



2021 NDAA OPINION LETTER

August 31, 2020

The Honorable James M. Inhofe
205 Russell Senate Office Building
U.S. Senate
Washington, DC 20510

The Honorable Adam Smith
2264 Rayburn House Office Building
U.S. House of Representatives
Washington, DC 20515

The Honorable Jack Reed
728 Hart Senate Office Building
U.S. Senate
Washington, DC 20510

The Honorable Mac Thornberry
2208 Rayburn House Office Building
U.S. House of Representatives
Washington, DC 20515

Dear Chairmen and Ranking Members:

Partners in PROMISE is encouraged by the military family readiness improvements offered in both the Senate version ([S. 4049](#))ⁱ and House version ([H.R. 6395](#))ⁱⁱ of the 2021 National Defense Authorization Act (NDAA).

We know that many military families struggle with transitions associated with service to our nation. Military children move to new locations, face education gaps and deal with parents' deployments. These "normal" military educational challenges are addressed with increased parent and teacher sensitivity training and customized resources. However, the additional issues faced by special needs families are not as straightforward.

Military children enrolled in the Exceptional Family Member Program (EFMP) often have Individualized Education Programs (IEPs), providing an additional layer of challenges for those needing to access special education in accordance with the Individuals with Disabilities Education Act (IDEA). In a recent [Pain Points Poll](#)ⁱⁱⁱ conducted by Blue Star Families COVID-19 Military Support Initiative, a top concern for all military families surveyed (including families not enrolled in the EFMP) was IEP compliance, including progress and/or completion of goals, skills maintenance, and practice.

Partners in PROMISE is focused on removing the educational hurdles our military families face, especially those who have exceptional needs. Our advocacy efforts are centered on storytelling, both through qualitative data collected during our EFMP Stories interviews and quantitative data through our annual [Military Special Education Survey](#)^{iv}. These stories have revealed that the period of transition both preceding and following a Permanent Change of Station (PCS) move is especially stressful for families who are not able to secure a smooth medical or educational transition for their children with special needs.





Areas of Agreement

Current versions of the 2021 NDAA would help support EFMP families during times of transition and aim to ensure a seamless continuity of services during a permanent change of station (PCS). Both versions prioritize EFMP standardization across all service branches and address deficiencies within the program as confirmed in a [2018 GAO Study](#)^v.

There are a few notable differences between the two versions, with both sides addressing key initiatives of the PROMISE Act.

KEY INITIATIVES OF THE PROMISE ACT


- ✓ **Directing**
 - Directing a Government Accountability Office (GAO) study that identifies school district usage of 7003(d) impact aid funds
- ✓ **Ensuring**
 - Ensuring remote school enrollment for all military families
- ✓ **Tasking**
 - Tasking DoD to provide annual report to Congress on special education challenges facing military children
- Allowing**
 - Allowing families to maintain IEPs at the gaining duty station after a PCS for up to 6 months
- Requiring**
 - Requiring parental consent to all IEP changes before changes can be implemented
- ✓ **Providing**
 - Providing special education attorneys and advocates across all service branches in densely populated EFMP locations
- ✓ **Instructing**
 - Instructing State Education Agencies and the U.S. Department of Education to gather and provide data on special education disputes involving military children

**[2021 SURVEY]
MILITARY SPECIAL EDUCATION**

EFMP FAMILIES

SHARE YOUR STORY





House



- Provision to provide special education attorneys to EFMP-centric locations. (H.R. 6395, Subtitle G, Section 570A)

Senate



- Reporting & data collection mechanism to track disputes filed by servicemembers and their families.
- Detailed GAO study to collect data on military children and their access to Free and Appropriate Public Education (FAPE) and tracking the use of federal impact aid. (S. 4049, Subtitle G, Section 564)



- Individual Service Plans no longer required, but optional

The need for special education attorneys and the GAO Study were discussed at length in our testimony at the [Congressional House Armed Services Committee Military Personnel Subcommittee Hearing on the Exceptional Family Member Program^{vi}](#) on February 5, 2020. Providing attorneys would be the single most valuable step to ensure our military's most vulnerable children are provided the minimum education levels required by the IDEA.

A mechanism for collecting and reporting disputes by servicemembers will provide important and sustained insight into the challenges our military members are facing. The GAO studies will provide valuable data to explain how our military members are facing such challenges despite federal funding of the local educational agencies.

Area of Concern

Additionally, in the Senate version, there is language removing EFMP individual service plans from a requirement to an optional service. We do not concur. The individualized service plans are an essential support for all in EMFP, and should remain a requirement during key transitional periods such as after initial diagnosis, during a PCS, and transitioning out of active duty service. Rather than making these optional, the process should be included in the overall standardization and strengthening of EFMP.

Partners in PROMISE requests Congress pass the 2021 NDAA with special emphasis on the measures mentioned above. After working alongside other military service organizations, we are encouraged to see many of our initiatives have been included. These provisions align with the PROMISE Act and will make already difficult periods of transition easier for many



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military families. We will continue advocating for further transitional support outlined in the PROMISE Act, to include remote enrollment, retention of IEPs for 6 months after a PCS, and parental consent after the initial eligibility process. We know making times of transition easier for military children will lead to a more ready and resilient military force.

We look forward to continued collaboration within the military community and our legislators in providing much-needed support to our EFMP families. The 2021 NDAA, with key pieces from both sides of Congress, is a positive step in the right direction for EFMP families.

Thank you for your support.

Very Respectfully,

Michelle Norman
Co-founder and Executive Director
Partners in PROMISE

CC: House and Senate Conferees

ⁱ <https://www.congress.gov/116/bills/s4049/BILLS-116s4049es.pdf>

ⁱⁱ <https://www.congress.gov/116/bills/hr6395/BILLS-116hr6395pcs.pdf>

ⁱⁱⁱ [https://bluestarfam.org/wp-content/uploads/2020/06/200608_COVID-19 Pain Points Poll Results one-pager wk10.pdf](https://bluestarfam.org/wp-content/uploads/2020/06/200608_COVID-19_Pain_Points_Poll_Results_one-pager_wk10.pdf)

^{iv} <https://thepromiseact.org/current-experiences/military-special-education-2020-survey-results/>

^v <https://www.gao.gov/products/GAO-20-400T>

^{vi} <https://thepromiseact.org/2020/02/military-spouses-take-efmp-concerns-to-congress/>