

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## SENATE BILL

No. 213 Session of  
2009

INTRODUCED BY ROBBINS, BAKER, PILEGGI, MELLOW, BOSCOLA, BROWNE,  
BRUBAKER, COSTA, EARLL, ERICKSON, FERLO, FONTANA, GREENLEAF,  
LOGAN, O'PAKE, ORIE, PIPPY, RAFFERTY, STACK, TARTAGLIONE,  
TOMLINSON, WAUGH, D. WHITE, M. WHITE, WILLIAMS, WOZNIAK,  
FOLMER AND WASHINGTON, FEBRUARY 19, 2009

AS AMENDED ON SECOND CONSIDERATION, FEBRUARY 8, 2010

## 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 and enforcement of the  
4 compact; imposing additional powers and duties on the  
5 Governor, the Secretary of the Commonwealth and the compact  
6 ~~administrator~~ COMMISSIONER; and establishing the State  
7 Council on Interstate Educational Opportunity for Military  
8 Children.



9 The General Assembly of the Commonwealth of Pennsylvania

10 hereby enacts as follows:

11 Section 1. Short title.

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

14 Section 2. Authority to execute compact.

15 The Governor of Pennsylvania, on behalf of this State, is  
16 hereby authorized to execute a compact in substantially the  
17 following form with any one or more of the states of the United  
18 States, and the General Assembly hereby signifies in advance its  
19 approval and ratification of such compact:

Interstate Compact on Educational Opportunity  
for Military Children

ARTICLE I

PURPOSE

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

- A. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous school district(s) or variations in entrance/age requirements.
- B. Facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content or assessment.
- C. Facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities.
- D. Facilitating the on-time graduation of children of military families.
- E. Providing for the promulgation and enforcement of administrative rules implementing the provisions of this compact.
- F. Providing for the uniform collection and sharing of information between and among member states, schools and military families under this compact.
- G. Promoting coordination between this compact and other compacts affecting military children.

1 H. Promoting flexibility and cooperation between the  
2 educational system, parents and the student in order to  
3 achieve educational success for the student.

## 4 ARTICLE II

### 5 DEFINITIONS

6 As used in this compact, unless the context clearly requires a  
7 different construction:

8 A. "Active duty" means: full-time duty status in the active  
9 uniformed service of the United States, including members  
10 of the National Guard and Reserve on active duty orders  
11 pursuant to 10 U.S.C. Section 12301 et seq. and 12401 et  
12 seq.

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

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

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

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

1 results of evaluative tests, health data, disciplinary  
2 status, test protocols, and individualized education  
3 programs.

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

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

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

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

22 J. "Military installation" means: a base, camp, post,  
23 station, yard, center, homeport facility for any ship, or  
24 other activity under the jurisdiction of the Department  
25 of Defense, including any leased facility, which is  
26 located within any of the several States, the District of  
27 Columbia, the Commonwealth of Puerto Rico, the U.S.  
28 Virgin Islands, Guam, American Samoa, the Northern  
29 Marianas Islands and any other U.S. Territory. Such term  
30 does not include any facility used primarily for civil

works, rivers and harbors projects, or flood control projects.

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

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

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

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

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

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

Q. "Transition" means: 1) the formal and physical process of transferring from school to school or 2) the period of time in which a student moves from one school in the

1 sending state to another school in the receiving state.

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

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

9 ARTICLE III

10 APPLICABILITY

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

- 13 1. active duty members of the uniformed services as  
14 defined in this compact;  
15 2. members or veterans of the uniformed services who  
16 are severely injured and medically discharged or  
17 retired for a period of one (1) year after  
18 medical discharge or retirement; and  
19 3. members of the uniformed services who die on  
20 active duty or as a result of injuries sustained  
21 on active duty for a period of one (1) year after  
22 death.

23 B. The provisions of this interstate compact shall only  
24 apply to local education agencies as defined in this  
25 compact.

26 C. The provisions of this compact shall not apply to the  
27 children of:

- 28 1. inactive members of the national guard and  
29 military reserves;  
30 2. members of the uniformed services now retired,

except as provided in Section A;

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

4. other U.S. Dept. of Defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

#### ARTICLE IV

##### EDUCATIONAL RECORDS & ENROLLMENT

A. Unofficial or "hand-carried" education records - In the event that official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the Interstate Commission. Upon receipt of the unofficial education records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.

B. Official education records/transcripts - Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official education record from the school in the sending state. Upon receipt of this request, the school in the sending state will process and furnish the official education records to the school in the receiving state within ten (10) days or within such time

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

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

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

## 26 ARTICLE V

### 27 PLACEMENT & ATTENDANCE

28 A. Course placement - When the student transfers before or  
29 during the school year, the receiving state school shall  
30 initially honor placement of the student in educational



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

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

25 C. Special education services - 1) In compliance with the  
26 federal requirements of the Individuals with Disabilities  
27 Education Act (IDEA), 20 U.S.C.A. Section 1400 et seq,  
28 the receiving state shall initially provide comparable  
29 services to a student with disabilities based on his/her  
30 current Individualized Education Program (IEP); and 2) In

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

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

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

## 27 ARTICLE VI

### 28 ELIGIBILITY

29 A. Eligibility for enrollment - Children of military  
30 families shall be eligible for enrollment in the public

1 schools of a state pursuant to the provisions of the  
2 state's public school statute that provide for admission,  
3 without the payment of tuition, of children of military  
4 families not domiciled within the school district,  
5 provided that the specified conditions in those  
6 provisions are met.

7 B. Eligibility for extracurricular participation - State and  
8 local education agencies shall facilitate the opportunity  
9 for transitioning military children's inclusion in  
10 extracurricular activities, regardless of application  
11 deadlines, to the extent they are otherwise qualified.

## 12 ARTICLE VII

### 13 GRADUATION

14 In order to facilitate the on-time graduation of children of  
15 military families states and local education agencies shall  
16 incorporate the following procedures:

17 A. Waiver requirements - Local education agency  
18 administrative officials shall waive specific courses  
19 required for graduation if similar course work has been  
20 satisfactorily completed in another local education  
21 agency or shall provide reasonable justification for  
22 denial. Should a waiver not be granted to a student who  
23 would qualify to graduate from the sending school, the  
24 local education agency shall provide an alternative means  
25 of acquiring required coursework so that graduation may  
26 occur on time.

27 B. Exit exams - States shall accept: 1) exit or end-of-  
28 course exams required for graduation from the sending  
29 state; or 2) national norm-referenced achievement tests  
30 or 3) alternative testing, in lieu of testing

1 requirements for graduation in the receiving state. In  
2 the event the above alternatives cannot be accommodated  
3 by the receiving state for a student transferring in his  
4 or her Senior year, then the provisions of Article VII,  
5 Section C shall apply.

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

## 19 ARTICLE VIII

### 20 STATE COORDINATION

21 A. Each member state shall, through the creation of a State  
22 Council or use of an existing body or board, provide for  
23 the coordination among its agencies of government, local  
24 education agencies and military installations concerning  
25 the state's participation in, and compliance with, this  
26 compact and Interstate Commission activities. While each  
27 member state may determine the membership of its own  
28 State Council, its membership must include at least: the  
29 state superintendent of education, superintendent of a  
30 school district with a high concentration of military

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

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

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

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

## 21 ARTICLE IX

### 22 INTERSTATE COMMISSION ON EDUCATIONAL

#### 23 OPPORTUNITY FOR MILITARY CHILDREN

24 The member states hereby create the "Interstate Commission on  
25 Educational Opportunity for Military Children." The activities  
26 of the Interstate Commission are the formation of public policy  
27 and are a discretionary state function. The Interstate  
28 Commission shall:

29 A. Be a body corporate and joint agency of the member states  
30 and shall have all the responsibilities, powers and

1 duties set forth herein, and such additional powers as  
2 may be conferred upon it by a subsequent concurrent  
3 action of the respective legislatures of the member  
4 states in accordance with the terms of this compact.

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

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

10 2. A majority of the total member states shall  
11 constitute a quorum for the transaction of  
12 business, unless a larger quorum is required by  
13 the bylaws of the Interstate Commission.

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

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

23 C. Consist of ex-officio, non-voting representatives who are  
24 members of interested organizations. Such ex-officio  
25 members, as defined in the bylaws, may include but not be  
26 limited to, members of the representative organizations  
27 of military family advocates, local education agency  
28 officials, parent and teacher groups, the U.S. Department  
29 of Defense, the Education Commission of the States, the  
30 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 the compact, its bylaws and rules, and other such duties as deemed necessary. The U.S. Dept. of Defense shall serve as an ex-officio, nonvoting member of the executive committee.

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

G. Give public notice of all meetings and all meetings shall

1 be open to the public, except as set forth in the rules  
2 or as otherwise provided in the compact. The Interstate  
3 Commission and its committees may close a meeting, or  
4 portion thereof, where it determines by two-thirds vote  
5 that an open meeting would be likely to:

- 6 1. Relate solely to the Interstate Commission's  
7 internal personnel practices and procedures;
- 8 2. Disclose matters specifically exempted from  
9 disclosure by federal and state statute;
- 10 3. Disclose trade secrets or commercial or financial  
11 information which is privileged or confidential;
- 12 4. Involve accusing a person of a crime, or formally  
13 censuring a person;
- 14 5. Disclose information of a personal nature where  
15 disclosure would constitute a clearly unwarranted  
16 invasion of personal privacy;
- 17 6. Disclose investigative records compiled for law  
18 enforcement purposes; or
- 19 7. Specifically relate to the Interstate  
20 Commission's participation in a civil action or  
21 other legal proceeding.

22 H. Cause its legal counsel or designee to certify that a  
23 meeting may be closed and shall reference each relevant  
24 exemptible provision for any meeting, or portion of a  
25 meeting, which is closed pursuant to this provision. The  
26 Interstate Commission shall keep minutes which shall  
27 fully and clearly describe all matters discussed in a  
28 meeting and shall provide a full and accurate summary of  
29 actions taken, and the reasons therefore, including a  
30 description of the views expressed and the record of a



roll call vote. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Interstate Commission.

I. Collect standardized data concerning the educational transition of the children of military families under this compact as directed through its rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements. Such methods of data collection, exchange and reporting shall, in so far as is reasonably possible, conform to current technology and coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules.

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

## ARTICLE X

### POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The Interstate Commission shall have the following powers:

A. To provide for dispute resolution among member states.

B. To promulgate rules and take necessary actions to effect the goals, purposes and obligations as enumerated in this

compact. The rules shall have the force and effect of statutory law and shall be binding in the compact states to the extent and in the manner provided in this compact.

C. To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules and actions.

D. To enforce compliance with the compact provisions, the rules promulgated by the Interstate Commission, and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process.

E. To establish and maintain offices which shall be located within one or more of the member states.

F. To purchase and maintain insurance and bonds.

G. To borrow, accept, hire or contract for services of personnel.

H. To establish and appoint committees including, but not limited to, an executive committee as required by Article IX, Section E, which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.

I. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties and determine their qualifications; and to establish the Interstate Commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel.

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

K. To lease, purchase, accept contributions or donations of,

1 or otherwise to own, hold, improve or use any property,  
2 real, personal, or mixed.

3 L. To sell, convey, mortgage, pledge, lease, exchange,  
4 abandon, or otherwise dispose of any property, real,  
5 personal or mixed.

6 M. To establish a budget and make expenditures.

7 N. To adopt a seal and bylaws governing the management and  
8 operation of the Interstate Commission.

9 O. To report annually to the legislatures, governors,  
10 judiciary, and state councils of the member states  
11 concerning the activities of the Interstate Commission  
12 during the preceding year. Such reports shall also  
13 include any recommendations that may have been adopted by  
14 the Interstate Commission.

15 P. To coordinate education, training and public awareness  
16 regarding the compact, its implementation and operation  
17 for officials and parents involved in such activity.

18 Q. To establish uniform standards for the reporting,  
19 collecting and exchanging of data.

20 R. To maintain corporate books and records in accordance  
21 with the bylaws.

22 S. To perform such functions as may be necessary or  
23 appropriate to achieve the purposes of this compact.

24 T. To provide for the uniform collection and sharing of  
25 information between and among member states, schools and  
26 military families under this compact.

## 27 ARTICLE XI

### 28 ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

29 A. The Interstate Commission shall, by a majority of the  
30 members present and voting, within 12 months after the

1 first Interstate Commission meeting, adopt bylaws to  
2 govern its conduct as may be necessary or appropriate to  
3 carry out the purposes of the compact, including, but not  
4 limited to:

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

27 B. The Interstate Commission shall, by a majority of the  
28 members, elect annually from among its members a  
29 chairperson, a vice-chairperson, and a treasurer, each of  
30 whom shall have such authority and duties as may be

1 specified in the bylaws. The chairperson or, in the  
2 chairperson's absence or disability, the vice-  
3 chairperson, shall preside at all meetings of the  
4 Interstate Commission. The officers so elected shall  
5 serve without compensation or remuneration from the  
6 Interstate Commission; provided that, subject to the  
7 availability of budgeted funds, the officers shall be  
8 reimbursed for ordinary and necessary costs and expenses  
9 incurred by them in the performance of their  
10 responsibilities as officers of the Interstate  
11 Commission.

12 C. Executive Committee, Officers and Personnel

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

- 16 a. Managing the affairs of the Interstate  
17 Commission in a manner consistent with the  
18 bylaws and purposes of the Interstate  
19 Commission;
- 20 b. Overseeing an organizational structure  
21 within, and appropriate procedures for the  
22 Interstate Commission to provide for the  
23 creation of rules, operating procedures, and  
24 administrative and technical support  
25 functions; and
- 26 c. Planning, implementing, and coordinating  
27 communications and activities with other  
28 state, federal and local government  
29 organizations in order to advance the goals  
30 of the Interstate Commission.

1           2.   (Reserved) .

2           3.   The executive committee may, subject to the  
3               approval of the Interstate Commission, appoint or  
4               retain an executive director for such period,  
5               upon such terms and conditions and for such  
6               compensation, as the Interstate Commission may  
7               deem appropriate. The executive director shall  
8               serve as secretary to the Interstate Commission,  
9               but shall not be a Member of the Interstate  
10              Commission. The executive director shall hire and  
11              supervise such other persons as may be authorized  
12              by the Interstate Commission.

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

26           1.   The liability of the Interstate Commission's  
27               executive director and employees or Interstate  
28               Commission representatives, acting within the  
29               scope of such person's employment or duties for  
30               acts, errors, or omissions occurring within such

1 person's state may not exceed the limits of  
2 liability set forth under the Constitution and  
3 laws of that state for state officials,  
4 employees, and agents. The Interstate Commission  
5 is considered to be an instrumentality of the  
6 states for the purposes of any such action.  
7 Nothing in this subsection shall be construed to  
8 protect such person from suit or liability for  
9 damage, loss, injury, or liability caused by the  
10 intentional or willful and wanton misconduct of  
11 such person.

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

30 3. To the extent not covered by the state involved,

1 member state, or the Interstate Commission, the  
2 representatives or employees of the Interstate  
3 Commission shall be held harmless in the amount  
4 of a settlement or judgment, including attorney's  
5 fees and costs, obtained against such persons  
6 arising out of an actual or alleged act, error,  
7 or omission that occurred within the scope of  
8 Interstate Commission employment, duties, or  
9 responsibilities, or that such persons had a  
10 reasonable basis for believing occurred within  
11 the scope of Interstate Commission employment,  
12 duties, or responsibilities, provided that the  
13 actual or alleged act, error, or omission did not  
14 result from intentional or willful and wanton  
15 misconduct on the part of such persons.

## 16 ARTICLE XII

### 17 RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

- 18 A. Rulemaking Authority - The Interstate Commission shall  
19 promulgate reasonable rules in order to effectively and  
20 efficiently achieve the purposes of this compact.  
21 Notwithstanding the foregoing, in the event the  
22 Interstate Commission exercises its rulemaking authority  
23 in a manner that is beyond the scope of the purposes of  
24 this Act, or the powers granted hereunder, then such an  
25 action by the Interstate Commission shall be invalid and  
26 have no force or effect.
- 27 B. Rulemaking Procedure - Rules shall be made pursuant to a  
28 rulemaking process that substantially conforms to the  
29 "Model State Administrative Procedure Act," of 1981 Act,  
30 Uniform Laws Annotated, Vol. 15, p.1 (2000) as amended,



1 as may be appropriate to the operations of the Interstate  
2 Commission.

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

14 D. If a majority of the legislatures of the compacting  
15 states rejects a Rule by enactment of a statute or  
16 resolution in the same manner used to adopt the compact,  
17 then such rule shall have no further force and effect in  
18 any compacting state.

19 ARTICLE XIII

20 OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

21 A. Oversight

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

29 2. All courts shall take judicial notice of the  
30 compact and the rules in any judicial or

1 administrative proceeding in a member state  
2 pertaining to the subject matter of this compact  
3 which may affect the powers, responsibilities or  
4 actions of the Interstate Commission.

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

13 B. Default, Technical Assistance, Suspension and Termination

14 - If the Interstate Commission determines that a member  
15 state has defaulted in the performance of its obligations  
16 or responsibilities under this compact, or the bylaws or  
17 promulgated rules, the Interstate Commission shall:

- 18 1. Provide written notice to the defaulting state  
19 and other member states, of the nature of the  
20 default, the means of curing the default and any  
21 action taken by the Interstate Commission. The  
22 Interstate Commission shall specify the  
23 conditions by which the defaulting state must  
24 cure its default.
- 25 2. Provide remedial training and specific technical  
26 assistance regarding the default.
- 27 3. If the defaulting state fails to cure the  
28 default, the defaulting state shall be terminated  
29 from the compact upon an affirmative vote of a  
30 majority of the member states and all rights,

1 privileges and benefits conferred by this compact  
2 shall be terminated from the effective date of  
3 termination. A cure of the default does not  
4 relieve the offending state of obligations or  
5 liabilities incurred during the period of the  
6 default.

7 4. Suspension or termination of membership in the  
8 compact shall be imposed only after all other  
9 means of securing compliance have been exhausted.  
10 Notice of intent to suspend or terminate shall be  
11 given by the Interstate Commission to the  
12 Governor, the majority and minority leaders of  
13 the defaulting state's legislature, and each of  
14 the member states.

15 5. The state which has been suspended or terminated  
16 is responsible for all assessments, obligations  
17 and liabilities incurred through the effective  
18 date of suspension or termination including  
19 obligations, the performance of which extends  
20 beyond the effective date of suspension or  
21 termination.

22 6. The Interstate Commission shall not bear any  
23 costs relating to any state that has been found  
24 to be in default or which has been suspended or  
25 terminated from the compact, unless otherwise  
26 mutually agreed upon in writing between the  
27 Interstate Commission and the defaulting state.

28 7. The defaulting state may appeal the action of the  
29 Interstate Commission by petitioning the U.S.  
30 District Court for the District of Columbia or

1 the federal district where the Interstate  
2 Commission has its principal offices. The  
3 prevailing party shall be awarded all costs of  
4 such litigation including reasonable attorney's  
5 fees.

6 C. Dispute Resolution

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

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

15 D. Enforcement

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

19 2. The Interstate Commission may, by majority vote  
20 of the members, initiate legal action in the  
21 United States District Court for the District of  
22 Columbia or, at the discretion of the Interstate  
23 Commission, in the federal district where the  
24 Interstate Commission has its principal offices,  
25 to enforce compliance with the provisions of the  
26 compact, its promulgated rules and bylaws,  
27 against a member state in default. The relief  
28 sought may include both injunctive relief and  
29 damages. In the event judicial enforcement is  
30 necessary the prevailing party shall be awarded

1 all costs of such litigation including reasonable  
2 attorney's fees.

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

8 ARTICLE XIV

9 FINANCING OF THE INTERSTATE COMMISSION

- 10 A. The Interstate Commission shall pay, or provide for the  
11 payment of the reasonable expenses of its establishment,  
12 organization and ongoing activities.
- 13 B. The Interstate Commission may levy on and collect an  
14 annual assessment from each member state to cover the  
15 cost of the operations and activities of the Interstate  
16 Commission and its staff which must be in a total amount  
17 sufficient to cover the Interstate Commission's annual  
18 budget as approved each year. The aggregate annual  
19 assessment amount shall be allocated based upon a formula  
20 to be determined by the Interstate Commission, which  
21 shall promulgate a rule binding upon all member states.
- 22 C. The Interstate Commission shall not incur obligations of  
23 any kind prior to securing the funds adequate to meet the  
24 same; nor shall the Interstate Commission pledge the  
25 credit of any of the member states, except by and with  
26 the authority of the member state.
- 27 D. The Interstate Commission shall keep accurate accounts of  
28 all receipts and disbursements. The receipts and  
29 disbursements of the Interstate Commission shall be  
30 subject to the audit and accounting procedures

1 established under its bylaws. However, all receipts and  
2 disbursements of funds handled by the Interstate  
3 Commission shall be audited yearly by a certified or  
4 licensed public accountant and the report of the audit  
5 shall be included in and become part of the annual report  
6 of the Interstate Commission.

#### 7 ARTICLE XV

##### 8 MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

- 9 A. Any state is eligible to become a member state.
- 10 B. The compact shall become effective and binding upon  
11 legislative enactment of the compact into law by no less  
12 than ten (10) of the states. The effective date shall be  
13 no earlier than December 1, 2007. Thereafter it shall  
14 become effective and binding as to any other member state  
15 upon enactment of the compact into law by that state. The  
16 governors of non-member states or their designees shall  
17 be invited to participate in the activities of the  
18 Interstate Commission on a non-voting basis prior to  
19 adoption of the compact by all states.
- 20 C. The Interstate Commission may propose amendments to the  
21 compact for enactment by the member states. No amendment  
22 shall become effective and binding upon the Interstate  
23 Commission and the member states unless and until it is  
24 enacted into law by unanimous consent of the member  
25 states.

#### 26 ARTICLE XVI

##### 27 WITHDRAWAL AND DISSOLUTION

- 28 A. Withdrawal
- 29 1. Once effective, the compact shall continue in  
30 force and remain binding upon each and every

1 member state; provided that a member state may  
2 withdraw from the compact specifically repealing  
3 the statute, which enacted the compact into law.

4 2. Withdrawal from this compact shall be by the  
5 enactment of a statute repealing the same, but  
6 shall not take effect until one (1) year after  
7 the effective date of such statute and until  
8 written notice of the withdrawal has been given  
9 by the withdrawing state to the Governor of each  
10 other member state.

11 3. The withdrawing state shall immediately notify  
12 the chairperson of the Interstate Commission in  
13 writing upon the introduction of legislation  
14 repealing this compact in the withdrawing state.  
15 The Interstate Commission shall notify the other  
16 member states of the withdrawing state's intent  
17 to withdraw within sixty (60) days of its receipt  
18 thereof.

19 4. The withdrawing state is responsible for all  
20 assessments, obligations and liabilities incurred  
21 through the effective date of withdrawal,  
22 including obligations, the performance of which  
23 extend beyond the effective date of withdrawal.

24 5. Reinstatement following withdrawal of a member  
25 state shall occur upon the withdrawing state  
26 reenacting the compact or upon such later date as  
27 determined by the Interstate Commission.

28 B. Dissolution of Compact

29 1. This compact shall dissolve effective upon the  
30 date of the withdrawal or default of the member

1 state which reduces the membership in the compact  
2 to one (1) member state.

- 3 2. Upon the dissolution of this compact, the compact  
4 becomes null and void and shall be of no further  
5 force or effect, and the business and affairs of  
6 the Interstate Commission shall be concluded and  
7 surplus funds shall be distributed in accordance  
8 with the bylaws.

9 ARTICLE XVII

10 SEVERABILITY AND CONSTRUCTION

- 11 A. The provisions of this compact shall be severable, and if  
12 any phrase, clause, sentence or provision is deemed  
13 unenforceable, the remaining provisions of the compact  
14 shall be enforceable.
- 15 B. The provisions of this compact shall be liberally  
16 construed to effectuate its purposes.
- 17 C. Nothing in this compact shall be construed to prohibit  
18 the applicability of other interstate compacts to which  
19 the states are members.

20 ARTICLE XVIII

21 BINDING EFFECT OF COMPACT AND OTHER LAWS

22 A. Other Laws

- 23 1. Nothing herein prevents the enforcement of any  
24 other law of a member state that is not  
25 inconsistent with this compact.
- 26 2. All member states' laws conflicting with this  
27 compact are superseded to the extent of the  
28 conflict.

29 B. Binding Effect of the Compact

- 30 1. All lawful actions of the Interstate Commission,



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

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

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

13 Section 3. When and how compact becomes operative.

14 (a) General rule.--When the Governor executes the Interstate  
15 Compact on Educational Opportunity for Military Children on  
16 behalf of this State and files a verified copy thereof with the  
17 Secretary of the Commonwealth and when the compact is ratified  
18 by at least ten other states, upon publication in the  
19 Pennsylvania Bulletin under subsection (b), then the compact  
20 shall become operative and effective between this State and such  
21 other states. The Governor is hereby authorized and directed to  
22 take such action as may be necessary to complete the exchange of  
23 official documents between this State and any other state  
24 ratifying the compact.

25 (b) Publication in Pennsylvania Bulletin.--The Secretary of  
26 the Commonwealth shall forward the ratified compact to the  
27 Legislative Reference Bureau for publication in the Pennsylvania  
28 Bulletin and the Pennsylvania Code when the conditions set forth  
29 in subsection (a) are satisfied and shall include in the notice  
30 the date on which the compact became effective and operative

1 between this State and any other states in accordance with this  
2 act.

3 Section 4. Force and effect of compact rules.

4 Rules promulgated by the Interstate Commission on Educational  
5 Opportunity for Military Children under Article XII of the  
6 Interstate Compact on Educational Opportunity for Military  
7 Children shall not be subject to any of the following:

8 (1) Sections 201, 202, 203, 204 or 205 of the act of  
9 July 31, 1968 (P.L.769, No.240), referred to as the  
10 Commonwealth Documents Law.

11 (2) Section 204(b) of the act of October 15, 1980  
12 (P.L.950, No.164), known as the Commonwealth Attorneys Act.

13 (3) The act of June 25, 1982 (P.L.633, No.181), known as  
14 the Regulatory Review Act.

15 (4) The provisions of 2 Pa.C.S. (relating to  
16 administrative law and procedure).

17 Section 5. Action to enforce compliance against member states.

18 An action by the Interstate Commission on Educational  
19 Opportunity for Military Children to enforce compliance by the  
20 Commonwealth or a political subdivision with a provision of the  
21 Interstate Compact on Educational Opportunity for Military  
22 Children or with a rule promulgated under Article XII of the  
23 compact must be brought against the Commonwealth and not against  
24 a political subdivision.

25 Section 6. State Council on Interstate Educational Opportunity  
26 for Military Children.

27 (a) Establishment.--Consistent with Article VIII of the  
28 Interstate Compact on Educational Opportunity for Military  
29 Children, there is hereby established the State Council on  
30 Interstate Educational Opportunity for Military Children. The

1 council shall conduct all business pursuant to 65 Pa.C.S. Ch. 7  
2 (relating to open meetings) and the act of February 14, 2008  
3 (P.L.6, No.3), known as the Right-to-Know Law. The council shall  
4 consist of the Secretary of Education; four members appointed by  
5 the Governor, one a superintendent of a school district with a  
6 high concentration of military children, one a representative of  
7 a military installation, one a representative of the  
8 Pennsylvania School Boards Association and one a representative  
9 of the executive branch; and one member each appointed by the  
10 President pro tempore of the Senate, the Minority Leader of the  
11 Senate, the Speaker of the House of Representatives and the  
12 Minority Leader of the House of Representatives.

13 (b) Terms.--The term of a member of the council hereafter  
14 appointed, except to fill a vacancy, shall be four years and  
15 until a successor has been appointed, but in no event more than  
16 90 days beyond the expiration of the appointed term. The term of  
17 a member of the council who is appointed by virtue of serving as  
18 a member of the General Assembly shall continue only as long as  
19 the individual remains in that office.

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

23 Section 7. Appointment of compact commissioner.

24 The compact commissioner shall be appointed by the Governor.  
25 The compact commissioner must have experience in school district  
26 administration, school district operations, student attendance,  
27 enrollment, transfers or education law. The compact commissioner  
28 shall serve as a member of the State Council on Interstate  
29 Educational Opportunity for Military Children and as a member of  
30 the Interstate Commission on Educational Opportunity for

1 Military Children established pursuant to Article IX of the  
2 Interstate Compact on Educational Opportunity for Military  
3 Children.

4 Section 8. Compensation and expenses of ~~administrator~~ COMPACT  
5 COMMISSIONER. ←

6 The compact ~~administrator~~ COMMISSIONER who represents this ←  
7 State under the Interstate Compact on Educational Opportunity  
8 for Military Children shall not be entitled to any additional  
9 compensation for his duties and responsibilities as compact  
10 ~~administrator~~ COMMISSIONER but shall be entitled to ←  
11 reimbursement for reasonable expenses actually incurred in  
12 connection with his duties and responsibilities as compact  
13 ~~administrator~~ COMMISSIONER in the same manner as for expenses ←  
14 incurred in connection with other duties and responsibilities of  
15 his office or employment.

16 Section 9. Effective date.

17 This act shall take effect immediately.