

State Council on Educational Opportunity for
Military Children
Annual Meeting
August 11, 2021 2:30 p.m.

ZOOM: <https://educationne.zoom.us/j/93651444105>

Agenda

1. Call to Order and Introductions – Brian Halstead, Deputy Commissioner of Education and Compact Commissioner
2. Public Comment Period
3. Approve the Minutes for Annual Meeting held September 16, 2020
4. Reports by Members on activity or issues occurring in the past twelve months
5. Nebraska Council Position on Inclusion of Guard/Reserve.

Attachments: Roster of Members for 2021
Draft Minutes for September 16, 2020
Proposed Nebraska Council Position on Inclusion of Guard/Reserve
MIC3 Guide for Schools/Parents
Nebraska Open Meetings Act 2021

STATE COUNCIL ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

Members – August 2021

(Neb. Rev. Stat. 79-2204(1))

Member	Term	Contact Information
Commissioner of Education Dr. Matthew L. Blomstedt	N/A	matt.blomstedt@nebraska.gov 402-471-5020 Nebraska Department of Education P.O. Box 94987 Lincoln NE 68509
Compact Commissioner Brian Halstead, Deputy Commissioner of Education	N/A	brian.halstead@nebraska.gov 402-471-0732 Nebraska Department of Education P.O. Box 94987 Lincoln NE 68509
Chairperson of the Education Committee of the Legislature (non-voting) Senator Lynne Walz	N/A	lwalz@leg.ne.gov 402-471-2625 (Capitol) State Capitol P.O. Box 94604 Lincoln NE 68509
School District Representative Dr. Jeff Rippe, Superintendent of Bellevue Public Schools	8/9/2019 to 8/9/2022	jeff.rippe@bpsne.net 402-293-4000 Bellevue Public Schools 1600 Hwy 370 Bellevue NE 68005-3591
Military Representative Offutt Air Force Base 55 th Wing Support Group Commander -- Col. Jasin R. Cooley	8/1/2021 8/1/2024	55MSG.Channel@us.af.mil Jasin.cooley@us.af.mil Offutt Air Force Base Omaha, NE
Military Family Education Liaison Sara Hulac, Legal Counsel Nebraska Department of Education	N/A	sara.hulac@nebraska.gov 402-471-0310 Nebraska Department of Education P.O. Box 94987 Lincoln, NE 68509-4987

State Council on Educational Opportunity for Military Children

Annual Meeting

Nebraska Department of Education, 301 Centennial Mall South, State
Board Meeting Room, 6th floor
Lincoln, NE

AND

Bellevue Public Schools Welcome Center Board Room, 2600 Arboretum
Drive, Bellevue, NE

Wednesday, September 16, 2020 9:00 a.m.

Visitors may watch and use Zoom Link for remote participation:

<https://educationne.zoom.us/j/93125707145>

Minutes

The Nebraska State Council on Educational Opportunity for Military Children held its annual meeting on September 16, 2020. Publicized notice of the meeting was given by posting notice on the Department's website on the Internet, which gave the date, time and locations of the meetings.

1. CALL TO ORDER AND INTRODUCTIONS

Brian Halstead, Deputy Commissioner of the Nebraska Department of Education and Council Commissioner of the State Council on Educational Opportunity for Military Children, called the meeting to order at 9:13 a.m.. The following members were present at the 301 Centennial Mall, Lincoln, NE site: Brian Halstead, Council Commissioner; Matthew L. Blomstedt, Commissioner of Education; and Sara Hulac, Military Family Liaison and NDE Legal Counsel

The following member was present at the Bellevue, NE site: Dr. Jeff Rippe, Superintendent, Bellevue Public Schools.

Michelle Pridell, School Liaison Officer, Airman & Family Readiness Center, was in attendance at the Bellevue site.

Nikki Nader, Deputy Director for Installation Support, 55th Mission Support Group, 55 MSG/DD, serving as Col. Dayton's designee and Nicole Barrett, representative for Senator Mike Groene, attended via ZOOM.

Brian Halstead announced the placement of the Open Meetings Act.

2. PUBLIC COMMENT PERIOD

Phillip O'Donnell, Military Affairs Liaison, Commission on Military and Veteran Affairs, reported that the recently released "Support of Military Families" assessment (see attached) for Offutt AFB indicates that Bellevue Public Schools as well as the surrounding urban and rural schools fared well in the report. This assessment was a result of a February 2018 memorandum from the Service Secretaries to the National Governors Association emphasizing that the quality of schools near bases would be taken into account in future basing decisions. The Department of the Air Force Strategic Basing Office is currently using the "Support of Military Families" assessment in basing evaluations.

Mr. O'Donnell thanked the Nebraska Department of Education for its effective, efficient and student-focused implementation of the State Council on Educational Opportunity for Military Children.

3. APPROVAL OF 2019 ANNUAL MEETING MINUTES

Motion by Sara Hulac, second by Dr. Blomstedt: To approve the minutes of the September 9, 2019, State Council on Educational Opportunity for Military Children meeting.

Voting Yes: Blomstedt, Halstead, Rippe, and Hulac

Absent: Col. Alan Dayton

The motion passed.

4. REPORTS BY MEMBERS ON ACTIVITY OR ISSUES

Brian Halstead, Compact Commissioner and Deputy Commissioner of Nebraska Department of Education, stated that he has received no requests for services under the Compact. School districts are working diligently and Compact is not utilized. Mr. Halstead did state he is serving on a Task Force for MIC3 and that Task Force as well as the Executive Committee are addressing the issue of possibly expanding language in the Compact to include Guard and Reserve personnel. Personnel in the Guard and Reserve can have interstate travel because of training and other issues. This action wouldn't necessarily affect children in the State of Nebraska.

Sara Hulac, Military Family Liaison and NDE Legal Counsel, stated that this past year she is not aware of any issues.

Matthew L. Blomstedt, Ph.D., Commissioner of Education, stated that the Council is a great source of pride and is very appreciative of Bellevue Public School and area schools' efforts to serve military families. He acknowledges that a lot of effort and collaboration goes into making sure military families transitions into schools smoothly.

Dr. Jeff Rippe, Superintendent, Bellevue Public Schools, reported that the Bellevue Public Schools has not heard of any MIC3 issues this past year.

Michelle Pridell, School Liaison Officer, Airman & Family Readiness Center, has not had any Compact issues serving as school liaison and reported that the State of Nebraska is a leader in the country in serving military families. Ms. Pridell reported that while not observing any Compact issues, there are some COVID related issues, specifically surrounding virtual school. Most school districts are flexible and the Enrollment Option choice is helpful. A lot of families are waiting for next semester for virtual school if they so choose. Ms. Pridell states that the Center is very impressed with the safety measures the school districts are putting into place and expect new families to start arriving in December 2020.

Commissioner Blomstedt stated that he is impressed with the efforts and strategies of Bellevue Public Schools to assist in students returning to school in person.

Nikki Nader, Deputy Director for Installation Support, 55th Mission Support Group, 55 MSG/DD, concurs with Ms. Pridell's comments and reports no issues.

Nicole Barrett, Policy Research Analyst, indicated that Senator Mike Groene's office did not receive any indication of issues pertaining to the Compact this past year.

5. DISCUSSION OF NEBRASKA'S PARTICIPATION IN AND COMPLIANCE WITH THE INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

No Council member had any concerns or issues to report.

There being no further business to come before the Council, Brian Halstead adjourned the meeting at 9:26 a.m.

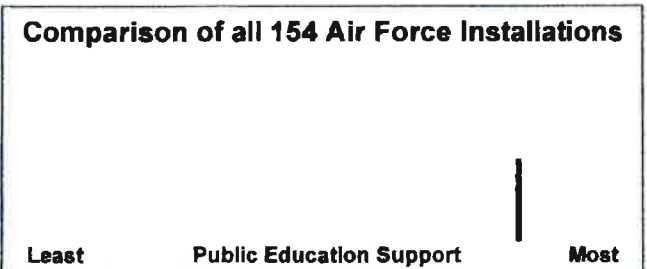
***Support Materials for this meeting are available for inspection in the NDE's Legal Services Office**

Support of Military Families – 2019

Offutt Air Force Base, Nebraska

Public Education *

Key: ■ ≤ 33.3% < ■ < 66.7% ≤ ■ (Percentile)



Academic Performance Criteria

Graduation Rate ■

Student Learning Rate ■

School Climate Criteria

Chronic Absenteeism Rate ■

Suspension Rate ■

Service Offering Criteria

Pre-Kindergarten Availability ■

Student to Counselor Ratio ■

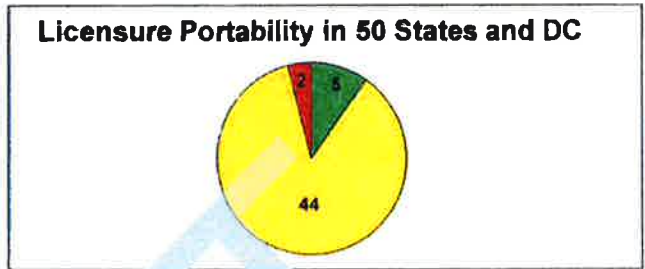
Student to Mental Health Support Ratio ■

Student to Nurse Ratio ■

Student to Teacher Ratio ■

Licensure Portability **

Key: ■ ≤ 1.5 < ■ < 4.0 ≤ ■ (Measure)



Accounting ■

Cosmetology ■

EMS ■

Engineering ■

Law ■

Nursing ■

Physical Therapy ■

Psychology ■

Teaching ■

Other Professions Named in Source Data ■

** Licensure Data Sources Include State Laws, State Executive Orders, and State Supreme Court and Bar Association Rules

Data Source	Survey Time Period	Most Recent Website Update
Civil Rights Data Collection District and School Data	SY 2015 – 2016	August 2019
EDFacts Graduation Rates District and School Data	SY 2016 – 2017	August 2019
National Center for Education Statistics Common Core of Data	SY 2017 – 2018	July 2019
National Center for Education Statistics Common Core of Data Public Elementary/Secondary School	SY 2017 – 2018	July 2019
Center for Education Policy Analysis: Stanford Education Data Archive (SEDA)	SY 2008 – 2009 through SY 2016 – 2018	July 2019

* Public Education is compiled using 60% Academic Performance, 20% School Climate, and 20% Service Offering.

Areas Requiring Additional Support

PUBLIC EDUCATION

Student to Mental Health Support Ratio ■

PUBLIC EDUCATION

Student to Nurse Ratio ■

PUBLIC EDUCATION

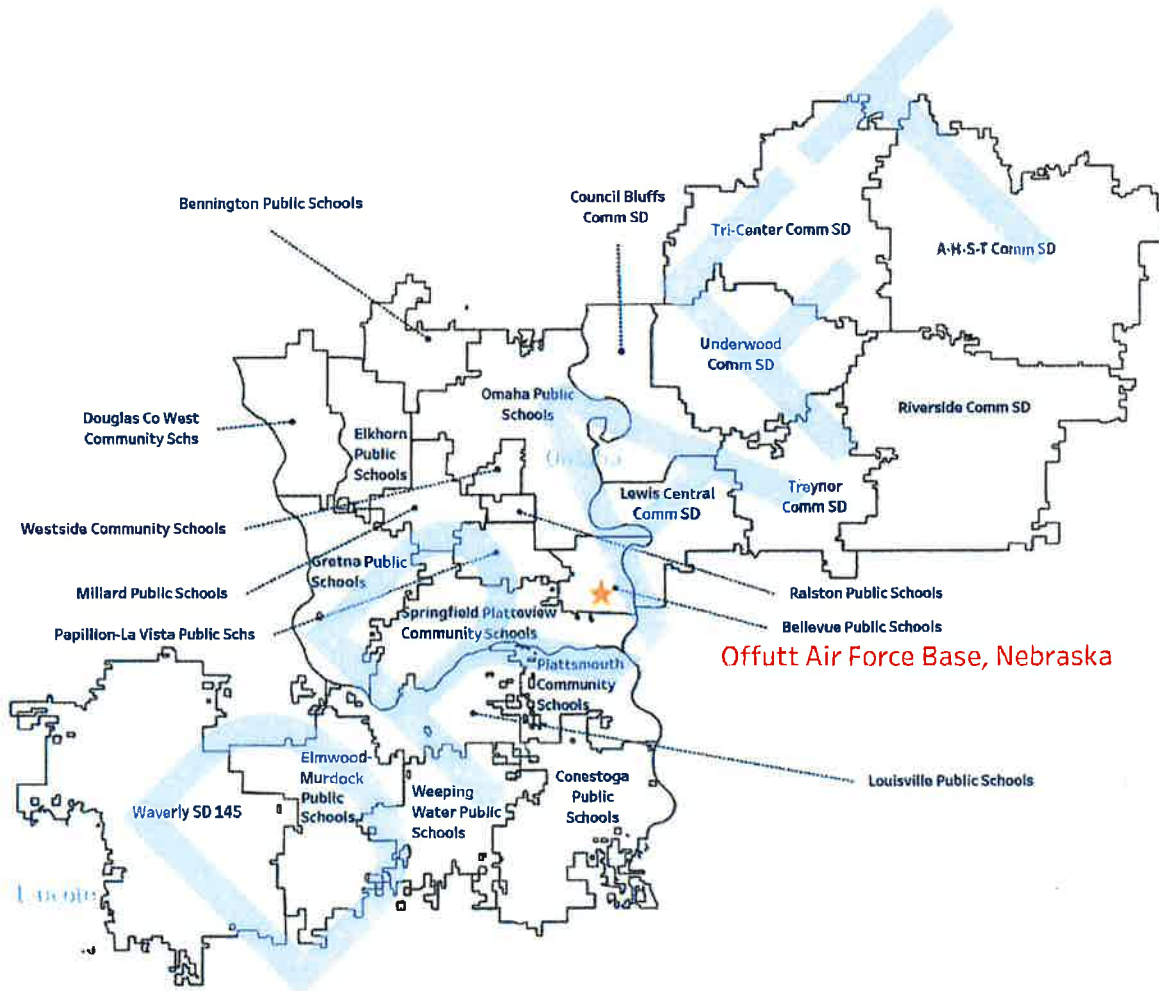
Pre-Kindergarten Availability ■

LICENSURE LANGUAGE
Similar requirements

PROFESSIONS
Accounting, Cosmetology,
Engineering, Psychology,
Teaching, Other Professions

Offutt Air Force Base, Nebraska

School Districts Map



**State Commissioner Guidance
Developing a State Position on the National Guard and Reserve**

Background

1. The compact covers, *“active duty members of the uniformed services, including members of the National Guard and Reserve on active duty orders (Title 10)”*
2. The state of Utah asked the Executive Committee to consider inclusion of dependents of the national guard and reserve under other titles (5, 32, etc.) citing these families move interstate under military orders.
3. In 2019, the Executive Committee created the *MIC3 National Guard and Reserve Coverage Task Force* (NGRTF). Members included:
 - a. Kathleen Berg, Hawaii Commissioner (Chair)
 - b. Darcy Benway, Illinois Commissioner
 - c. Brian Halstead, Nebraska Commissioner
 - d. Ben Rasmussen, Utah Commissioner
 - e. Terry Ryals, Alaska Commissioner
 - f. Hal Stearns, Montana Commissioner
 - g. Rosemarie Kraeger, Rhode Island Commissioner
4. The Task Force's mission: *To collect and analyze relevant data in order to recommend whether MIC3 protections for military-connected students already in place for the children of these reserve component service members in Title 10 status should be expanded to cover children of members in other status situations, as well.*

Commission Discussion in 2019

At the 2019 Annual Business Meeting, NGRTF Chair, Commissioner Kathleen Berg provided a summary of the second meeting of the NGRTF held on October 23, 2019:

- Focused on how the state of Utah extended Compact coverage to National Guard and Reserve (NGR) connected families within their state by changing the compact statute.
- Current data stated there were about 1.5 million military-connected children total, including the NGR but not much supporting members being ordered to move interstate
- Explained the military is moving toward being more inclusive of the National Guard and Reserve members, regardless of the data.
- There was a national effort to extend coverage to treat all military families the same.
- Concluded her report by highlighting the states of Kentucky and Arkansas, which have external legislation that extends the provisions of the Compact to additional service-related groups (civilian and national guard and reserves).
- However, Utah amended their state compact statute creating a situation where Utah is out of compliance with the Compact and the other 50 member states.
- It was requested the NGRTF consider the fiscal impact on member states when making their final recommendation to the Commission. Commissioner Berg agreed that a cost analysis would be conducted.

NGRTF Meetings and Reporting

1. In 2019-2020, the NGRTF met six times.
2. A preliminary report was submitted to the Executive Committee in May 2020.
3. The final report was presented at the 2020 Annual Business Meeting on October 1-2, which included the projected financial impact by state (dues).

State Commissioner Guidance
Developing a State Position on the National Guard and Reserve

NGRTF Recommendation Summary

(full version: https://mic3.net/wp-content/uploads/2020/10/NGRTF-Paper_FINAL_20201002-1.pdf)

The NGRTF recommended the MIC3 support expansion of Compact coverage to all members of the Selected Reserve - including Traditional, Active/Guard Reserve, and Military Technician (Dual Status) members - for moves related to changes in duty station and for deployments in any active duty status, including Title 10, Title 32, and State Active Duty (SAD).

This recommendation takes into account the following:

- The rule change process cannot be used to change Compact applicability, only Compact rules;
- The Commission may propose amendments to the Model Compact Language for enactment by the member states, but no amendment shall become effective and binding upon the Commission and the member states unless and until it is enacted into law by unanimous consent of the member states;
- States may not unilaterally amend the Model Compact Language in their law without risk to their Compact membership;
- Some member states have already enacted state legislation separate from their Compact statute to immediately extend coverage of the Compact within their states, but language differs among states;
- Expert legal counsel, at the expense of the Commission, will be required to research and create the specific language to accomplish the desired changes;
- There are numerous military support organizations that would endorse and likely assist MIC3 in any effort to expand Compact coverage to all members of the Selected Reserve—for example, the Enlisted Association of the National Guard of the United States (EANGUS), the National Guard Association of the United States (NGAUS), the Reserve Officers Association (ROA), and the Military Officers Association of America (MOAA). Other organizations, such as the National Governors Association (NGA), may be likely allies in any MIC3 effort to extend Compact support to include ALL military families.

ABM 2020 Outcome

- The Commission expressed appreciation for the work of the NGRTF.
- Commissioners did not feel comfortable adopting the NGRTF recommendation and requested the opportunity to share with their respective state councils.
- Several states expressed concern regarding the possible increase in annual Commission state dues with the addition of NGR dependents.
 - NGR - https://mic3.net/wp-content/uploads/2020/11/51-NGR-Data_20200731.pdf
 - Active Duty - https://mic3.net/wp-content/uploads/2020/11/50-AD-Data_20200731.pdf
- A motion was passed to forward the recommendation to the Executive Committee for further action. This action also allows states to meet with their state councils to develop a position on the issue.

Dues

- Expansion of the Compact to cover reserve component children is not an opportunity to increase revenues to the Commission.
- Inclusion of reserve component children should be accomplished without an increase in dues, if at all possible.

State Commissioner Guidance
Developing a State Position on the National Guard and Reserve

- Courses of action to amend the Compact to include reserve component children will probably require a change to the dues formula to ensure that state dues are not increased.

Courses of Action

1. Amend the Compact Statute.
 - a. Pros – would extend compact coverage to all NGR dependents beyond Title 10 in the Compact.
 - b. Cons – the language would need to be adopted in statute by all 50+1 members before the coverage would be active; cost to the commission to fund this effort; time to work with states to pass the language; risk other unapproved modifications to the compact statute
 - c. Additional: Could state legislatures adopt an “administrative amendment” that clarifies that the Compact shall be applied to all children of military families?
2. Amend State Codes Outside of the Compact.
 - a. Pros – States could choose to do this independently; would be in effect immediately upon passage; would not increase annual state dues as it is outside of the compact.
 - b. Cons – Would not be uniform across all member states
 - c. Examples of separate, external language which extends Compact coverage:
 - i. Arkansas covers all NGR children, regardless of title.
<http://www.arkleg.state.ar.us/assembly/2019/2019R/Acts/Act939.pdf>
 - ii. Kentucky covers students of U.S. Department of Defense (USDOD) civilian employees
<https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=3244>
3. Create an “Enhanced” Compact
 - a. Explanation – The enhancement could include the additional language needed to extend coverage to reserve component families. The enhanced and the original compact would be binding on states that join the enhanced compact, but only the current MIC3 Compact would bind states that choose not to join. The Nursing Licensure Compact Commission used this model successfully.
 - b. Pros – States that wish to join the enhanced compact could do so, but no state would be required to.
 - c. Cons – The enhancement risks becoming too broad; states might choose to add measures to the enhancement that other states choose not to include; would the current national office staff be sufficient to administer both compacts; might complicate the dues formula if not all states join the enhanced compact.
4. Adopt a Memorandum of Agreement (MOA)
 - a. Explanation – The appropriate official in each state (governor, chief state school officer) could sign a MOA developed by the national office. The MOA would indicate that the signatory states would treat children of reserve component families as though the Compact covers them. Reserve component children would not be counted for purpose of calculating dues.
 - b. Pros – Avoids issues of compliance raised by amending the compact statutes; requires no change to dues formula.
 - c. Cons – Could be canceled by the same official who entered the MOA; might expire after a given period of time

**State Commissioner Guidance
Developing a State Position on the National Guard and Reserve**

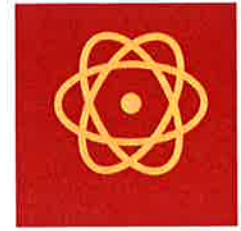
5. Take no action at this time.
 - a. Explanation – a Member State may feel no further action by the Commission is necessary at this time. Some states expressed the Compact was developed by the USDOD to address education challenges encountered by active duty children who move frequently based on their parents' assignments – and covers the children that need to be covered. Which is why the National Guard and Reserve (beyond Title 10) was not included in the model compact. If the Compact is expanded, some other states expressed interest in expanding the Compact to cover civilian USDOD personnel, and/or all interstate transitioning students since their parents may relocate for jobs or career advancement.
 - b. Pros – This option would not require further action by the Commission. The dependents of National Guard and Reserve under Title 10 would continue to be covered under the Compact.

For Commissioner Action

1. Collect the following information on your state:
 - a. Currently, how many National Guard and Reserve service members are residing in your state, under titles (5, 10, 32)
 - b. Currently, how many NGR school-aged dependents between ages 5-18?
 - c. Over the past year, how many NGR families, as well as school aged dependents between ages 5-18, moved **interstate** under PCS orders?
(Remember, the compact is interstate, not intrastate.)
2. Develop the position of your state council.
 - a. Consult with your state's appointing authority, state council, and other stakeholders.
 - b. Provide supplemental information which can be found on the **ABM 2020 webpage** under "National Guard and Reserve Coverage Task Force". Website: <https://mic3.net/2020-annual-business-meeting/>
 - i. Presentation (by HI Commissioner Berg)
 - ii. Presentation with Notes (by HI Commissioner Berg)
 - iii. NGRTF Survey Results (by state, if received)
 - iv. NGRTF Final Recommendation
 - v. Data (by state, includes possible dues amounts):
 1. National Guard and Reserve
 2. Active Duty
 - c. Discuss the pros and cons of each course of action.
3. **Provide a written report to the national office by August 31, 2021, stating the position of your state council.** The report should include:
 - a. which course(s) of action your state council favors and why;
 - b. any questions/concerns raised (provide supplemental data/documentation).
4. The item will be included in the Docket for discussion at the 2021 Annual Business Meeting. Be prepared to discuss and vote on behalf of your state.

Should you have any questions or need assistance, please contact the national office:

Military Interstate Children's Compact Commission
1776 Avenue of the States, Lexington, KY 40511
email: mic3info@csg.org, phone: 859-244-8000
website: <https://mic3.net/>



GUIDE FOR SCHOOLS/PARENTS

What is the Compact?

The Compact deals with the challenges of military children and their frequent relocations. It allows for uniform treatment as military children transfer between school districts in member states.

Note: The Compact only applies to public schools.

Students Covered

- Active duty members of the uniformed services, including members of the National Guard and Reserve on active duty orders (Title 10)
- Members or veterans who are medically discharged or retired for one year
- Members who die on active duty, for a period of one year after death
- Uniformed members of the Commissioned Corps of the National Oceanic and Atmospheric Administration (NOAA), and United States Public Health Services (USPHS)

Students Not Covered

- Inactive members of the National Guard and Reserves (Not Title 10)
- Members now retired not covered above
- Veterans not covered above
- Other Department of Defense personnel, federal agency civilians and contract employees not defined as active duty
- Members other than the uniformed personnel of NOAA and USPHS

May be required during transition

- Official military orders showing that the military member was assigned to the state (or commuting area) of the state in which the child was enrolled and attended school
- If a military child was residing with a legal guardian and not the military member during the previous enrollment they will have a copy of the family care plan, or proof of guardianship
- A transcript, official or unofficial, or an official letter from the proper school authority which shows record of attendance, academic information, and grade placement of the student
- Documented evidence of immunization against communicable disease.
- Evidence of date of birth.





MILITARY INTERSTATE
CHILDREN'S COMPACT
COMMISSION

GUIDE FOR SCHOOLS/PARENTS

Some areas that are covered...



Enrollment

- Educational Records
- Immunizations
- Kindergarten & First Grade Entrance Age

Placement and Attendance

- Course & Educational Program Placement
- Special Education Services
- Placement Flexibility
- Absence Related to Deployment Activities

Graduation

- Waiving courses required for graduation if similar course work has been completed
- Flexibility in accepting state exit or end-of-course exams, national achievement tests, or alternative testing in lieu of testing requirements for graduation in the receiving state
- Allowing a student to receive a diploma from the sending school instead of the receiving school

Additional resources and information are available at

www.mic3.net



CONTACT US AT

1776 Avenue of the States | Lexington, KY 40511
859.244.8133 | www.mic3.net | mic3info@csg.org



Open Meetings Act

Neb. Rev. Stat. § 84-1407. Act, how cited.

Sections 84-1407 to 84-1414 shall be known and may be cited as the Open Meetings Act.

Neb. Rev. Stat. § 84-1408. Declaration of intent; meetings open to public.

It is hereby declared to be the policy of this state that the formation of public policy is public business and may not be conducted in secret.

Every meeting of a public body shall be open to the public in order that citizens may exercise their democratic privilege of attending and speaking at meetings of public bodies, except as otherwise provided by the Constitution of Nebraska, federal statutes, and the Open Meetings Act.

Neb. Rev. Stat. § 84-1409. Terms, defined.

For purposes of the Open Meetings Act, unless the context otherwise requires:

(1)(a) Public body means (i) governing bodies of all political subdivisions of the State of Nebraska, (ii) governing bodies of all agencies, created by the Constitution of Nebraska, statute, or otherwise pursuant to law, of the executive department of the State of Nebraska, (iii) all independent boards, commissions, bureaus, committees, councils, subunits, or any other bodies created by the Constitution of Nebraska, statute, or otherwise pursuant to law, (iv) all study or advisory committees of the executive department of the State of Nebraska whether having continuing existence or appointed as special committees with limited existence, (v) advisory committees of the bodies referred to in subdivisions (i), (ii), and (iii) of this subdivision, and (vi) instrumentalities exercising essentially public functions; and

(b) Public body does not include (i) subcommittees of such bodies unless a quorum of the public body attends a subcommittee meeting or unless such subcommittees are holding hearings, making policy, or taking formal action on behalf of their parent body, except that all meetings of any subcommittee established under section 81-15,175 are subject to the Open Meetings Act, and

(ii) entities conducting judicial proceedings unless a court or other judicial body is exercising rulemaking authority, deliberating, or deciding upon the issuance of administrative orders;

(2) Meeting means all regular, special, or called meetings, formal or informal, of any public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action of the public body; and

(3) Virtual conferencing means conducting or participating in a meeting electronically or telephonically with interaction among the participants subject to subsection (2) of section 84-1412.

Neb. Rev. Stat. § 84-1410. Closed session; when; purpose; reasons listed; procedure; right to challenge; prohibited acts; chance meetings, conventions, or workshops.

(1) Any public body may hold a closed session by the affirmative vote of a majority of its voting members if a closed session is clearly necessary for the protection of the public interest or for the prevention of needless injury to the reputation of an individual and if such individual has not requested a public meeting. The subject matter and the reason necessitating the closed session shall be identified in the motion to close. Closed sessions may be held for, but shall not be limited to, such reasons as:

(a) Strategy sessions with respect to collective bargaining, real estate purchases, pending litigation, or litigation which is imminent as evidenced by communication of a claim or threat of litigation to or by the public body;

(b) Discussion regarding deployment of security personnel or devices;

(c) Investigative proceedings regarding allegations of criminal misconduct;

(d) Evaluation of the job performance of a person when necessary to prevent needless injury to the reputation of a person and if such person has not requested a public meeting;

(e) For the Community Trust created under section 81-1801.02, discussion regarding the amounts to be paid to individuals who have suffered from a tragedy of violence or natural disaster; or

(f) For public hospitals, governing board peer review activities, professional review activities, review and discussion of medical staff investigations or disciplinary actions, and any strategy session concerning transactional negotiations with any referral source that is required by federal law to be conducted at arms length.

Nothing in this section shall permit a closed meeting for discussion of the appointment or election of a new member to any public body.

(2) The vote to hold a closed session shall be taken in open session. The entire motion, the vote of each member on the question of holding a closed session, and the time when the closed session commenced and concluded shall be recorded in the minutes. If the motion to close passes, then the presiding officer immediately prior to the closed session shall restate on the record the limitation of the subject matter of the closed session. The public body holding such a closed session shall restrict its consideration of matters during the closed portions to only those purposes set forth in the motion to close as the reason for the closed session. The meeting shall be reconvened in open session before any formal action may be taken. For purposes of this section, formal action shall mean a collective decision or a collective commitment or promise to make a decision on any question, motion, proposal, resolution, order, or ordinance or formation of a position or policy but shall not include negotiating guidance given by members of the public body to legal counsel or other negotiators in closed sessions authorized under subdivision (1)(a) of this section.

(3) Any member of any public body shall have the right to challenge the continuation of a closed session if the member determines that the session has exceeded the reason stated in the original motion to hold a closed session or if the member contends that the closed session is neither clearly necessary for (a) the protection of the public interest or (b) the prevention of needless injury to the reputation of an individual. Such challenge shall be overruled only by a majority vote of the members of the public body. Such challenge and its disposition shall be recorded in the minutes.

(4) Nothing in this section shall be construed to require that any meeting be closed to the public. No person or public body shall fail to invite a portion of its members to a meeting, and no public body shall designate itself a subcommittee of the whole body for the purpose of circumventing the Open Meetings Act. No closed session, informal meeting, chance meeting, social gathering, email, fax, or other electronic communication shall be used for the purpose of circumventing the requirements of the act.

(5) The act does not apply to chance meetings or to attendance at or travel to conventions or workshops of members of a public body at which there is no meeting of the body then intentionally convened, if there is no vote or other action taken regarding any matter over which the public body has supervision, control, jurisdiction, or advisory power.

Neb. Rev. Stat. § 84-1411. Meetings of public body; notice; method; contents; when available; right to modify; duties concerning notice; videoconferencing or telephone conferencing authorized; emergency meeting without notice; appearance before public body.

(1)(a) Each public body shall give reasonable advance publicized notice of the time and place of each meeting as provided in this subsection. Such notice shall be transmitted to all members of the public body and to the public.

(b)(i) Except as provided in subdivision (1)(b)(ii) of this section, in the case of a public body described in subdivision (1)(a)(i) of section 84-1409 or such body's advisory committee, such notice shall be published in a newspaper of general circulation within the public body's jurisdiction and, if available, on such newspaper's web site.

(ii) In the case of the governing body of a city of the second class or village or such body's advisory committee, such notice shall be published by:

(A) Publication in a newspaper of general circulation within the public body's jurisdiction and, if available, on such newspaper's web site; or

(B) Posting written notice in three conspicuous public places in such city or village. Such notice shall be posted in the same three places for each meeting.

(iii) In the case of a public body not described in subdivision (1)(b)(i) or (ii) of this section, such notice shall be given by a method designated by the public body.

(c) In addition to a method of notice required by subdivision (1)(b)(i) or (ii) of this section, such notice may also be provided by any other appropriate method designated by such public body or such advisory committee.

(d) Each public body shall record the methods and dates of such notice in its minutes.

(e) Such notice shall contain an agenda of subjects known at the time of the publicized notice or a statement that the agenda, which shall be kept continually current, shall be readily available for public inspection at the principal office of the public body during normal business hours. Agenda items shall be sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting. Except for items of an emergency nature, the agenda shall not be altered later than (i) twenty-four hours before the scheduled commencement of the meeting or (ii) forty-eight hours before the scheduled commencement of a meeting of a city council or village board scheduled outside the corporate limits of the municipality. The public body shall have the right to modify the agenda to include items of an emergency nature only at such public meeting.

(2)(a) The following entities may hold a meeting by means of virtual conferencing if the requirements of subdivision (2)(b) of this section are met:

(i) A state agency, state board, state commission, state council, or state committee, or an advisory committee of any such state entity;

(ii) An organization, including the governing body, created under the Interlocal Cooperation Act, the Joint Public Agency Act, or the Municipal Cooperative Financing Act;

(iii) The governing body of a public power district having a chartered territory of more than one county in this state;

- (iv) The governing body of a public power and irrigation district having a chartered territory of more than one county in this state;
 - (v) An educational service unit;
 - (vi) The Educational Service Unit Coordinating Council;
 - (vii) An organization, including the governing body, of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act;
 - (viii) A community college board of governors;
 - (ix) The Nebraska Brand Committee;
 - (x) A local public health department;
 - (xi) A metropolitan utilities district;
 - (xii) A regional metropolitan transit authority;
 - (xiii) A natural resources district; and
 - (xiv) The Judicial Resources Commission.
- (b) The requirements for holding a meeting by means of virtual conferencing are as follows:
- (i) Reasonable advance publicized notice is given as provided in subsection (1) of this section, including providing access to a dial-in number or link to the virtual conference;
 - (ii) In addition to the public's right to participate by virtual conferencing, reasonable arrangements are made to accommodate the public's right to attend at a physical site and participate as provided in section 84-1412, including reasonable seating, in at least one designated site in a building open to the public and identified in the notice, with: At least one member of the entity holding such meeting, or his or her designee, present at each site; a recording of the hearing by audio or visual recording devices; and a reasonable opportunity for input, such as public comment or questions, is provided to at least the same extent as would be provided if virtual conferencing was not used;
 - (iii) At least one copy of all documents being considered at the meeting is available at any physical site open to the public where individuals may attend the virtual conference. The public body shall also provide links to an electronic copy of the agenda, all documents being considered at the meeting, and the current version of the Open Meetings Act; and
 - (iv) Except as otherwise provided in this subdivision or subsection (4) of section 79-2204, no more than one-half of the meetings of the state entities, advisory committees, boards, councils, organizations, or governing bodies are held by virtual conferencing in a calendar year. In the case of an organization created under the Interlocal Cooperation Act that sells electricity or natural gas at wholesale on a multistate basis or an organization created under the Municipal Cooperative Financing Act, the organization may hold more than one-half of its meetings by virtual conferencing if such organization holds at least one meeting each calendar year that is not by virtual conferencing. The governing body of a risk management pool that meets at least quarterly and the advisory committees of the governing body may each hold more than one-half of its meetings by virtual conferencing if the governing body's quarterly meetings are not held by virtual conferencing.

(3) Virtual conferencing, emails, faxes, or other electronic communication shall not be used to circumvent any of the public government purposes established in the Open Meetings Act.

(4) The secretary or other designee of each public body shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting and the subjects to be discussed at that meeting.

(5) When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in such meeting shall pertain only to the emergency. Such emergency meetings may be held by virtual conferencing. The provisions of subsection (4) of this section shall be complied with in conducting emergency meetings. Complete minutes of such emergency meetings specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public by no later than the end of the next regular business day.

(6) A public body may allow a member of the public or any other witness to appear before the public body by means of virtual conferencing.

(7)(a) Notwithstanding subsections (2) and (5) of this section, if an emergency is declared by the Governor pursuant to the Emergency Management Act as defined in section 81-829.39, a public body the territorial jurisdiction of which is included in the emergency declaration, in whole or in part, may hold a meeting by virtual conferencing during such emergency if the public body gives reasonable advance publicized notice as described in subsection (1) of this section. The notice shall include information regarding access for the public and news media. In addition to any formal action taken pertaining to the emergency, the public body may hold such meeting for the purpose of briefing, discussion of public business, formation of tentative policy, or the taking of any action by the public body.

(b) The public body shall provide access by providing a dial-in number or a link to the virtual conference. The public body shall also provide links to an electronic copy of the agenda, all documents being considered at the meeting, and the current version of the Open Meetings Act. Reasonable arrangements shall be made to accommodate the public's right to hear and speak at the meeting and record the meeting. Subsection (4) of this section shall be complied with in conducting such meetings.

(c) The nature of the emergency shall be stated in the minutes. Complete minutes of such meeting specifying the nature of the emergency and any formal action taken at the meeting shall be made available for inspection as provided in subsections (5) and (6) of section 84-1413.

Neb. Rev. Stat. § 84-1412. Meetings of public body; rights of public; public body; powers and duties.

(1) Subject to the Open Meetings Act, the public has the right to attend and the right to speak at meetings of public bodies, and all or any part of a meeting of a public body, except for closed sessions called pursuant to section 84-1410, may be videotaped, televised, photographed, broadcast, or recorded by any person in attendance by means of a tape recorder, a camera, video equipment, or any other means of pictorial or sonic reproduction or in writing.

(2) It shall not be a violation of subsection (1) of this section for any public body to make and enforce reasonable rules and regulations regarding the conduct of persons attending, speaking at, videotaping, televising, photographing, broadcasting, or recording its meetings, including meetings held by virtual conferencing. A body may not be required to allow citizens to speak at each meeting, but it may not forbid public participation at all meetings.

(3) No public body shall require members of the public to identify themselves as a condition for admission to the meeting nor shall such body require that the name of any member of the public be placed on

the agenda prior to such meeting in order to speak about items on the agenda. The body shall require any member of the public desiring to address the body to identify himself or herself, including an address and the name of any organization represented by such person unless the address requirement is waived to protect the security of the individual.

(4) No public body shall, for the purpose of circumventing the Open Meetings Act, hold a meeting in a place known by the body to be too small to accommodate the anticipated audience.

(5) No public body shall be deemed in violation of this section if it holds its meeting in its traditional meeting place which is located in this state.

(6) No public body shall be deemed in violation of this section if it holds a meeting outside of this state if, but only if:

(a) A member entity of the public body is located outside of this state and the meeting is in that member's jurisdiction;

(b) All out-of-state locations identified in the notice are located within public buildings used by members of the entity or at a place which will accommodate the anticipated audience;

(c) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including making virtual conferencing available at an in-state location to members, the public, or the press, if requested twenty-four hours in advance;

(d) No more than twenty-five percent of the public body's meetings in a calendar year are held out-of-state;

(e) Out-of-state meetings are not used to circumvent any of the public government purposes established in the Open Meetings Act; and

(f) The public body publishes notice of the out-of-state meeting at least twenty-one days before the date of the meeting in a legal newspaper of statewide circulation.

(7) Each public body shall, upon request, make a reasonable effort to accommodate the public's right to hear the discussion and testimony presented at a meeting.

(8) Public bodies shall make available at the meeting or the in-state location for virtual conferencing as required by subdivision (6)(c) of this section, for examination and copying by members of the public, at least one copy of all reproducible written material to be discussed at an open meeting, either in paper or electronic form. Public bodies shall make available at least one current copy of the Open Meetings Act posted in the meeting room at a location accessible to members of the public. At the beginning of the meeting, the public shall be informed about the location of the posted information.

Neb. Rev. Stat. § 84-1413. Meetings; minutes; roll call vote; secret ballot; when.

(1) Each public body shall keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matters discussed.

(2) Any action taken on any question or motion duly moved and seconded shall be by roll call vote of the public body in open session, and the record shall state how each member voted or if the member was absent or not voting. The requirements of a roll call or viva voce vote shall be satisfied by a public body which utilizes an electronic voting device which allows the yeas and nays of each member of such public body to be readily seen by the public.

(3) The vote to elect leadership within a public body may be taken by secret ballot, but the total number of votes for each candidate shall be recorded in the minutes.

(4) The minutes of all meetings and evidence and documentation received or disclosed in open session shall be public records and open to public inspection during normal business hours.

(5) Minutes shall be written, except as provided in subsection (6) of this section, and available for inspection within ten working days or prior to the next convened meeting, whichever occurs earlier, except that cities of the second class and villages may have an additional ten working days if the employee responsible for writing the minutes is absent due to a serious illness or emergency.

(6) Minutes of the meetings of the board of a school district or educational service unit may be kept as an electronic record.

(7) Beginning July 31, 2022, the governing body of a natural resources district, the city council of a city of the metropolitan class, the city council of a city of the primary class, the city council of a city of the first class, the county board of a county with a population greater than twenty-five thousand inhabitants, and the school board of a school district shall make available on such entity's public web site the agenda and minutes of any meeting of the governing body. The agenda shall be placed on the web site at least twenty-four hours before the meeting of the governing body. Minutes shall be placed on the web site at such time as the minutes are available for inspection as provided in subsection (5) of this section. This information shall be available on the public web site for at least six months.

Neb. Rev. Stat. § 84-1414. Unlawful action by public body; declared void or voidable by district court; when; duty to enforce open meeting laws; citizen's suit; procedure; violations; penalties.

(1) Any motion, resolution, rule, regulation, ordinance, or formal action of a public body made or taken in violation of the Open Meetings Act shall be declared void by the district court if the suit is commenced within one hundred twenty days of the meeting of the public body at which the alleged violation occurred. Any motion, resolution, rule, regulation, ordinance, or formal action of a public body made or taken in substantial violation of the Open Meetings Act shall be voidable by the district court if the suit is commenced more than one hundred twenty days after but within one year of the meeting of the public body in which the alleged violation occurred. A suit to void any final action shall be commenced within one year of the action.

(2) The Attorney General and the county attorney of the county in which the public body ordinarily meets shall enforce the Open Meetings Act.

(3) Any citizen of this state may commence a suit in the district court of the county in which the public body ordinarily meets or in which the plaintiff resides for the purpose of requiring compliance with or preventing violations of the Open Meetings Act, for the purpose of declaring an action of a public body void, or for the purpose of determining the applicability of the act to discussions or decisions of the public body. It shall not be a defense that the citizen attended the meeting and failed to object at such time. The court may order payment of reasonable attorney's fees and court costs to a successful plaintiff in a suit brought under this section.

(4) Any member of a public body who knowingly violates or conspires to violate or who attends or remains at a meeting knowing that the public body is in violation of any provision of the Open Meetings Act shall be guilty of a Class IV misdemeanor for a first offense and a Class III misdemeanor for a second or subsequent offense.

LB 83, § 15, One Hundred Seventh Legislature, First Session, 2021. (*The Revisor of Statutes will assign a statute number after the Legislature adjourns sine die.*) No motion, resolution, rule, regulation, ordinance, or formal action made, adopted, passed, or taken at a meeting as defined in section 84-1409 of a public body as defined in such section shall be invalidated because such motion, resolution, rule, regulation, ordinance, or formal action was made, adopted, passed, or taken at a meeting or meetings on or after March 17, 2020, and on or before April 30, 2021, pursuant to a Governor's Executive Order which waived certain requirements of the Open Meetings Act.