two of whom attended three high schools, while one was "lucky" to have attended only two high schools. Two of my girls graduated from NY high schools (South Jefferson and Carthage) during my tours of duty at Fort Drum. All three attended St. Lawrence University in Canton, and all three are successful in their chosen careers (none of which is in the military!). One continued her education at RPI to earn a Ph.D. in Mathematics. Clearly, the girls received a good education wherever they were. The results speak for themselves.

But, their distaste for the constant turmoil in their lives impacted their career choices. No one followed in my footsteps because it was NOT easy on the family. It was a hard way to get an education. When people thank me for my service, I thank them for their kind words and tell them, "It was my pleasure." But the fact remains that the burden was borne by my children and wife who followed me around the [globe]. As my wife says, "Seventeen kitchens in twenty three years."

My point is simply this. The flexibility provided in these proposed changes to the regulations will go a long way to easing the angst facing the child in transition. Instead of telling a child that they need to take an additional period or two of physical education in addition to the appropriate one for the current grade to make up for year's outside of the state in order to meet the rigorous graduation standards, they now will have the flexibility to take other courses, perhaps a challenging elective which may serve to set the framework for a career. It is common sense that if they have Physical Education credit from the sending school, that should be acceptable for New York. I had a daughter start 9th grade in South Jefferson, leave for school in Springfield, Virginia, only to return her senior year in Carthage. This scenario is common, and the relief granted by the regulation gives kids a fighting chance to succeed. Thank you.

Likewise, accepting the exit or end of course exam from the sending state when attested to by the principal of the sending school that it meets the sending state's standards is a common sense approach and will reduce the inane process of making students take a test to "challenge" exams for courses already taken. If you consider the stress that places on a child already in a stressful situation, you can see that it is a wise and well thought out position to grant this flexibility.

I applaud these efforts!

Finally, I suppose I should be frank and tell you that I am a true stakeholder in this change. After the military, I enjoyed a successful career as the Business Manager for Indian River Central School District, a district whose enrollment varied from 50% to 66% military over the course of my tenure. In retirement I am still called upon to address the concerns raised by military families, but I am now proud to say that the Regents are taking a huge step forward in making these changes, and I am hopeful I will be able to report that they will be in effect for the 2017-18 school year. This would be a major accomplishment in easing the transition for military children.

Thank you for listening and for considering these bold, common sense changes to the regulations.

RESPONSE: Since the comment is supportive, no response is necessary.

3. COMMENT: Thank you for the opportunity to review the proposed changes to Commissioner's Regulations. As the principal of a military-impacted high school adjacent to Fort Drum, these proposals are welcomed. Though our staff has become adept at working with sending schools, military families, and students, these changes will provide much-needed relief...especially for the affected by high mobility. Furthermore, schools with limited experience with the challenges of military life will now have a 'roadmap' to guide counselors and students toward a timely graduation.

As a body, the proposals reflect and respect the academic accomplishments of military children while providing a thoughtful, considerate, and common-sense application of NYS regulations to a highly mobile student population. In short, the proposals fit the academic needs of the students, the school, and (I hope) NYSED.



I've reviewed each area thoroughly, and again, appreciate the care taken to provide practical solutions. Specifically:

- Educational Records - Positive proposal and immediately applicable (already a practice with many military-impacted schools)
- Placement Decisions - Positive proposal and immediately applicable (already a practice with many military-impacted schools)
- Residency Determinations - Positive proposal and immediately applicable. This positively impacts initial Residency Determinations as well as military/soldier deployment related residency changes (a common occurrence at some military installations, especially during wartime).
- Graduation Requirements/Assessment Requirements/Regulatory Amendments - Though somewhat complex in their implementation, these proposals intertwine and may have the greatest positive impact. Utilization of verified non-NY exit examinations, credit for commensurate coursework, elimination of the 1-day provision for exam exemptions, and the recognition of skill/knowledge/standard proficiency will all allow students to satisfactorily meet requirements for graduation and avoid extra semesters and/or unnecessary testing. Furthermore, the reciprocal diploma approach remains as a viable option for situations where general Compact-based relief falls short. Well done!
- Physical Education - Positive proposal and immediately applicable (and greatly appreciated)

I also offer the following thoughts for potential future consideration:

- Accountability Implications - Will schools/districts utilizing the embedded Compact flexibilities experience 'inadvertent' negative repercussions? (ie participation rate, academic accountability, graduation/completion rate, etc.) Will there be data

collection/coding provisions to allow for the new multi-state measures so that students and schools are held harmless?

- Lab minutes and mobility - Another "common sense" barrier to students with high mobility is the firm 1200 lab minute requirement for access to Regents science exams. I wonder what kind of regulatory flexibility can be included to provide local control (ie principal/superintendent) for students transferring from other states mid-course.

Currently, there is virtually no flexibility with this requirement, thereby making science Regents completion a significant challenge for military students.

If needed, I can discuss these items (and more) in greater detail.

Again, thank you for the opportunity to submit feedback regarding the proposed Compact-related regulatory changes. This is valuable work and will have a positive impact on students around the globe.

RESPONSE: To the extent the comments are supportive, no response is necessary. To the extent the commenter suggests that SED consider institutional accountability in light of the flexibilities provided by the compact and further flexibility for science laboratory requirements, which are not addressed in the regulatory change, the Department will review these comments and consider whether further regulatory revisions and/or guidance of the field are needed.

4. COMMENT:

I reviewed the proposed NYDOE/BOR proposed changes found within the NYS Rule Making Activities document for the Proposed Regulations (text beginning on page 9) that have been published in the State Register at <https://docs.dos.ny.gov/info/register/2017/july5/Rule%20Making%20Activities.pdf> (July 5, 2017).

My review offers no suggestions or recommendations to your language because I read it to be operational within the spirit, letter and intent of the Interstate Compact on Educational Opportunity for Military Children. As part of my review, I cross-walked the graduation requirement changes for PE with the DoDEA graduation requirements for SY's 2011-2012 and prior, SY 2012-2015, and SY 2015-2016 and beyond, and found full compatibility. The examination and end-of-course expectations for core curriculum activity are within DoDEA Graduation Requirements for all years and customary practice nationwide; providing several options for military -connected students to be successful based on the diverse practices within sending and receiving states. The expectation of communication at the Principal level solidifies a successful pathway for high school completion between jurisdictions. Sequential coursework for students in grades 9 - 12 is manageable due to diverse graduation requirements offered by the states, yielding no unforeseeable circumstances that would thwart a student from completing their secondary education due to mobility. Exceptions are addressed appropriately at every timeline, including a provision for students who are first time 12th grade NYS high school attendees to reach an on-time graduation.

In conclusion, the commenter to accept your proposed changes without edits or exceptions.

RESPONSE: Since the comments are supportive, no response is necessary.

5. COMMENT: I am writing in regards to the proposed regulations by the New York State Education Department, in conjunction with the Military Interstate Children's Compact Commission, one of which includes a change in the physical

education requirements for students who completed one or more semesters of high school outside of New York.

We just moved here to NY during summer 2016, and my daughter is an upcoming junior. As a military family, this is our 3rd high school and will not be our last. We just got word that she will have to enroll in PE her senior year, even though she will have already fulfilled the NY state required 2 credits after her junior year. This is where I'm not understanding. If she has this requirement completed, why is she then required to take yet another PE class her senior year? NY state doesn't require any other additional class in any other subject if the credits are already fulfilled no matter what state she completed them in. For example, if she already has 4 math credits transferring in to a NY school, she is not required to take any more than that, so why should PE be any different? She'll be done with the PE credit requirement, so why is she made to take more than what is required?

My daughter is an athlete, and up until the end of this year, she was a level 9/10 gymnast training 20 hours/week. She then started track and field and also exercises on her own, so I'm quite certain she gets plenty of exercise...more than she gets in a PE class. She is also an honors student, and instead of being able to take more challenging classes or elective classes that she's interested in during her senior year, she's forced to take PE in the place of those classes. Doesn't make a lot of sense. Colleges looking at her transcript may wonder why she decided to take an easy class like PE instead of a more academic based class her senior year, not knowing she was forced to take more than the required PE credits.

As a military family, our children have had to make extreme sacrifices, and it seems that they can't catch a break with different state requirements for graduation,

even with the Military Child Education Coalition in place. She will have done her requirements, so let her be done with PE. It just doesn't make sense. Why should it matter that she took her 2 credits of PE in 3 years of high school instead of 4 years? She still has the state requirements completed.

I hope the board considers this issue for not only military students but for all students who transfer in to the NY state education system.

RESPONSE: The proposed revision does not allow students who have not yet completed 8 semesters of high school to be exempt from enrolling in PE. However, existing regulatory language does allow districts to excuse students in grades 10-12 from enrolling in regular PE classes, if such students complete a comparable time each semester in extra class programs and have demonstrated acceptable levels of physical fitness, physical skills, and knowledge of physical education activities; or if such students are engaging in a comparable time each semester in out- of school activities approved by the physical education staff and the school administration.

6. COMMENT: We support the proposed amendments of sections 100.5 and 100.20 of Title 8 NYCRR which align with the New York state obligations under Chapter 328 of the Laws of 2014, Interstate Compact on Educational Opportunity for Military Children.

First, the amendments provide greater flexibility for military students to meet the New York Board of Regents graduation requirements, and outline an exemption or alternative to physical education, global history and geography requirements.

Second, the amendments include the addition of options that will allow a transitioning military student into a New York public school to obtain a Board of Regents

Diploma if the student received passing scores for a similar end-of-course, national norm-referenced achievement, or local examination tests in the sending state or school district.

In conclusion, the proposed amendments allow New York Public Schools greater flexibility on meeting the regulations of the Interstate Compact on Educational Opportunity for Military Children.

RESPONSE: Since the comment is responsive, no response is necessary.

7. COMMENT: Our daughter has had to move three times during her high school years. Her first high school was in Alaska where she attended a high school, where student's records had to be competitive and selected to attend. She ended up becoming certified in ETT and life saving, received multiple college credits for her classes and lettered in 2 sports. We ended up having to move to Oklahoma during the middle of her sophomore year. Although transitioning schools in the middle of the year presented challenges, our daughter was able to adapt to the differences in academic policies between the two states, and successfully completed the school year. During these two years of schooling, our daughter was able to successfully pass the state testing for the subjects of Algebra I, English II, Geometry, and Biology. She started her junior year in Oklahoma, where she went to a career center for half her day and was able to complete a class to help her get certified as a CNA.

Half way through her junior year we were told we were going to be relocating again and ended up moving to NY in February of her Junior year. At the time of enrollment, we were told that all of her state testing that she previously completed for graduation would not be accepted by the state of New York. This means that she would

have to retake all of her exams in order to graduate, the most daunting of these being the Science exam. This is due in large part that she would need to have at a minimum of one year of “seat time” to take this exam. We explained that not only had she taken Biology during her sophomore year, but that she had already passed an exam in another state for this course. We were informed at this time that since the classes and exams did not take place in New York State, they were not valid. The timeframe of her enrollment presented a unique set of conditions where we were told that had she been enrolled just three months later that she would not have to retake her exams due to the lack of seat time. What this now means for her is that she will not have enough seat time to take the New York State Biology Regents Exam until June of 2018 (two weeks before her scheduled graduation date). Due to this technicality and the states unwillingness to accept another states test results, a student that has great academic performance is now in jeopardy of not graduating on time. This also means that her timeline for colleges may be pushed back and could impact her attending the colleges of her choice for another full year.

The military lifestyle that our daughter and other military children are a part of is important, but some of the changes they have to face are out of their control. They shouldn't have to worry about having to retake a state test, (that they have already taken) because another state refuses to accept them. Our daughter has strived during her high school years, and to see the school system failing her is heartbreaking. She shouldn't be focusing on if she is going to graduate on time but should be focusing on what college she plans to attend come next fall.

We were hoping that the Board would please consider approving the rule changes listed in I.D. No. EDU-27-17-00006-P of the New York State Register.

Approving this rule would not only help our daughter, but other military students get the state testing credits that they have earned added to their transcript. If these states tests are applied to their student records, this will then allow these students to focus on other important things such as, finishing up their high school year(s) and allow them to prepare themselves for their futures.

RESPONSE: Since the comment is supportive, no response is necessary.