

## **11-8B-1. Interstate compact on educational opportunity for military children; entered into.**

The "Interstate Compact on Educational Opportunity for Military Children" is enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

"INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN  
ARTICLE 1  
PURPOSE

It is the purpose of the Interstate Compact on Educational Opportunity for Military Children 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 or variations in entrance and 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 that compact;

F. providing for the uniform collection and sharing of information between and among member states, schools and military families under that compact;

G. promoting coordination between that compact and other compacts affecting military children; and

H. promoting flexibility and cooperation between the educational system, parents and the student in order to achieve educational success for the student.

ARTICLE 2  
DEFINITIONS

As used in the Interstate Compact on Educational Opportunity for Military Children:

A. "active duty" means full-time duty status in the active uniformed service of the United States, including members of the national guard and reserve on active duty orders pursuant to 10 U.S.C. Sections 1209 and 1211;

B. "children of military families" means school-aged children enrolled in kindergarten through twelfth grade in the household of an active duty member;

C. "compact commissioner" means the voting representative of each compacting state appointed pursuant to Article 8 of the Interstate Compact on Educational Opportunity for Military Children;

D. "deployment" means the period one month prior to the service members' departures from their home stations on military orders through six months after return to their home stations;

E. "education records" means records, files and data that are directly related to a student and maintained by a school or local education agency, including records encompassing all the material kept in a student's cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols and individualized education programs;

F. "extracurricular activity" means a voluntary activity sponsored by a school or local education agency or an organization sanctioned by a local education agency. "Extracurricular activity" includes preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays and club activities;

G. "interstate commission" means the interstate commission on educational opportunity for military children that is created under Article 9 of the Interstate Compact on Educational Opportunity for Military Children;

H. "local education agency" means a public authority legally constituted by the state as an administrative agency to provide control of and direction for kindergarten through twelfth grade public educational institutions;

I. "member state" means a state that has enacted the Interstate Compact on Educational Opportunity for Military Children;

J. "military installation" means a base, camp, post, station, yard, center or homeport facility for any ship or other activity under the jurisdiction of the United States department of defense, including any leased facility, that is located within any of the several states, the District of Columbia, the commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other United States territory. The term 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 the Interstate Compact on Educational Opportunity for Military Children;

L. "receiving state" means the state to which a child of a military family is sent or brought or caused to be sent or brought;

M. "rule" means a written statement by the interstate commission promulgated pursuant to Article 12 of the Interstate Compact on Educational Opportunity for Military Children that is of general applicability, implements, interprets or prescribes a policy or provision of that compact or an organizational, procedural or practice requirement of the interstate commission 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 or 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 United States Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other United States 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 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 sending state to another school in the receiving state;

R. "uniformed services" means the army, navy, air force, marine corps, coast guard and the commissioned corps of the national oceanic and atmospheric administration and United States public health service; and

S. "veteran" means a person who served in the uniformed services and who was discharged or released from the uniformed services under conditions other than dishonorable.

ARTICLE 3  
APPLICABILITY

A. Except as otherwise provided in Subsection B of this article, the Interstate Compact on Educational Opportunity for Military Children shall apply to the children of:

(1) active duty members of the uniformed services, including members of the national guard and reserve on active duty orders pursuant to 10 U.S.C. Sections 1209 and 1211;

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

(3) members of the uniformed services who die on active duty or as a result of injuries sustained while on active duty and extending for a period of one year after death.

B. The provisions of the Interstate Compact on Educational Opportunity for Military Children shall only apply to local education agencies.

C. The provisions of the Interstate Compact on Educational Opportunity for Military Children shall not apply to the children of:

(1) inactive members of the national guard and military reserves;

(2) members of the uniformed services now retired, except as provided in Subsection A of this article;

(3) veterans of the uniformed services, except as provided in Subsection A of this article; and

(4) other United States department of defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

#### ARTICLE 4

##### EDUCATIONAL RECORDS AND ENROLLMENT

A. 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 education 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. 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 shall process and furnish the official education records to the school in the receiving state within ten days or within such time as is reasonably determined under the rules promulgated by the interstate commission.

C. Compacting states shall give thirty days from the date of enrollment or within such time as is reasonably determined under the rules promulgated by the interstate commission for students to obtain any immunizations required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within thirty days or within such time as is reasonably determined under the rules promulgated by the interstate commission.

D. Students shall be allowed to continue their enrollment at a grade level in the receiving state commensurate with their grade level, including kindergarten, from a local education agency in the sending state at the time of transition, regardless of age. A student that has satisfactorily completed the prerequisite grade level in the local education agency in the sending state shall be eligible for enrollment in the next highest grade level in the receiving state, regardless of age. A student transferring after the start of the school year in the receiving state shall enter the school in the receiving state on the student's validated level from an accredited school in the sending state.

#### ARTICLE 5

##### PLACEMENT AND ATTENDANCE

A. When a student transfers before or during the school year, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending state school or educational assessments conducted at the school in the sending state if the courses are offered. Course placement includes honors, international baccalaureate, advanced placement, vocational, technical and career pathways courses. Continuing the student's academic program from the previous school and promoting placement in academically and career-challenging courses should be paramount when considering placement. This subsection does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the courses.

B. The receiving state school shall initially honor placement of the student in educational programs based on current educational assessments conducted at the school in the sending state or participation or placement in like programs in the sending state. Such programs include gifted and talented programs and English as a second language. This subsection does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

C. In compliance with the federal requirements of the Individuals with Disabilities Education Act, 20 U.S.C. Section 1400 et seq., the receiving state shall initially provide comparable services to a student with disabilities based on the student's current individualized education program. In compliance with the requirements of Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Section 794, and with Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. Sections 12131-12165, the receiving state shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or Title II plan, to provide the student with equal access to education. This subsection does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

D. Local education agency administrative officials shall have flexibility in waiving course or program prerequisites or other preconditions for placement in courses or programs offered under the jurisdiction of the local education agency.

E. A student whose parent or legal guardian is an active duty member of the uniformed services and has been called to duty for, is on leave from or has immediately returned from deployment to a combat zone or combat support posting shall be granted additional excused absences, at the discretion of the local education agency superintendent, to visit with the student's parent or legal guardian.

#### ARTICLE 6 ELIGIBILITY

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

B. A local education agency shall be prohibited from charging local tuition to a military child who is in transition and is placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent.

C. A military child who is in transition and is placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent may continue to attend the school in which the child was enrolled while residing with the custodial parent.

D. State and local education agencies shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified.

#### ARTICLE 7 GRADUATION

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

A. local education agency administrative officials shall waive specific courses required for graduation if similar course work has been satisfactorily completed in another local education agency or shall provide reasonable justification for denial. If a waiver is not granted to a student who would qualify to graduate from the sending school, the local education agency shall provide an alternative means of acquiring required coursework so that graduation may occur on time;

B. receiving states shall accept exit or end-of-course exams required for graduation from the sending state, national norm-referenced achievement tests or alternative testing in lieu of testing requirements for graduation in the receiving state. In the event the alternatives in this subsection and Subsection A of this article cannot be accommodated by the receiving state for a student transferring in the student's senior year, then the provisions of Subsection C of this article shall apply; and

C. if a military student transferring at the beginning of or during the military student's senior year is ineligible to graduate from the receiving local education agency after all alternatives have been considered, the sending and receiving local education agencies shall ensure the receipt of a diploma from the sending local education agency if the student meets the graduation requirements of the sending local education agency. In the event that one of the states in question is not a member of the Interstate Compact on Educational Opportunity for Military Children, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with Subsections A and B of this article.

#### ARTICLE 8 STATE COORDINATION

A. Each member state shall, through the creation of a state council or use of an existing body or board, provide for the coordination among its agencies of government, local education agencies and military installations concerning the state's participation in and compliance with the Interstate Compact on Educational Opportunity for Military Children and interstate commission activities. While each member state may determine the membership of its own state council, its membership must include: the secretary of public education, the superintendent of a school district with a high concentration of military children, one representative from a military installation, one representative from the executive branch of government and other offices and stakeholder groups the state council deems appropriate. A member state that does not have a school district deemed to contain a high concentration of military children may appoint a superintendent from another school district to represent local education agencies on the state council.

B. The state council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of the Interstate Compact on Educational Opportunity for Military Children.

C. The compact commissioner responsible for the administration and management of the state's participation in the Interstate Compact on Educational Opportunity for Military Children shall be appointed by the governor or as otherwise determined by each member state.

D. The compact commissioner and the military family education liaison designated in this article shall be ex-officio nonvoting members of the state council, unless either is already a full voting member of the state council.

#### ARTICLE 9

##### INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

The member states hereby create the "interstate commission on educational opportunity for military children". The activities of the interstate commission are the formation of public policy and are a discretionary state function. The interstate commission shall:

A. be a body corporate and joint agency of the member states and shall have all the responsibilities, powers and duties set forth in the Interstate Compact on Educational Opportunity for Military Children and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of that compact;

B. consist of one voting representative from each member state who shall be that state's compact commissioner.

(1) Each member state represented at a meeting of the interstate commission is entitled to one vote.

(2) A majority of the total member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the interstate commission.

(3) A representative shall not delegate a vote to another member state. In the event the compact commissioner is unable to attend a meeting of the interstate commission, the governor or state council may delegate voting authority to another person from the person's state for a specified meeting.

(4) The bylaws may provide for meetings of the interstate commission to be conducted by telecommunication or electronic communication;

C. consist of ex-officio nonvoting representatives who are members of interested organizations. The ex-officio members, as defined in the bylaws, may include members of the representative organizations of military family advocates, local education agency officials, parent and teacher groups, the United States department of defense, the education commission of the states, the interstate agreement on 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 chair 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 United States department 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 be open to the public, except as set forth in the rules or as otherwise provided in the Interstate Compact on Educational Opportunity for Military Children. The interstate commission and its committees may close a meeting, or a portion of a meeting, if it determines by a two-thirds' vote that an open meeting would be likely to:

(1) relate solely to the interstate commission's internal personnel practices and procedures;

(2) disclose matters specifically exempted from disclosure by federal and state statute;

(3) disclose trade secrets or commercial or financial information that is privileged or confidential;

(4) involve accusing a person of a crime or formally censuring a person;

(5) disclose information of a personal nature if the disclosure would constitute a clearly unwarranted invasion of personal privacy;

(6) disclose investigative records compiled for law enforcement purposes; or

(7) specifically relate to the interstate commission's participation in a civil action or other legal proceeding;

H. cause its legal counsel or designee to certify that a meeting may be closed and shall reference each relevant exemptible provision for any meeting, or portion of a meeting, that is closed pursuant to this subsection. The interstate commission shall keep minutes that shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons for the actions, including a 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 the 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 the Interstate Compact on Educational Opportunity for Military Children as directed through its rules, which shall specify the data to be collected, the means of collection and data exchange and reporting requirements. The methods of data collection, exchange and reporting shall, insofar 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; and

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 Interstate Compact on Educational Opportunity for Military Children 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 subsection shall not be construed to create a private right of action against the interstate commission or any member state.

#### ARTICLE 10

##### POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The interstate commission may:

A. provide for dispute resolution among member states;

B. promulgate rules and take all necessary actions to effect the goals, purposes and obligations as enumerated in the Interstate Compact on Educational Opportunity for Military Children. The rules shall be binding in the compact states to the extent and in the manner provided in that compact;

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

D. enforce compliance with the compact provisions, the rules promulgated by the interstate commission and the bylaws, using all necessary and proper means, including the use of judicial process;

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

F. purchase and maintain insurance and bonds;

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

H. establish and appoint committees, including an executive committee as required by Subsection E of Article 9 of the Interstate Compact on Educational Opportunity for Military Children, that shall have the power to act on behalf of the interstate commission in carrying out its powers and duties under that compact;

I. elect or appoint officers, attorneys, employees, agents or consultants and fix their compensation, define their duties and determine their qualifications;

J. establish the interstate commission's personnel policies and programs relating to conflicts of interest, rates of compensation and qualifications of personnel;

K. accept donations and grants of money, equipment, supplies, materials and services and receive, use and dispose of them;

L. lease, purchase, accept contributions or donations of, or otherwise own, hold, improve or use, any property, real, personal or mixed;

M. sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, real, personal or mixed;

N. establish a budget and make expenditures;

O. adopt a seal and bylaws governing the management and operation of the interstate commission;

P. report annually to the legislatures, governors, judiciaries and state councils of the member states concerning the activities of the interstate commission during the preceding year. The reports shall also include any recommendations that may have been adopted by the interstate commission;

Q. coordinate education, training and public awareness regarding the Interstate Compact on Educational Opportunity for Military Children, its implementation and operation for officials and parents involved in such activity;

R. establish uniform standards for the reporting, collecting and exchanging of data;

S. maintain corporate books and records in accordance with the bylaws;

T. perform such functions as may be necessary or appropriate to achieve the purposes of the Interstate Compact on Educational Opportunity for Military Children; and

U. provide for the uniform collection and sharing of information between and among member states, schools and military families under the Interstate Compact on Educational Opportunity for Military Children.

#### ARTICLE 11

##### ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

A. The interstate commission shall, by a majority of the members present and voting, within twelve months after the first interstate commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the Interstate Compact on Educational Opportunity for Military Children, including:

(1) establishing the fiscal year of the interstate commission;

(2) establishing an executive committee and other committees as may be necessary;



(3) providing for the establishment of committees and for governing any general or specific delegation of authority or function of the interstate commission;

(4) providing reasonable procedures for calling and conducting meetings of the interstate commission and ensuring reasonable notice of each meeting;

(5) establishing the titles and responsibilities of the officers and staff of the interstate commission;

(6) providing a mechanism for concluding the operations of the interstate commission and the return of surplus funds that may exist upon the termination of that compact after paying and reserving all of its debts and obligations; and

(7) providing start-up rules for initial administration of the Interstate Compact on Educational Opportunity for Military Children.

B. The interstate commission shall, by a majority of the members, elect annually from among its members a chair, a vice chair and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chair or, in the chair's absence or disability, the vice chair shall preside at all meetings of the interstate commission. The officers so elected shall serve without compensation or remuneration from the interstate commission, provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the interstate commission.

C. The executive committee shall have such authority and duties as may be set forth in the bylaws, including:

(1) managing the affairs of the interstate commission in a manner consistent with the bylaws and purposes of the interstate commission;

(2) overseeing an organizational structure within, and appropriate procedures for, the interstate commission to provide for the creation of rules, operating procedures and administrative and technical support functions; and

(3) planning, implementing and coordinating communications and activities with other state, federal and local government organizations in order to advance the goals of the interstate commission.

D. The executive committee may, subject to the approval of the interstate commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the interstate commission may deem appropriate. The executive director shall serve as secretary to the interstate commission but shall not be a member of the interstate commission. The executive director shall hire and supervise such other persons as may be authorized by the interstate commission.

E. The interstate commission shall defend the executive director and its employees and, subject to the approval of the attorney general or other appropriate legal counsel of the member state represented by an interstate commission representative, shall defend the interstate commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from intentional or willful and wanton misconduct on the part of the person.

#### ARTICLE 12

#### RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

A. The interstate commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of the Interstate Compact on Educational Opportunity for Military Children. If the interstate commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of that compact, or the powers granted under that compact, then such an action by the interstate commission shall be invalid and have no force or effect.

B. Rules shall be made pursuant to a rulemaking process that substantially conforms to the "Model State Administrative Procedure Act" (1981), 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 days after the date a rule is promulgated, any person may file a petition for judicial review of the rule, provided that the filing of the 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 resolution in the same manner used to adopt the Interstate Compact on Educational Opportunity for Military Children, then the rule shall have no further force and effect in any compacting state.

#### ARTICLE 13

##### OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION

A. All courts shall take judicial notice of the Interstate Compact on Educational Opportunity for Military Children and the rules promulgated under that compact in any judicial or administrative proceeding in a member state pertaining to the subject matter of that compact that may affect the powers, responsibilities or actions of the interstate commission.

B. The interstate commission shall be entitled to receive all service of process in any proceeding provided in Subsection A of this article and shall have standing to intervene in the proceeding for all purposes.

C. If the interstate commission determines that a member state has defaulted in the performance of its obligations or responsibilities under the Interstate Compact on Educational Opportunity for Military Children or the bylaws or promulgated rules, the interstate commission shall:

(1) provide written notice to the defaulting state and other member states of the nature of the default, the means of curing the default and any action taken by the interstate commission. The interstate commission shall specify the means by which the defaulting state shall cure its default; and

(2) provide remedial training and specific technical assistance regarding the default.

D. If the defaulting state fails to cure the default, the defaulting state shall be terminated from the Interstate Compact on Educational Opportunity for Military Children upon an affirmative vote of a majority of the member states, and all rights, privileges and benefits conferred by that compact shall be terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.

E. Suspension or termination of membership in the Interstate Compact on Educational Opportunity for Military Children shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the interstate commission to the governor, the majority and minority leaders of the defaulting state's legislature and each of the member states.

F. The state that has been suspended or terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of suspension or termination, including obligations the performance of which extends beyond the effective date of suspension or termination.

G. The interstate commission shall not bear any costs relating to any state that has been found to be in default or that has been suspended or terminated from the Interstate Compact on Educational Opportunity for Military Children unless otherwise mutually agreed upon in writing between the interstate commission and the defaulting state.

H. The defaulting state may appeal the action of the interstate commission by petitioning the United States district court for the District of Columbia or the federal district where the interstate commission has its principal offices.

I. The interstate commission shall attempt, upon the request of a member state, to resolve disputes that are subject to the Interstate Compact on Educational Opportunity for Military Children and that may arise among member states and between member and non-member states.

J. The interstate commission shall promulgate a rule providing for both mediation and dispute resolution for disputes as appropriate.

K. The interstate commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of the Interstate Compact on Educational Opportunity for Military Children.

L. The interstate commission may, by majority vote of the members, initiate legal action to enforce compliance with the provisions of the Interstate Compact on Educational Opportunity for Military Children and its promulgated rules and bylaws against a member state in default. The venue for the action shall be consistent with the determination in other interstate compacts to which the state of New Mexico is a member under the laws of the state of New Mexico.

M. The remedies in the Interstate Compact on Educational Opportunity for Military Children shall not be the exclusive remedies of the interstate commission. The interstate commission may avail itself of any other remedies available under state law or under the regulation of a profession.

#### ARTICLE 14

##### FINANCING OF THE INTERSTATE COMMISSION

A. The interstate commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

B. The interstate commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the interstate commission and its staff that must be in a total amount sufficient to cover the interstate commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the interstate commission, which shall promulgate a rule binding upon all member states.

C. The interstate commission shall not incur obligations of any kind prior to securing the funds adequate to meet the obligations; nor shall the interstate commission pledge the credit of any of the member states, except by and with the authority of the member state.

D. The interstate commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the interstate commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the interstate commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the interstate commission.

#### ARTICLE 15

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

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

B. The Interstate Compact on Educational Opportunity for Military Children shall become effective and binding upon legislative enactment of that compact into law by no less than ten of the states. The effective date shall be no earlier than December 1, 2007. Thereafter, it shall become effective and binding as to any other member state upon enactment of that compact into law by that state. The governors of non-member states or their designees shall be invited to participate in the activities of the interstate commission on a nonvoting basis prior to adoption of that compact by all states.

C. The interstate commission may propose amendments to the Interstate Compact on Educational Opportunity for Military Children for enactment by the member states. No amendment shall become effective and binding upon the interstate commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

#### ARTICLE 16

##### WITHDRAWAL AND DISSOLUTION

A. Once effective, the Interstate Compact on Educational Opportunity for Military Children shall continue in force and remain binding upon each and every member state, provided that a member state may withdraw from that compact by specifically repealing the statute that enacted that compact into law.

B. Withdrawal from the Interstate Compact on Educational Opportunity for Military Children shall be by the enactment of a statute repealing that compact.

C. The withdrawing state shall immediately notify the chair of the interstate commission in writing upon the introduction of legislation repealing the Interstate Compact on Educational Opportunity for Military Children in the withdrawing state. The interstate commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty days of its receipt of the notice.

D. The withdrawing state is responsible for all assessments, obligations and liabilities incurred on its behalf through the effective date of withdrawal, including obligations the performance of which extends beyond the effective date of withdrawal.

E. Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the Interstate Compact on Educational Opportunity for Military Children or upon such later date as determined by the interstate commission.

F. The Interstate Compact on Educational Opportunity for Military Children shall dissolve effective upon the date of the withdrawal or default of the member state that reduces the membership in that compact to one member state.

G. Upon the dissolution of the Interstate Compact on Educational Opportunity for Military Children, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the interstate commission shall be concluded, and surplus funds shall be distributed in accordance with the bylaws.

#### ARTICLE 17

##### SEVERABILITY AND CONSTRUCTION

A. The provisions of the Interstate Compact on Educational Opportunity for Military Children shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of that compact shall be enforceable.

B. The provisions of the Interstate Compact on Educational Opportunity for Military Children shall be liberally construed to effectuate its purposes.

C. Nothing in the Interstate Compact on Educational Opportunity for Military Children shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

#### ARTICLE 18

##### BINDING EFFECT OF COMPACT AND OTHER LAWS

A. Nothing in the Interstate Compact on Educational Opportunity for Military Children prevents the enforcement of any other law of a member state.

B. All lawful actions of the interstate commission, including all rules and bylaws promulgated by the interstate commission, are binding upon the member states.

C. All agreements between the interstate commission and the member states are binding in accordance with their terms.

D. In the event any provision of the Interstate Compact on Educational Opportunity for Military Children exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state."

History: Laws 2010, ch. 41, § 1.

### **11-8B-2. Military children education compact state council; military family education liaison; compact commissioner.**

A. The "military children education compact state council" is created to provide for the coordination among state agencies, local education agencies and military installations concerning the state's participation in and compliance with the Interstate Compact on Educational Opportunity for Military Children.

B. The military children education compact state council shall designate a "military family education liaison" to assist military families and the state in facilitating the implementation of the Interstate Compact on Educational Opportunity for Military Children. The military family education liaison shall serve as an ex-officio nonvoting member of the military children education compact state council, unless the person designated as the liaison is already a voting member of the council.

C. The governor shall appoint a compact commissioner to administer the Interstate Compact on Educational Opportunity for Military Children in New Mexico and to represent the state on the interstate commission. The compact commissioner shall serve as an ex-officio nonvoting member of the military children education compact state council, unless the person appointed as the compact commissioner is already a voting member of the council.

D. Members of the military children education compact state council shall not receive per diem and mileage or other compensation, perquisite or allowance.

History: Laws 2010, ch. 41, § 2.