
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2566 Session of
2008

INTRODUCED BY MURT, COHEN, FAIRCHILD, MELIO, DeWEESE, ARGALL, BARRAR, BASTIAN, BEAR, BENNINGHOFF, BEYER, CALTAGIRONE, CAPPELLI, CAUSER, CIVERA, CLYMER, DENLINGER, DePASQUALE, DIGIROLAMO, EVERETT, FREEMAN, GABIG, GEORGE, GINGRICH, GODSHALL, GOODMAN, GRUCELA, HARPER, HARRIS, HENNESSEY, HESS, HORNAMAN, HUTCHINSON, JAMES, KORTZ, KULA, LENTZ, MAHER, MANTZ, MARSICO, McGEEHAN, McILVAINE SMITH, MENSCH, METCALFE, MICOZZIE, R. MILLER, MILNE, MOUL, MOYER, MUNDY, MYERS, NAILOR, O'NEILL, PAYNE, PETRI, PETRONE, PHILLIPS, QUIGLEY, RAPP, READSHAW, REICHLEY, ROCK, SAYLOR, SIPTROTH, K. SMITH, STERN, SWANGER, TANGRETTI, J. TAYLOR, TURZAI, WATSON, WHEATLEY, WOJNAROSKI AND YOUNGBLOOD, MAY 27, 2008

REFERRED TO COMMITTEE ON VETERANS AFFAIRS AND EMERGENCY
PREPAREDNESS, MAY 27, 2008

AN ACT

1 Authorizing the Commonwealth of Pennsylvania to join the
2 Interstate Compact on Educational Opportunity for Military
3 Children; providing for the form of the compact; imposing
4 additional powers and duties on the Governor, the Secretary
5 of the Commonwealth and the compact administrator; and
6 establishing the State Council on Interstate Educational
7 Opportunity for Military Children.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Short title.

11 This act shall be known and may be cited as the Interstate
12 Compact on Educational Opportunity for Military Children Act.

13 Section 2. Authority to execute compact.

14 The Governor of Pennsylvania, on behalf of this State, is
15 hereby authorized to execute a compact in substantially the

1 following form with any one or more of the states of the United
2 States, and the General Assembly hereby signifies in advance its
3 approval and ratification of such compact:

4 Interstate Compact on Educational Opportunity
5 for Military Children

6 ARTICLE I

7 PURPOSE

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

- 11 A. Facilitating the timely enrollment of children of
12 military families and ensuring that they are not placed
13 at a disadvantage due to difficulty in the transfer of
14 education records from the previous school district(s) or
15 variations in entrance/age requirements.
- 16 B. Facilitating the student placement process through which
17 children of military families are not disadvantaged by
18 variations in attendance requirements, scheduling,
19 sequencing, grading, course content or assessment.
- 20 C. Facilitating the qualification and eligibility for
21 enrollment, educational programs, and participation in
22 extracurricular academic, athletic, and social
23 activities.
- 24 D. Facilitating the on-time graduation of children of
25 military families.
- 26 E. Providing for the promulgation and enforcement of
27 administrative rules implementing the provisions of this
28 compact.
- 29 F. Providing for the uniform collection and sharing of
30 information between and among member states, schools and

1 military families under this compact.

2 G. Promoting coordination between this compact and other
3 compacts affecting military children.

4 H. Promoting flexibility and cooperation between the
5 educational system, parents and the student in order to
6 achieve educational success for the student.

7 ARTICLE II

8 DEFINITIONS

9 As used in this compact, unless the context clearly requires a
10 different construction:

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

15 B. "Children of military families" means: a school-aged
16 child(ren), enrolled in Kindergarten through Twelfth
17 (12th) grade, in the household of an active duty member.

18 C. "Compact commissioner" means: the voting representative
19 of each compacting state appointed pursuant to Article
20 VIII of this compact.

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

25 E. "Education(al) records" means: those official records,
26 files, and data directly related to a student and
27 maintained by the school or local education agency,
28 including but not limited to records encompassing all the
29 material kept in the student's cumulative folder such as
30 general identifying data, records of attendance and of

1 academic work completed, records of achievement and
2 results of evaluative tests, health data, disciplinary
3 status, test protocols, and individualized education
4 programs.

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

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

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

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

23 J. "Military installation" means: a base, camp, post,
24 station, yard, center, homeport facility for any ship, or
25 other activity under the jurisdiction of the Department
26 of Defense, including any leased facility, which is
27 located within any of the several States, the District of
28 Columbia, the Commonwealth of Puerto Rico, the U.S.
29 Virgin Islands, Guam, American Samoa, the Northern
30 Marianas Islands and any other U.S. Territory. Such term

1 does not include any facility used primarily for civil
2 works, rivers and harbors projects, or flood control
3 projects.

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

6 L. "Receiving state" means: the state to which a child of a
7 military family is sent, brought, or caused to be sent or
8 brought.

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

18 N. "Sending state" means: the state from which a child of a
19 military family is sent, brought, or caused to be sent or
20 brought.

21 O. "State" means: a state of the United States, the District
22 of Columbia, the Commonwealth of Puerto Rico, the U.S.
23 Virgin Islands, Guam, American Samoa, the Northern
24 Marianas Islands and any other U.S. Territory.

25 P. "Student" means: the child of a military family for whom
26 the local education agency receives public funding and
27 who is formally enrolled in Kindergarten through Twelfth
28 (12th) grade.

29 Q. "Transition" means: 1) the formal and physical process of
30 transferring from school to school or 2) the period of

1 time in which a student moves from one school in the
2 sending state to another school in the receiving state.

3 R. "Uniformed service(s)" means: the Army, Navy, Air Force,
4 Marine Corps, Coast Guard as well as the Commissioned
5 Corps of the National Oceanic and Atmospheric
6 Administration, and Public Health Services.

7 S. "Veteran" means: a person who served in the uniformed
8 services and who was discharged or released there from
9 under conditions other than dishonorable.

10 ARTICLE III

11 APPLICABILITY

12 A. Except as otherwise provided in Section B, this compact
13 shall apply to the children of:

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

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

22 3. members of the uniformed services who die on
23 active duty or as a result of injuries sustained
24 on active duty for a period of one (1) year after
25 death.

26 B. The provisions of this interstate compact shall only
27 apply to local education agencies as defined in this
28 compact.

29 C. The provisions of this compact shall not apply to the
30 children of:

1 official education records to the school in the receiving
2 state within ten (10) days or within such time as is
3 reasonably determined under the rules promulgated by the
4 Interstate Commission.

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

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

28 ARTICLE V

29 PLACEMENT & ATTENDANCE

30 A. Course placement - When the student transfers before or

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

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

27 C. Special education services - 1) In compliance with the
28 federal requirements of the Individuals with Disabilities
29 Education Act (IDEA), 20 U.S.C.A. Section 1400 et seq,
30 the receiving state shall initially provide comparable

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

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

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

29 ARTICLE VI

30 ELIGIBILITY

1 A. Eligibility for enrollment

2 1. Special power of attorney, relative to the
3 guardianship of a child of a military family and
4 executed under applicable law shall be sufficient
5 for the purposes of enrollment and all other
6 actions requiring parental participation and
7 consent.

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

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

21 B. Eligibility for extracurricular participation - State and
22 local education agencies shall facilitate the opportunity
23 for transitioning military children's inclusion in
24 extracurricular activities, regardless of application
25 deadlines, to the extent they are otherwise qualified.

26 ARTICLE VII

27 GRADUATION

28 In order to facilitate the on-time graduation of children of
29 military families states and local education agencies shall
30 incorporate the following procedures:

1 A. Waiver requirements - Local education agency
2 administrative officials shall waive specific courses
3 required for graduation if similar course work has been
4 satisfactorily completed in another local education
5 agency or shall provide reasonable justification for
6 denial. Should a waiver not be granted to a student who
7 would qualify to graduate from the sending school, the
8 local education agency shall provide an alternative means
9 of acquiring required coursework so that graduation may
10 occur on time.

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

20 C. Transfers during Senior year - Should a military student
21 transferring at the beginning or during his or her Senior
22 year be ineligible to graduate from the receiving local
23 education agency after all alternatives have been
24 considered, the sending and receiving local education
25 agencies shall ensure the receipt of a diploma from the
26 sending local education agency, if the student meets the
27 graduation requirements of the sending local education
28 agency. In the event that one of the states in question
29 is not a member of this compact, the member state shall
30 use best efforts to facilitate the on-time graduation of

1 the student in accordance with Sections A and B of this
2 Article.

3 ARTICLE VIII

4 STATE COORDINATION

- 5 A. Each member state shall, through the creation of a State
6 Council or use of an existing body or board, provide for
7 the coordination among its agencies of government, local
8 education agencies and military installations concerning
9 the state's participation in, and compliance with, this
10 compact and Interstate Commission activities. While each
11 member state may determine the membership of its own
12 State Council, its membership must include at least: the
13 state superintendent of education, superintendent of a
14 school district with a high concentration of military
15 children, representative from a military installation,
16 one representative each from the legislative and
17 executive branches of government, and other offices and
18 stakeholder groups the State Council deems appropriate. A
19 member state that does not have a school district deemed
20 to contain a high concentration of military children may
21 appoint a superintendent from another school district to
22 represent local education agencies on the State Council.
- 23 B. The State Council of each member state shall appoint or
24 designate a military family education liaison to assist
25 military families and the state in facilitating the
26 implementation of this compact.
- 27 C. The compact commissioner responsible for the
28 administration and management of the state's
29 participation in the compact shall be appointed by the
30 Governor or as otherwise determined by each member state.

1 D. The compact commissioner and the military family
2 education liaison designated herein shall be ex-officio
3 members of the State Council, unless either is already a
4 full voting member of the State Council.

5 ARTICLE IX

6 INTERSTATE COMMISSION ON EDUCATIONAL
7 OPPORTUNITY FOR MILITARY CHILDREN

8 The member states hereby create the "Interstate Commission on
9 Educational Opportunity for Military Children." The activities
10 of the Interstate Commission are the formation of public policy
11 and are a discretionary state function. The Interstate
12 Commission shall:

13 A. Be a body corporate and joint agency of the member states
14 and shall have all the responsibilities, powers and
15 duties set forth herein, and such additional powers as
16 may be conferred upon it by a subsequent concurrent
17 action of the respective legislatures of the member
18 states in accordance with the terms of this compact.

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

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

24 2. A majority of the total member states shall
25 constitute a quorum for the transaction of
26 business, unless a larger quorum is required by
27 the bylaws of the Interstate Commission.

28 3. A representative shall not delegate a vote to
29 another member state. In the event the compact
30 commissioner is unable to attend a meeting of the

1 Interstate Commission, the Governor or State
2 Council may delegate voting authority to another
3 person from their state for a specified meeting.

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

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

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

21 E. Establish an executive committee, whose members shall
22 include the officers of the Interstate Commission and
23 such other members of the Interstate Commission as
24 determined by the bylaws. Members of the executive
25 committee shall serve a one year term. Members of the
26 executive committee shall be entitled to one vote each.
27 The executive committee shall have the power to act on
28 behalf of the Interstate Commission, with the exception
29 of rulemaking, during periods when the Interstate
30 Commission is not in session. The executive committee

1 shall oversee the day-to-day activities of the
2 administration of the compact including enforcement and
3 compliance with the provisions of the compact, its bylaws
4 and rules, and other such duties as deemed necessary. The
5 U.S. Dept. of Defense shall serve as an ex-officio,
6 nonvoting member of the executive committee.

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

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

- 21 1. Relate solely to the Interstate Commission's
22 internal personnel practices and procedures;
- 23 2. Disclose matters specifically exempted from
24 disclosure by federal and state statute;
- 25 3. Disclose trade secrets or commercial or financial
26 information which is privileged or confidential;
- 27 4. Involve accusing a person of a crime, or formally
28 censuring a person;
- 29 5. Disclose information of a personal nature where
30 disclosure would constitute a clearly unwarranted

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

7 H. For a meeting, or portion of a meeting, closed pursuant
8 to this provision, the Interstate Commission's legal
9 counsel or designee shall certify that the meeting may be
10 closed and shall reference each relevant exemptible
11 provision. The Interstate Commission shall keep minutes
12 which shall fully and clearly describe all matters
13 discussed in a meeting and shall provide a full and
14 accurate summary of actions taken, and the reasons
15 therefore, including a description of the views expressed
16 and the record of a roll call vote. All documents
17 considered in connection with an action shall be
18 identified in such minutes. All minutes and documents of
19 a closed meeting shall remain under seal, subject to
20 release by a majority vote of the Interstate Commission.

21 I. The Interstate Commission shall collect standardized data
22 concerning the educational transition of the children of
23 military families under this compact as directed through
24 its rules which shall specify the data to be collected,
25 the means of collection and data exchange and reporting
26 requirements. Such methods of data collection, exchange
27 and reporting shall, in so far as is reasonably possible,
28 conform to current technology and coordinate its
29 information functions with the appropriate custodian of
30 records as identified in the bylaws and rules.

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

10 ARTICLE X

11 POWERS AND DUTIES OF THE INTERSTATE COMMISSION

12 The Interstate Commission shall have the following powers:

- 13 A. To provide for dispute resolution among member states.
- 14 B. To promulgate rules and take necessary actions to effect
15 the goals, purposes and obligations as enumerated in this
16 compact. The rules shall have the force and effect of
17 statutory law and shall be binding in the compact states
18 to the extent and in the manner provided in this compact.
- 19 C. To issue, upon request of a member state, advisory
20 opinions concerning the meaning or interpretation of the
21 interstate compact, its bylaws, rules and actions.
- 22 D. To enforce compliance with the compact provisions, the
23 rules promulgated by the Interstate Commission, and the
24 bylaws, using all necessary and proper means, including
25 but not limited to the use of judicial process.
- 26 E. To establish and maintain offices which shall be located
27 within one or more of the member states.
- 28 F. To purchase and maintain insurance and bonds.
- 29 G. To borrow, accept, hire or contract for services of
30 personnel.

- 1 H. To establish and appoint committees including, but not
2 limited to, an executive committee as required by Article
3 IX, Section E, which shall have the power to act on
4 behalf of the Interstate Commission in carrying out its
5 powers and duties hereunder.
- 6 I. To elect or appoint such officers, attorneys, employees,
7 agents, or consultants, and to fix their compensation,
8 define their duties and determine their qualifications;
9 and to establish the Interstate Commission's personnel
10 policies and programs relating to conflicts of interest,
11 rates of compensation, and qualifications of personnel.
- 12 J. To accept any and all donations and grants of money,
13 equipment, supplies, materials, and services, and to
14 receive, utilize, and dispose of it.
- 15 K. To lease, purchase, accept contributions or donations of,
16 or otherwise to own, hold, improve or use any property,
17 real, personal, or mixed.
- 18 L. To sell, convey, mortgage, pledge, lease, exchange,
19 abandon, or otherwise dispose of any property, real,
20 personal or mixed.
- 21 M. To establish a budget and make expenditures.
- 22 N. To adopt a seal and bylaws governing the management and
23 operation of the Interstate Commission.
- 24 O. To report annually to the legislatures, governors,
25 judiciary, and state councils of the member states
26 concerning the activities of the Interstate Commission
27 during the preceding year. Such reports shall also
28 include any recommendations that may have been adopted by
29 the Interstate Commission.
- 30 P. To coordinate education, training and public awareness

1 meeting;

2 5. Establishing the titles and responsibilities of
3 the officers and staff of the Interstate
4 Commission;

5 6. Providing a mechanism for concluding the
6 operations of the Interstate Commission and the
7 return of surplus funds that may exist upon the
8 termination of the compact after the payment and
9 reserving of all of its debts and obligations.

10 7. Providing "start up" rules for initial
11 administration of the compact.

12 B. The Interstate Commission shall, by a majority of the
13 members, elect annually from among its members a
14 chairperson, a vice-chairperson, and a treasurer, each of
15 whom shall have such authority and duties as may be
16 specified in the bylaws. The chairperson or, in the
17 chairperson's absence or disability, the vice-
18 chairperson, shall preside at all meetings of the
19 Interstate Commission. The officers so elected shall
20 serve without compensation or remuneration from the
21 Interstate Commission; provided that, subject to the
22 availability of budgeted funds, the officers shall be
23 reimbursed for ordinary and necessary costs and expenses
24 incurred by them in the performance of their
25 responsibilities as officers of the Interstate
26 Commission.

27 C. Executive Committee, Officers and Personnel

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

- 1 a. Managing the affairs of the Interstate
2 Commission in a manner consistent with the
3 bylaws and purposes of the Interstate
4 Commission;
- 5 b. Overseeing an organizational structure
6 within, and appropriate procedures for the
7 Interstate Commission to provide for the
8 creation of rules, operating procedures, and
9 administrative and technical support
10 functions; and
- 11 c. Planning, implementing, and coordinating
12 communications and activities with other
13 state, federal and local government
14 organizations in order to advance the goals
15 of the Interstate Commission.
- 16 2. (Reserved).
- 17 3. The executive committee may, subject to the
18 approval of the Interstate Commission, appoint or
19 retain an executive director for such period,
20 upon such terms and conditions and for such
21 compensation, as the Interstate Commission may
22 deem appropriate. The executive director shall
23 serve as secretary to the Interstate Commission,
24 but shall not be a Member of the Interstate
25 Commission. The executive director shall hire and
26 supervise such other persons as may be authorized
27 by the Interstate Commission.
- 28 D. The Interstate Commission's executive director and
29 employees shall be immune from suit and liability, either
30 personally or in their official capacity, for a claim for

1 damage to or loss of property or personal injury or other
2 civil liability caused or arising out of or relating to
3 an actual or alleged act, error, or omission that
4 occurred, or that such person had a reasonable basis for
5 believing occurred, within the scope of Interstate
6 Commission employment, duties, or responsibilities;
7 provided, that such person shall not be protected from
8 suit or liability for damage, loss, injury, or liability
9 caused by the intentional or willful and wanton
10 misconduct of such person.

11 1. The liability of the Interstate Commission's
12 executive director and employees or Interstate
13 Commission representatives, acting within the
14 scope of such person's employment or duties for
15 acts, errors, or omissions occurring within such
16 person's state may not exceed the limits of
17 liability set forth under the Constitution and
18 laws of that state for state officials,
19 employees, and agents. The Interstate Commission
20 is considered to be an instrumentality of the
21 states for the purposes of any such action.
22 Nothing in this subsection shall be construed to
23 protect such person from suit or liability for
24 damage, loss, injury, or liability caused by the
25 intentional or willful and wanton misconduct of
26 such person.

27 2. The Interstate Commission shall defend the
28 executive director and its employees and, subject
29 to the approval of the Attorney General or other
30 appropriate legal counsel of the member state

1 represented by an Interstate Commission
2 representative, shall defend such Interstate
3 Commission representative in any civil action
4 seeking to impose liability arising out of an
5 actual or alleged act, error or omission that
6 occurred within the scope of Interstate
7 Commission employment, duties or
8 responsibilities, or that the defendant had a
9 reasonable basis for believing occurred within
10 the scope of Interstate Commission employment,
11 duties, or responsibilities, provided that the
12 actual or alleged act, error, or omission did not
13 result from intentional or willful and wanton
14 misconduct on the part of such person.

15 3. To the extent not covered by the state involved,
16 member state, or the Interstate Commission, the
17 representatives or employees of the Interstate
18 Commission shall be held harmless in the amount
19 of a settlement or judgment, including attorney's
20 fees and costs, obtained against such persons
21 arising out of an actual or alleged act, error,
22 or omission that occurred within the scope of
23 Interstate Commission employment, duties, or
24 responsibilities, or that such persons had a
25 reasonable basis for believing occurred within
26 the scope of Interstate Commission employment,
27 duties, or responsibilities, provided that the
28 actual or alleged act, error, or omission did not
29 result from intentional or willful and wanton
30 misconduct on the part of such persons.

ARTICLE XII

RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

A. Rulemaking Authority - The Interstate Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of this Compact.

Notwithstanding the foregoing, in the event the Interstate Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this Act, or the powers granted hereunder, then such an action by the Interstate Commission shall be invalid and have no force or effect.

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

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

D. If a majority of the legislatures of the compacting states rejects a Rule by enactment of a statute or

1 resolution in the same manner used to adopt the compact,
2 then such rule shall have no further force and effect in
3 any compacting state.

4 ARTICLE XIII

5 OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

6 A. Oversight

7 1. The executive, legislative and judicial branches
8 of state government in each member state shall
9 enforce this compact and shall take all actions
10 necessary and appropriate to effectuate the
11 compact's purposes and intent. The provisions of
12 this compact and the rules promulgated hereunder
13 shall have standing as statutory law.

14 2. All courts shall take judicial notice of the
15 compact and the rules in any judicial or
16 administrative proceeding in a member state
17 pertaining to the subject matter of this compact
18 which may affect the powers, responsibilities or
19 actions of the Interstate Commission.

20 3. The Interstate Commission shall be entitled to
21 receive all service of process in any such
22 proceeding, and shall have standing to intervene
23 in the proceeding for all purposes. Failure to
24 provide service of process to the Interstate
25 Commission shall render a judgment or order void
26 as to the Interstate Commission, this compact or
27 promulgated rules.

28 B. Default, Technical Assistance, Suspension and Termination

29 - If the Interstate Commission determines that a member
30 state has defaulted in the performance of its obligations

1 or responsibilities under this compact, or the bylaws or
2 promulgated rules, the Interstate Commission shall:

- 3 1. Provide written notice to the defaulting state
4 and other member states, of the nature of the
5 default, the means of curing the default and any
6 action taken by the Interstate Commission. The
7 Interstate Commission shall specify the
8 conditions by which the defaulting state must
9 cure its default.
- 10 2. Provide remedial training and specific technical
11 assistance regarding the default.
- 12 3. If the defaulting state fails to cure the
13 default, the defaulting state shall be terminated
14 from the compact upon an affirmative vote of a
15 majority of the member states and all rights,
16 privileges and benefits conferred by this compact
17 shall be terminated from the effective date of
18 termination. A cure of the default does not
19 relieve the offending state of obligations or
20 liabilities incurred during the period of the
21 default.
- 22 4. Suspension or termination of membership in the
23 compact shall be imposed only after all other
24 means of securing compliance have been exhausted.
25 Notice of intent to suspend or terminate shall be
26 given by the Interstate Commission to the
27 Governor, the majority and minority leaders of
28 the defaulting state's legislature, and each of
29 the member states.
- 30 5. The state which has been suspended or terminated

1 is responsible for all assessments, obligations
2 and liabilities incurred through the effective
3 date of suspension or termination including
4 obligations, the performance of which extends
5 beyond the effective date of suspension or
6 termination.

7 6. The Interstate Commission shall not bear any
8 costs relating to any state that has been found
9 to be in default or which has been suspended or
10 terminated from the compact, unless otherwise
11 mutually agreed upon in writing between the
12 Interstate Commission and the defaulting state.

13 7. The defaulting state may appeal the action of the
14 Interstate Commission by petitioning the U.S.
15 District Court for the District of Columbia or
16 the federal district where the Interstate
17 Commission has its principal offices. The
18 prevailing party shall be awarded all costs of
19 such litigation including reasonable attorney's
20 fees.

21 C. Dispute Resolution

22 1. The Interstate Commission shall attempt, upon the
23 request of a member state, to resolve disputes
24 which are subject to the compact and which may
25 arise among member states and between member and
26 non-member states.

27 2. The Interstate Commission shall promulgate a rule
28 providing for both mediation and binding dispute
29 resolution for disputes as appropriate.

30 D. Enforcement

1 Commission and its staff which must be in a total amount
2 sufficient to cover the Interstate Commission's annual
3 budget as approved each year. The aggregate annual
4 assessment amount shall be allocated based upon a formula
5 to be determined by the Interstate Commission, which
6 shall promulgate a rule binding upon all member states.

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

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

22 ARTICLE XV

23 MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

24 A. Any state is eligible to become a member state.

25 B. The compact shall become effective and binding upon
26 legislative enactment of the compact into law by no less
27 than ten (10) of the states. The effective date shall be
28 no earlier than December 1, 2007. Thereafter it shall
29 become effective and binding as to any other member state
30 upon enactment of the compact into law by that state. The

1 member states of the withdrawing state's intent
2 to withdraw within sixty (60) days of its receipt
3 thereof.

4 4. The withdrawing state is responsible for all
5 assessments, obligations and liabilities incurred
6 through the effective date of withdrawal,
7 including obligations, the performance of which
8 extend beyond the effective date of withdrawal.

9 5. Reinstatement following withdrawal of a member
10 state shall occur upon the withdrawing state
11 reenacting the compact or upon such later date as
12 determined by the Interstate Commission.

13 B. Dissolution of Compact

14 1. This compact shall dissolve effective upon the
15 date of the withdrawal or default of the member
16 state which reduces the membership in the compact
17 to one (1) member state.

18 2. Upon the dissolution of this compact, the compact
19 becomes null and void and shall be of no further
20 force or effect, and the business and affairs of
21 the Interstate Commission shall be concluded and
22 surplus funds shall be distributed in accordance
23 with the bylaws.

24 ARTICLE XVII

25 SEVERABILITY AND CONSTRUCTION

26 A. The provisions of this compact shall be severable, and if
27 any phrase, clause, sentence or provision is deemed
28 unenforceable, the remaining provisions of the compact
29 shall be enforceable.

30 B. The provisions of this compact shall be liberally

1 construed to effectuate its purposes.

2 C. Nothing in this compact shall be construed to prohibit
3 the applicability of other interstate compacts to which
4 the states are members.

5 ARTICLE XVIII

6 BINDING EFFECT OF COMPACT AND OTHER LAWS

7 A. Other Laws

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

11 2. All member states' laws conflicting with this
12 compact are superseded to the extent of the
13 conflict.

14 B. Binding Effect of the Compact

15 1. All lawful actions of the Interstate Commission,
16 including all rules and bylaws promulgated by the
17 Interstate Commission, are binding upon the
18 member states.

19 2. All agreements between the Intrastate Commission
20 and the member states are binding in accordance
21 with their terms.

22 3. In the event any provision of this compact
23 exceeds the constitutional limits imposed on the
24 legislature of any member state, such provision
25 shall be ineffective to the extent of the
26 conflict with the constitutional provision in
27 question in that member state.

28 Section 3. When and how compact becomes operative.

29 (a) General rule.--When the Governor executes the Interstate
30 Compact on Educational Opportunity for Military Children on

1 behalf of this State and files a verified copy thereof with the
2 Secretary of the Commonwealth and when the compact is ratified
3 by at least ten other states, then the compact shall become
4 operative and effective between this State and such other
5 states. The Governor is hereby authorized and directed to take
6 such action as may be necessary to complete the exchange of
7 official documents between this State and any other state
8 ratifying the compact.

9 (b) Notice in Pennsylvania Bulletin.--The Secretary of the
10 Commonwealth shall publish a notice in the Pennsylvania Bulletin
11 when the conditions set forth in subsection (a) are satisfied
12 and shall include in the notice the date on which the compact
13 became effective and operative between this State and any other
14 states in accordance with this act.

15 Section 4. State Council on Interstate Educational Opportunity
16 for Military Children.

17 (a) Establishment.--Consistent with Article VIII of the
18 Interstate Compact on Educational Opportunity for Military
19 Children, there is hereby established the State Council on
20 Interstate Educational Opportunity for Military Children. The
21 council shall conduct all business pursuant to 65 Pa.C.S. Ch. 7
22 (relating to open meeting), the former act of June 21, 1957
23 (P.L.390, No.212), referred to as the Right-to-Know Law, or the
24 act of February 14, 2008 (P.L. , No.3), known as the Right-to-
25 Know Law. The council shall consist of nine members, four of
26 whom shall be appointed by the Governor. At least one member
27 shall be the compact administrator. The President pro tempore of
28 the Senate, the Minority Leader of the Senate, the Speaker of
29 the House of Representatives and the Minority Leader of the
30 House of Representatives shall each appoint a member of the

1 General Assembly to serve as a member of the council.

2 (b) Terms.--The term of a member of the council hereafter
3 appointed, except to fill a vacancy, shall be four years and
4 until a successor has been appointed, but in no event more than
5 90 days beyond the expiration of the appointed term. The term of
6 a member of the council who is appointed by virtue of serving as
7 a member of the General Assembly shall continue only as long as
8 the individual remains in that office.

9 (c) Vacancy.--A vacancy occurring in an office of a member
10 of the council for any reason shall be filled by the appointing
11 authority for the remainder of the term.

12 Section 5. Appointment of administrator.

13 The compact administrator shall be appointed by the Governor
14 and shall serve as a member of the State Council on Interstate
15 Educational Opportunity for Military Children and shall serve on
16 the Interstate Commission on Educational Opportunity for
17 Military Children established pursuant to Article IX of the
18 Interstate Compact on Educational Opportunity for Military
19 Children.

20 Section 6. Compensation and expenses of administrator.

21 The compact administrator who represents this State under the
22 Interstate Compact on Educational Opportunity for Military
23 Children shall not be entitled to any additional compensation
24 for his duties and responsibilities as compact administrator but
25 shall be entitled to reimbursement for reasonable expenses
26 actually incurred in connection with his duties and
27 responsibilities as compact administrator in the same manner as
28 for expenses incurred in connection with other duties and
29 responsibilities of his office or employment.

30 Section 7. Effective date.

1 This act shall take effect immediately.