

1 **Interstate Compact on Educational**
2 **Opportunity for Military Children**

3
4 **ARTICLE I**

5 **PURPOSE**

6
7 It is the purpose of this compact to remove barriers to educational success
8 imposed on children of military families because of frequent moves and
9 deployment of their parents by:

- 10
- 11 A. Facilitating the timely enrollment of children of military families and
12 ensuring that they are not placed at a disadvantage due to difficulty in
13 the transfer of education records from the previous school district(s) or
14 variations in entrance/age requirements.

 - 15
 - 16 B. Facilitating the student placement process through which children of
17 military families are not disadvantaged by variations in attendance
18 requirements, scheduling, sequencing, grading, course content or
19 assessment.

 - 20
 - 21 C. Facilitating the qualification and eligibility for enrollment, educational
22 programs, and participation in extracurricular academic, athletic, and
23 social activities.

24

- 1 D. Facilitating the on-time graduation of children of military families.
- 2
- 3 E. Providing for the promulgation and enforcement of administrative rules
- 4 implementing the provisions of this compact.
- 5
- 6 F. Providing for the uniform collection and sharing of information between
- 7 and among member states, schools and military families under this
- 8 compact.
- 9
- 10 G. Promoting coordination between this compact and other compacts
- 11 affecting military children.
- 12
- 13 H. Promoting flexibility and cooperation between the educational system,
- 14 parents and the student in order to achieve educational success for the
- 15 student.
- 16

1 **ARTICLE II**

2 **DEFINITIONS**

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4 As used in this compact, unless the context clearly requires a different
5 construction:

6
7 A. "Active duty" means: full-time duty status in the active uniformed
8 service of the United States, including members of the National Guard
9 and Reserve on active duty orders pursuant to 10 U.S.C. Section 1209
10 and 1211.

11
12 B. "Children of military families" means: a school-aged child(ren), enrolled
13 in Kindergarten through Twelfth (12th) grade, in the household of an
14 active duty member.

15
16 C. "Compact commissioner" means: the voting representative of each
17 compacting state appointed pursuant to Article VIII of this compact.

18
19 D. "Deployment" means: the period one (1) month prior to the service
20 members' departure from their home station on military orders though
21 six (6) months after return to their home station.

22
23 E. "Education(al) records" means: those official records, files, and data
24 directly related to a student and maintained by the school or local
25 education agency, including but not limited to records encompassing

1 all the material kept in the student's cumulative folder such as general
2 identifying data, records of attendance and of academic work
3 completed, records of achievement and results of evaluative tests,
4 health data, disciplinary status, test protocols, and individualized
5 education programs.

6
7 F. "Extracurricular activities" means: a voluntary activity sponsored by
8 the school or local education agency or an organization sanctioned by
9 the local education agency. Extracurricular activities include, but are
10 not limited to, preparation for and involvement in public performances,
11 contests, athletic competitions, demonstrations, displays, and club
12 activities.

13
14 G. "Interstate Commission on Educational Opportunity for Military
15 Children" means: the commission that is created under Article IX of
16 this compact, which is generally referred to as Interstate Commission.

17
18 H. "Local education agency" means: a public authority legally constituted
19 by the state as an administrative agency to provide control of and
20 direction for Kindergarten through Twelfth (12th) grade public
21 educational institutions.

22
23 I. "Member state" means: a state that has enacted this compact.
24

1 J. "Military installation" means: means a base, camp, post, station, yard,
2 center, homeport facility for any ship, or other activity under the
3 jurisdiction of the Department of Defense, including any leased facility,
4 which is located within any of the several States, the District of
5 Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands,
6 Guam, American Samoa, the Northern Marianas Islands and any other
7 U.S. Territory. Such term does not include any facility used primarily
8 for civil works, rivers and harbors projects, or flood control projects.

9
10 K. "Non-member state" means: a state that has not enacted this compact.

11
12 L. "Receiving state" means: the state to which a child of a military family
13 is sent, brought, or caused to be sent or brought.

14
15 M. "Rule" means: a written statement by the Interstate Commission
16 promulgated pursuant to Article XII of this compact that is of general
17 applicability, implements, interprets or prescribes a policy or provision
18 of the Compact, or an organizational, procedural, or practice
19 requirement of the Interstate Commission, and has the force and effect
20 of statutory law in a member state, and includes the amendment,
21 repeal, or suspension of an existing rule.

22
23 N. "Sending state" means: the state from which a child of a military family
24 is sent, brought, or caused to be sent or brought.

25

- 1 O. "State" means: a state of the United States, the District of Columbia,
2 the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam,
3 American Samoa, the Northern Marianas Islands and any other U.S.
4 Territory.
- 5
- 6 P. "Student" means: the child of a military family for whom the local
7 education agency receives public funding and who is formally enrolled
8 in Kindergarten through Twelfth (12th) grade.
- 9
- 10 Q. "Transition" means: 1) the formal and physical process of transferring
11 from school to school or 2) the period of time in which a student moves
12 from one school in the sending state to another school in the receiving
13 state.
- 14
- 15 R. "Uniformed service(s)" means: the Army, Navy, Air Force, Marine Corps,
16 Coast Guard as well as the Commissioned Corps of the National
17 Oceanic and Atmospheric Administration, and Public Health Services.
- 18
- 19 S. "Veteran" means: a person who served in the uniformed services and
20 who was discharged or released there from under conditions other than
21 dishonorable.
- 22

1 **ARTICLE III**

2 **APPLICABILITY**

3
4 A. Except as otherwise provided in Section B, this compact shall apply to
5 the children of:

6 1. active duty members of the uniformed services as defined in
7 this compact, including members of the National Guard and
8 Reserve on active duty orders pursuant to 10 U.S.C. Section
9 1209 and 1211;

10 2. members or veterans of the uniformed services who are severely
11 injured and medically discharged or retired for a period of one
12 (1) year after medical discharge or retirement; and

13 3. members of the uniformed services who die on active duty or as
14 a result of injuries sustained on active duty for a period of one
15 (1) year after death.

16
17 B. The provisions of this interstate compact shall only apply to local
18 education agencies as defined in this compact.

19
20 C. The provisions of this compact shall not apply to the children of:

21 1. inactive members of the national guard and military reserves;

22 2. members of the uniformed services now retired, except as
23 provided in Section A;

24 3. veterans of the uniformed services, except as provided in
25 Section A; and

1 within such time as is reasonably determined under the rules
2 promulgated by the Interstate Commission.

3
4 C. Immunizations – Compacting states shall give thirty (30) days from the
5 date of enrollment or within such time as is reasonably determined
6 under the rules promulgated by the Interstate Commission, for
7 students to obtain any immunization(s) required by the receiving state.
8 For a series of immunizations, initial vaccinations must be obtained
9 within thirty (30) days or within such time as is reasonably determined
10 under the rules promulgated by the Interstate Commission.

11
12 D. Kindergarten and First grade entrance age – Students shall be allowed
13 to continue their enrollment at grade level in the receiving state
14 commensurate with their grade level (including Kindergarten) from a
15 local education agency in the sending state at the time of transition,
16 regardless of age. A student that has satisfactorily completed the
17 prerequisite grade level in the local education agency in the sending
18 state shall be eligible for enrollment in the next highest grade level in
19 the receiving state, regardless of age. A student transferring after the
20 start of the school year in the receiving state shall enter the school in
21 the receiving state on their validated level from an accredited school in
22 the sending state.

1 **ARTICLE V**

2 **PLACEMENT & ATTENDANCE**

3
4 A. Course placement - When the student transfers before or during the
5 school year, the receiving state school shall initially honor placement of
6 the student in educational courses based on the student's enrollment in
7 the sending state school and/or educational assessments conducted at
8 the school in the sending state if the courses are offered. Course
9 placement includes but is not limited to Honors, International
10 Baccalaureate, Advanced Placement, vocational, technical and career
11 pathways courses. Continuing the student's academic program from the
12 previous school and promoting placement in academically and career
13 challenging courses should be paramount when considering placement.
14 This does not preclude the school in the receiving state from performing
15 subsequent evaluations to ensure appropriate placement and continued
16 enrollment of the student in the course(s).

17
18 B. Educational program placement – The receiving state school shall initially
19 honor placement of the student in educational programs based on current
20 educational assessments conducted at the school in the sending state or
21 participation/placement in like programs in the sending state. Such
22 programs include, but are not limited to: 1) gifted and talented programs;
23 and 2) English as a second language (ESL). This does not preclude the
24 school in the receiving state from performing subsequent evaluations to
25 ensure appropriate placement of the student.

1 C. Special education services – 1) In compliance with the federal
2 requirements of the Individuals with Disabilities Education Act (IDEA),
3 20 U.S.C.A. Section 1400 et seq, the receiving state shall initially provide
4 comparable services to a student with disabilities based on his/her
5 current Individualized Education Program (IEP); and 2) In compliance
6 with the requirements of Section 504 of the Rehabilitation Act, 29
7 U.S.C.A. Section 794, and with Title II of the Americans with Disabilities
8 Act, 42 U.S.C.A. Sections 12131-12165, the receiving state shall make
9 reasonable accommodations and modifications to address the needs of
10 incoming students with disabilities, subject to an existing 504 or Title II
11 Plan, to provide the student with equal access to education. This does
12 not preclude the school in the receiving state from performing
13 subsequent evaluations to ensure appropriate placement of the student.

14
15 D. Placement flexibility – Local education agency administrative officials shall
16 have flexibility in waiving course/program prerequisites, or other
17 preconditions for placement in courses/programs offered under the
18 jurisdiction of the local education agency.

19
20 E. Absence as related to deployment activities – A student whose parent or
21 legal guardian is an active duty member of the uniformed services, as
22 defined by the compact, and has been called to duty for, is on leave from,
23 or immediately returned from deployment to a combat zone or combat
24 support posting, shall be granted additional excused absences at the
25 discretion of the local education agency superintendent to visit with his

1 or her parent or legal guardian relative to such leave or deployment of
2 the parent or guardian.

3
4 **ARTICLE VI**

5 **ELIGIBILITY**

6
7 A. Eligibility for enrollment

8 1. Special power of attorney, relative to the guardianship of a
9 child of a military family and executed under applicable law
10 shall be sufficient for the purposes of enrollment and all other
11 actions requiring parental participation and consent.

12 2. A local education agency shall be prohibited from charging
13 local tuition to a transitioning military child placed in the care
14 of a non-custodial parent or other person standing in loco
15 parentis who lives in a jurisdiction other than that of the
16 custodial parent.

17 3. A transitioning military child, placed in the care of a non-
18 custodial parent or other person standing in loco parentis who
19 lives in a jurisdiction other than that of the custodial parent,
20 may continue to attend the school in which he/she was
21 enrolled while residing with the custodial parent.

22
23 B. Eligibility for extracurricular participation - State and local education
24 agencies shall facilitate the opportunity for transitioning military

1 children's inclusion in extracurricular activities, regardless of
2 application deadlines, to the extent they are otherwise qualified.

3
4 **ARTICLE VII**

5 **GRADUATION**

6
7 In order to facilitate the on-time graduation of children of military families states
8 and local education agencies shall incorporate the following procedures:

9
10 A. Waiver requirements – Local education agency administrative officials
11 shall waive specific courses required for graduation if similar course
12 work has been satisfactorily completed in another local education
13 agency or shall provide reasonable justification for denial. Should a
14 waiver not be granted to a student who would qualify to graduate from
15 the sending school, the local education agency shall provide an
16 alternative means of acquiring required coursework so that graduation
17 may occur on time.

18
19 B. Exit exams - States shall accept: 1) exit or end-of-course exams
20 required for graduation from the sending state; or 2) national norm-
21 referenced achievement tests or 3) alternative testing, in lieu of testing
22 requirements for graduation in the receiving state. In the event the
23 above alternatives cannot be accommodated by the receiving state for a
24 student transferring in his or her Senior year, then the provisions of
25 Article VII, Section C shall apply.

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C. Transfers during Senior year – Should a military student transferring at the beginning or during his or her Senior year be ineligible to graduate from the receiving local education agency after all alternatives have been considered, the sending and receiving local education agencies shall ensure the receipt of a diploma from the sending local education agency, if the student meets the graduation requirements of the sending local education agency. In the event that one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with Sections A and B of this Article.

ARTICLE VIII

STATE COORDINATION

A. Each member state shall, through the creation of a State Council or use of an existing body or board, provide for the coordination among its agencies of government, local education agencies and military installations concerning the state’s participation in, and compliance with, this compact and Interstate Commission activities. While each member state may determine the membership of its own State Council, its membership must include at least: the state superintendent of education, superintendent of a school district with a high concentration of military children, representative from a military installation, one representative each from the legislative and executive branches of

1 government, and other offices and stakeholder groups the State Council
2 deems appropriate. A member state that does not have a school district
3 deemed to contain a high concentration of military children may appoint
4 a superintendent from another school district to represent local
5 education agencies on the State Council.

6
7 B. The State Council of each member state shall appoint or designate a
8 military family education liaison to assist military families and the state
9 in facilitating the implementation of this compact.

10
11 C. The compact commissioner responsible for the administration and
12 management of the state's participation in the compact shall be
13 appointed by the Governor or as otherwise determined by each member
14 state.

15
16 D. The compact commissioner and the military family education liaison
17 designated herein shall be ex-officio members of the State Council,
18 unless either is already a full voting member of the State Council.

19
20 **ARTICLE IX**

21 **INTERSTATE COMMISSION ON EDUCATIONAL**

22 **OPPORTUNITY FOR MILITARY CHILDREN**

23
24 The member states hereby create the “Interstate Commission on Educational
25 Opportunity for Military Children.” The activities of the Interstate Commission

1 are the formation of public policy and are a discretionary state function. The
2 Interstate Commission shall:

3

4 A. Be a body corporate and joint agency of the member states and shall
5 have all the responsibilities, powers and duties set forth herein, and
6 such additional powers as may be conferred upon it by a subsequent
7 concurrent action of the respective legislatures of the member states in
8 accordance with the terms of this compact.

9

10 B. Consist of one Interstate Commission voting representative from each
11 member state who shall be that state's compact commissioner.

12 1. Each member state represented at a meeting of the Interstate
13 Commission is entitled to one vote.

14 2. A majority of the total member states shall constitute a
15 quorum for the transaction of business, unless a larger
16 quorum is required by the bylaws of the Interstate
17 Commission.

18 3. A representative shall not delegate a vote to another member
19 state. In the event the compact commissioner is unable to
20 attend a meeting of the Interstate Commission, the Governor
21 or State Council may delegate voting authority to another
22 person from their state for a specified meeting.

23 4. The bylaws may provide for meetings of the Interstate
24 Commission to be conducted by telecommunication or
25 electronic communication.

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C. Consist of ex-officio, non-voting representatives who are members of interested organizations. Such ex-officio members, as defined in the bylaws, may include but not be limited to, members of the representative organizations of military family advocates, local education agency officials, parent and teacher groups, the U.S. Department of Defense, the Education Commission of the States, the Interstate Agreement on the Qualification of Educational Personnel and other interstate compacts affecting the education of children of military members.

D. Meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.

E. Establish an executive committee, whose members shall include the officers of the Interstate Commission and such other members of the Interstate Commission as determined by the bylaws. Members of the executive committee shall serve a one year term. Members of the executive committee shall be entitled to one vote each. The executive committee shall have the power to act on behalf of the Interstate Commission, with the exception of rulemaking, during periods when the Interstate Commission is not in session. The executive committee shall oversee the day-to-day activities of the administration of the compact including enforcement and compliance with the provisions of

1 the compact, its bylaws and rules, and other such duties as deemed
2 necessary. The U.S. Dept. of Defense, shall serve as an ex-officio,
3 nonvoting member of the executive committee.

4
5 F. Establish bylaws and rules that provide for conditions and procedures
6 under which the Interstate Commission shall make its information and
7 official records available to the public for inspection or copying. The
8 Interstate Commission may exempt from disclosure information or
9 official records to the extent they would adversely affect personal
10 privacy rights or proprietary interests.

11
12 G. Give public notice of all meetings and all meetings shall be open to the
13 public, except as set forth in the rules or as otherwise provided in the
14 compact. The Interstate Commission and its committees may close a
15 meeting, or portion thereof, where it determines by two-thirds vote that
16 an open meeting would be likely to:

- 17 1. Relate solely to the Interstate Commission's internal personnel
18 practices and procedures;
- 19 2. Disclose matters specifically exempted from disclosure by
20 federal and state statute;
- 21 3. Disclose trade secrets or commercial or financial information
22 which is privileged or confidential;
- 23 4. Involve accusing a person of a crime, or formally censuring a
24 person;

- 1 5. Disclose information of a personal nature where disclosure
- 2 would constitute a clearly unwarranted invasion of personal
- 3 privacy;
- 4 6. Disclose investigative records compiled for law enforcement
- 5 purposes; or
- 6 7. Specifically relate to the Interstate Commission's participation
- 7 in a civil action or other legal proceeding.

8

9 H. Shall cause its legal counsel or designee to certify that a meeting may

10 be closed and shall reference each relevant exemptible provision for any

11 meeting, or portion of a meeting, which is closed pursuant to this

12 provision. The Interstate Commission shall keep minutes which shall

13 fully and clearly describe all matters discussed in a meeting and shall

14 provide a full and accurate summary of actions taken, and the reasons

15 therefore, including a description of the views expressed and the record

16 of a roll call vote. All documents considered in connection with an

17 action shall be identified in such minutes. All minutes and documents

18 of a closed meeting shall remain under seal, subject to release by a

19 majority vote of the Interstate Commission.

20

21 I. Shall collect standardized data concerning the educational transition of

22 the children of military families under this compact as directed through

23 its rules which shall specify the data to be collected, the means of

24 collection and data exchange and reporting requirements. Such

25 methods of data collection, exchange and reporting shall, in so far as is

1 reasonably possible, conform to current technology and coordinate its
2 information functions with the appropriate custodian of records as
3 identified in the bylaws and rules.

4
5 J. Shall create a process that permits military officials, education officials
6 and parents to inform the Interstate Commission if and when there are
7 alleged violations of the compact or its rules or when issues subject to
8 the jurisdiction of the compact or its rules are not addressed by the
9 state or local education agency. This section shall not be construed to
10 create a private right of action against the Interstate Commission or
11 any member state.

12
13 **ARTICLE X**

14 **POWERS AND DUTIES OF THE INTERSTATE COMMISSION**

15
16 The Interstate Commission shall have the following powers:

17
18 A. To provide for dispute resolution among member states.

19
20 B. To promulgate rules and take all necessary actions to effect the goals,
21 purposes and obligations as enumerated in this compact. The rules
22 shall have the force and effect of statutory law and shall be binding in
23 the compact states to the extent and in the manner provided in this
24 compact.

- 1 C. To issue, upon request of a member state, advisory opinions concerning
2 the meaning or interpretation of the interstate compact, its bylaws,
3 rules and actions.
4
- 5 D. To enforce compliance with the compact provisions, the rules
6 promulgated by the Interstate Commission, and the bylaws, using all
7 necessary and proper means, including but not limited to the use of
8 judicial process.
9
- 10 E. To establish and maintain offices which shall be located within one or
11 more of the member states.
12
- 13 F. To purchase and maintain insurance and bonds.
14
- 15 G. To borrow, accept, hire or contract for services of personnel.
16
- 17 H. To establish and appoint committees including, but not limited to, an
18 executive committee as required by Article IX, Section E, which shall
19 have the power to act on behalf of the Interstate Commission in
20 carrying out its powers and duties hereunder.
21
- 22 I. To elect or appoint such officers, attorneys, employees, agents, or
23 consultants, and to fix their compensation, define their duties and
24 determine their qualifications; and to establish the Interstate

1 Commission's personnel policies and programs relating to conflicts of
2 interest, rates of compensation, and qualifications of personnel.

3
4 J. To accept any and all donations and grants of money, equipment,
5 supplies, materials, and services, and to receive, utilize, and dispose of
6 it.

7
8 K. To lease, purchase, accept contributions or donations of, or otherwise
9 to own, hold, improve or use any property, real, personal, or mixed.

10
11 L. To sell, convey, mortgage, pledge, lease, exchange, abandon, or
12 otherwise dispose of any property, real, personal or mixed.

13
14 M. To establish a budget and make expenditures.

15
16 N. To adopt a seal and bylaws governing the management and operation of
17 the Interstate Commission.

18
19 O. To report annually to the legislatures, governors, judiciary, and state
20 councils of the member states concerning the activities of the Interstate
21 Commission during the preceding year. Such reports shall also include
22 any recommendations that may have been adopted by the Interstate
23 Commission.

24

1 P. To coordinate education, training and public awareness regarding the
2 compact, its implementation and operation for officials and parents
3 involved in such activity.

4
5 Q. To establish uniform standards for the reporting, collecting and
6 exchanging of data.

7
8 R. To maintain corporate books and records in accordance with the
9 bylaws.

10
11 S. To perform such functions as may be necessary or appropriate to
12 achieve the purposes of this compact.

13
14 T. To provide for the uniform collection and sharing of information
15 between and among member states, schools and military families under
16 this compact.

17
18 **ARTICLE XI**

19 **ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION**

20
21 A. The Interstate Commission shall, by a majority of the members present
22 and voting, within 12 months after the first Interstate Commission
23 meeting, adopt bylaws to govern its conduct as may be necessary or
24 appropriate to carry out the purposes of the compact, including, but
25 not limited to:

- 1 1. Establishing the fiscal year of the Interstate Commission;
- 2 2. Establishing an executive committee, and such other
- 3 committees as may be necessary;
- 4 3. Providing for the establishment of committees and for
- 5 governing any general or specific delegation of authority or
- 6 function of the Interstate Commission;
- 7 4. Providing reasonable procedures for calling and conducting
- 8 meetings of the Interstate Commission, and ensuring
- 9 reasonable notice of each such meeting;
- 10 5. Establishing the titles and responsibilities of the officers and
- 11 staff of the Interstate Commission;
- 12 6. Providing a mechanism for concluding the operations of the
- 13 Interstate Commission and the return of surplus funds that
- 14 may exist upon the termination of the compact after the
- 15 payment and reserving of all of its debts and obligations.
- 16 7. Providing "start up" rules for initial administration of the
- 17 compact.

18

19 B. The Interstate Commission shall, by a majority of the members, elect

20 annually from among its members a chairperson, a vice-chairperson,

21 and a treasurer, each of whom shall have such authority and duties as

22 may be specified in the bylaws. The chairperson or, in the

23 chairperson's absence or disability, the vice-chairperson, shall preside

24 at all meetings of the Interstate Commission. The officers so elected

25 shall serve without compensation or remuneration from the Interstate

1 Commission; provided that, subject to the availability of budgeted
2 funds, the officers shall be reimbursed for ordinary and necessary costs
3 and expenses incurred by them in the performance of their
4 responsibilities as officers of the Interstate Commission.

5
6 C. Executive Committee, Officers and Personnel

7 1. The executive committee shall have such authority and duties
8 as may be set forth in the bylaws, including but not limited
9 to:

10 a. Managing the affairs of the Interstate Commission in
11 a manner consistent with the bylaws and purposes of
12 the Interstate Commission;

13 b. Overseeing an organizational structure within, and
14 appropriate procedures for the Interstate
15 Commission to provide for the creation of rules,
16 operating procedures, and administrative and
17 technical support functions; and

18 c. Planning, implementing, and coordinating
19 communications and activities with other state,
20 federal and local government organizations in order
21 to advance the goals of the Interstate Commission.

22
23 3. The executive committee may, subject to the approval of the
24 Interstate Commission, appoint or retain an executive director
25 for such period, upon such terms and conditions and for such

1 compensation, as the Interstate Commission may deem
2 appropriate. The executive director shall serve as secretary to
3 the Interstate Commission, but shall not be a Member of the
4 Interstate Commission. The executive director shall hire and
5 supervise such other persons as may be authorized by the
6 Interstate Commission.

7
8 D. The Interstate Commission's executive director and its employees shall
9 be immune from suit and liability, either personally or in their official
10 capacity, for a claim for damage to or loss of property or personal injury
11 or other civil liability caused or arising out of or relating to an actual or
12 alleged act, error, or omission that occurred, or that such person had a
13 reasonable basis for believing occurred, within the scope of Interstate
14 Commission employment, duties, or responsibilities; provided, that
15 such person shall not be protected from suit or liability for damage,
16 loss, injury, or liability caused by the intentional or willful and wanton
17 misconduct of such person.

18
19 1. The liability of the Interstate Commission's executive director
20 and employees or Interstate Commission representatives,
21 acting within the scope of such person's employment or duties
22 for acts, errors, or omissions occurring within such person's
23 state may not exceed the limits of liability set forth under the
24 Constitution and laws of that state for state officials,
25 employees, and agents. The Interstate Commission is

1 considered to be an instrumentality of the states for the
2 purposes of any such action. Nothing in this subsection shall
3 be construed to protect such person from suit or liability for
4 damage, loss, injury, or liability caused by the intentional or
5 willful and wanton misconduct of such person.

6 2. The Interstate Commission shall defend the executive director
7 and its employees and, subject to the approval of the Attorney
8 General or other appropriate legal counsel of the member state
9 represented by an Interstate Commission representative, shall
10 defend such Interstate Commission representative in any civil
11 action seeking to impose liability arising out of an actual or
12 alleged act, error or omission that occurred within the scope of
13 Interstate Commission employment, duties or responsibilities,
14 or that the defendant had a reasonable basis for believing
15 occurred within the scope of Interstate Commission
16 employment, duties, or responsibilities, provided that the
17 actual or alleged act, error, or omission did not result from
18 intentional or willful and wanton misconduct on the part of
19 such person.

20 3. To the extent not covered by the state involved, member state,
21 or the Interstate Commission, the representatives or
22 employees of the Interstate Commission shall be held
23 harmless in the amount of a settlement or judgment,
24 including attorney's fees and costs, obtained against such
25 persons arising out of an actual or alleged act, error, or

1 omission that occurred within the scope of Interstate
2 Commission employment, duties, or responsibilities, or that
3 such persons had a reasonable basis for believing occurred
4 within the scope of Interstate Commission employment,
5 duties, or responsibilities, provided that the actual or alleged
6 act, error, or omission did not result from intentional or willful
7 and wanton misconduct on the part of such persons.

8 **ARTICLE XII**

9 **RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION**

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11
12 A. Rulemaking Authority - The Interstate Commission shall promulgate
13 reasonable rules in order to effectively and efficiently achieve the
14 purposes of this Compact. Notwithstanding the foregoing, in the
15 event the Interstate Commission exercises its rulemaking authority in
16 a manner that is beyond the scope of the purposes of this Act, or the
17 powers granted hereunder, then such an action by the Interstate
18 Commission shall be invalid and have no force or effect.

19
20 B. Rulemaking Procedure - Rules shall be made pursuant to a
21 rulemaking process that substantially conforms to the "Model State
22 Administrative Procedure Act," of 1981 Act, Uniform Laws Annotated,
23 Vol. 15, p.1 (2000) as amended, as may be appropriate to the
24 operations of the Interstate Commission.

1 C. Not later than thirty (30) days after a rule is promulgated, any person
2 may file a petition for judicial review of the rule; provided, that the
3 filing of such a petition shall not stay or otherwise prevent the rule
4 from becoming effective unless the court finds that the petitioner has
5 a substantial likelihood of success. The court shall give deference to
6 the actions of the Interstate Commission consistent with applicable
7 law and shall not find the rule to be unlawful if the rule represents a
8 reasonable exercise of the Interstate Commission's authority.

9
10 D. If a majority of the legislatures of the compacting states rejects a Rule
11 by enactment of a statute or resolution in the same manner used to
12 adopt the compact, then such rule shall have no further force and effect
13 in any compacting state.

14
15 **ARTICLE XIII**

16 **OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION**

17
18 A. Oversight

19 1. The executive, legislative and judicial branches of state
20 government in each member state shall enforce this compact
21 and shall take all actions necessary and appropriate to
22 effectuate the compact's purposes and intent. The provisions
23 of this compact and the rules promulgated hereunder shall
24 have standing as statutory law.

1 2. All courts shall take judicial notice of the compact and the
2 rules in any judicial or administrative proceeding in a member
3 state pertaining to the subject matter of this compact which
4 may affect the powers, responsibilities or actions of the
5 Interstate Commission.

6 3. The Interstate Commission shall be entitled to receive all
7 service of process in any such proceeding, and shall have
8 standing to intervene in the proceeding for all purposes.
9 Failure to provide service of process to the Interstate
10 Commission shall render a judgment or order void as to the
11 Interstate Commission, this compact or promulgated rules.

12
13 B. Default, Technical Assistance, Suspension and Termination - If the
14 Interstate Commission determines that a member state has defaulted
15 in the performance of its obligations or responsibilities under this
16 compact, or the bylaws or promulgated rules, the Interstate
17 Commission shall:

- 18 1. Provide written notice to the defaulting state and other
19 member states, of the nature of the default, the means of
20 curing the default and any action taken by the Interstate
21 Commission. The Interstate Commission shall specify the
22 conditions by which the defaulting state must cure its default.
- 23 2. Provide remedial training and specific technical assistance
24 regarding the default.

- 1 3. If the defaulting state fails to cure the default, the defaulting
2 state shall be terminated from the compact upon an
3 affirmative vote of a majority of the member states and all
4 rights, privileges and benefits conferred by this compact shall
5 be terminated from the effective date of termination. A cure of
6 the default does not relieve the offending state of obligations or
7 liabilities incurred during the period of the default.
- 8 4. Suspension or termination of membership in the compact
9 shall be imposed only after all other means of securing
10 compliance have been exhausted. Notice of intent to suspend
11 or terminate shall be given by the Interstate Commission to
12 the Governor, the majority and minority leaders of the
13 defaulting state's legislature, and each of the member states.
- 14 5. The state which has been suspended or terminated is
15 responsible for all assessments, obligations and liabilities
16 incurred through the effective date of suspension or
17 termination including obligations, the performance of which
18 extends beyond the effective date of suspension or
19 termination.
- 20 6. The Interstate Commission shall not bear any costs relating to
21 any state that has been found to be in default or which has
22 been suspended or terminated from the compact, unless
23 otherwise mutually agreed upon in writing between the
24 Interstate Commission and the defaulting state.

1 7. The defaulting state may appeal the action of the Interstate
2 Commission by petitioning the U.S. District Court for the
3 District of Columbia or the federal district where the Interstate
4 Commission has its principal offices. The prevailing party
5 shall be awarded all costs of such litigation including
6 reasonable attorney's fees.

7
8 C. Dispute Resolution

9 1. The Interstate Commission shall attempt, upon the request of
10 a member state, to resolve disputes which are subject to the
11 compact and which may arise among member states and
12 between member and non-member states.

13 2. The Interstate Commission shall promulgate a rule providing
14 for both mediation and binding dispute resolution for disputes
15 as appropriate.

16
17 D. Enforcement

18 1. The Interstate Commission, in the reasonable exercise of its
19 discretion, shall enforce the provisions and rules of this
20 compact.

21 2. The Interstate Commission, may by majority vote of the
22 members, initiate legal action in the United State District
23 Court for the District of Columbia or, at the discretion of the
24 Interstate Commission, in the federal district where the
25 Interstate Commission has its principal offices, to enforce

1 compliance with the provisions of the compact, its
2 promulgated rules and bylaws, against a member state in
3 default. The relief sought may include both injunctive relief
4 and damages. In the event judicial enforcement is necessary
5 the prevailing party shall be awarded all costs of such
6 litigation including reasonable attorney's fees.

- 7 3. The remedies herein shall not be the exclusive remedies of the
8 Interstate Commission. The Interstate Commission may avail
9 itself of any other remedies available under state law or the
10 regulation of a profession.

11
12 **ARTICLE XIV**

13 **FINANCING OF THE INTERSTATE COMMISSION**

- 14
15 A. The Interstate Commission shall pay, or provide for the payment of the
16 reasonable expenses of its establishment, organization and ongoing
17 activities.
- 18
19 B. The Interstate Commission may levy on and collect an annual
20 assessment from each member state to cover the cost of the operations
21 and activities of the Interstate Commission and its staff which must be
22 in a total amount sufficient to cover the Interstate Commission's
23 annual budget as approved each year. The aggregate annual
24 assessment amount shall be allocated based upon a formula to be

1 determined by the Interstate Commission, which shall promulgate a
2 rule binding upon all member states.

3
4 C. The Interstate Commission shall not incur obligations of any kind prior
5 to securing the funds adequate to meet the same; nor shall the
6 Interstate Commission pledge the credit of any of the member states,
7 except by and with the authority of the member state.

8
9 D. The Interstate Commission shall keep accurate accounts of all receipts
10 and disbursements. The receipts and disbursements of the Interstate
11 Commission shall be subject to the audit and accounting procedures
12 established under its bylaws. However, all receipts and disbursements
13 of funds handled by the Interstate Commission shall be audited yearly
14 by a certified or licensed public accountant and the report of the audit
15 shall be included in and become part of the annual report of the
16 Interstate Commission.

17
18 **ARTICLE XV**

19 **MEMBER STATES, EFFECTIVE DATE AND AMENDMENT**

20
21 A. Any state is eligible to become a member state.

22
23 B. The compact shall become effective and binding upon legislative
24 enactment of the compact into law by no less than ten (10) of the
25 states. The effective date shall be no earlier than December 1, 2007.

1 withdrawing state to the Governor of each other member
2 jurisdiction.

3 3. The withdrawing state shall immediately notify the
4 chairperson of the Interstate Commission in writing upon the
5 introduction of legislation repealing this compact in the
6 withdrawing state. The Interstate Commission shall notify the
7 other member states of the withdrawing state's intent to
8 withdraw within sixty (60) days of its receipt thereof.

9 4. The withdrawing state is responsible for all assessments,
10 obligations and liabilities incurred through the effective date of
11 withdrawal, including obligations, the performance of which
12 extend beyond the effective date of withdrawal.

13 5. Reinstatement following withdrawal of a member state shall
14 occur upon the withdrawing state reenacting the compact or
15 upon such later date as determined by the Interstate
16 Commission.

17
18 B. Dissolution of Compact

19 1. This compact shall dissolve effective upon the date of the
20 withdrawal or default of the member state which reduces the
21 membership in the compact to one (1) member state.

22 2. Upon the dissolution of this compact, the compact becomes
23 null and void and shall be of no further force or effect, and the
24 business and affairs of the Interstate Commission shall be

1 concluded and surplus funds shall be distributed in
2 accordance with the bylaws.

3
4 **ARTICLE XVII**

5 **SEVERABILITY AND CONSTRUCTION**

6
7 A. The provisions of this compact shall be severable, and if any phrase,
8 clause, sentence or provision is deemed unenforceable, the remaining
9 provisions of the compact shall be enforceable.

10
11 B. The provisions of this compact shall be liberally construed to effectuate
12 its purposes.

13
14 C. Nothing in this compact shall be construed to prohibit the applicability
15 of other interstate compacts to which the states are members.

16
17 **ARTICLE XVIII**

18 **BINDING EFFECT OF COMPACT AND OTHER LAWS**

19
20 A. Other Laws

21 1. Nothing herein prevents the enforcement of any other law of a
22 member state that is not inconsistent with this compact.

23 2. All member states' laws conflicting with this compact are
24 superseded to the extent of the conflict.

1 B. Binding Effect of the Compact

2 1. All lawful actions of the Interstate Commission, including all
3 rules and bylaws promulgated by the Interstate Commission,
4 are binding upon the member states.

5 2. All agreements between the Interstate Commission and the
6 member states are binding in accordance with their terms.

7 3. In the event any provision of this compact exceeds the
8 constitutional limits imposed on the legislature of any member
9 state, such provision shall be ineffective to the extent of the
10 conflict with the constitutional provision in question in that
11 member state.