

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 311

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

AN ACT

RELATING TO EDUCATION; ENACTING THE INTERSTATE COMPACT ON
EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN; CREATING THE
MILITARY CHILDREN EDUCATION COMPACT STATE COUNCIL; PROVIDING
POWERS AND DUTIES; PROVIDING COORDINATION AMONG STATES TO MEET
THE EDUCATIONAL NEEDS OF MILITARY CHILDREN.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 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

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underscored material = new
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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;

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

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

6 ARTICLE 2

7 DEFINITIONS

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

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

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

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

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

25 E. "education records" means records, files and

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

8 F. "extracurricular activity" means a voluntary
9 activity sponsored by a school or local education agency or an
10 organization sanctioned by a local education agency.

11 Extracurricular activities include preparation for and
12 involvement in public performances, contests, athletic
13 competitions, demonstrations, displays and club activities;

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

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

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

25 J. "military installation" means a base, camp,

1 post, station, yard, center or homeport facility for any ship
2 or other activity under the jurisdiction of the United States
3 department of defense, including any leased facility, that is
4 located within any of the several states, the District of
5 Columbia, the commonwealth of Puerto Rico, the United States
6 Virgin Islands, Guam, American Samoa, the Northern Marianas
7 Islands and any other United States territory. The term does
8 not include any facility used primarily for civil works, rivers
9 and harbors projects or flood control projects;

10 K. "non-member state" means a state that has not
11 enacted the Interstate Compact on Educational Opportunity for
12 Military Children;

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

16 M. "rule" means a written statement by the
17 interstate commission promulgated pursuant to Article 12 of the
18 Interstate Compact on Educational Opportunity for Military
19 Children that is of general applicability, implements,
20 interprets or prescribes a policy or provision of that compact
21 or an organizational, procedural or practice requirement of the
22 interstate commission and has the force and effect of statutory
23 law in a member state, and includes the amendment, repeal or
24 suspension of an existing rule;

25 N. "sending state" means the state from which a

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1 child of a military family is sent, brought or caused to be
2 sent or brought;

3 O. "state" means a state of the United States, the
4 District of Columbia, the commonwealth of Puerto Rico, the
5 United States Virgin Islands, Guam, American Samoa, the
6 Northern Marianas Islands and any other United States
7 territory;

8 P. "student" means the child of a military family
9 for whom the local education agency receives public funding and
10 who is formally enrolled in kindergarten through twelfth grade;

11 Q. "transition" means:

12 (1) the formal and physical process of
13 transferring from school to school; or

14 (2) the period of time in which a student
15 moves from one school in the sending state to another school in
16 the receiving state;

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

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

24 ARTICLE 3

25 APPLICABILITY

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

4 (1) active duty members of the uniformed
5 services, including members of the national guard and reserve
6 on active duty orders pursuant to 10 U.S.C. Sections 1209 and
7 1211;

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

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

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

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

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

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

25 (3) veterans of the uniformed services, except

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1 as provided in Subsection A of this article; and

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

6 ARTICLE 4

7 EDUCATIONAL RECORDS AND ENROLLMENT

8 A. In the event that official education records
9 cannot be released to the parents for the purpose of transfer,
10 the custodian of the records in the sending state shall prepare
11 and furnish to the parent a complete set of unofficial
12 education records containing uniform information as determined
13 by the interstate commission. Upon receipt of the unofficial
14 education records by a school in the receiving state, the
15 school shall enroll and appropriately place the student based
16 on the information provided in the unofficial records pending
17 validation by the official records, as quickly as possible.

18 B. Simultaneous with the enrollment and conditional
19 placement of the student, the school in the receiving state
20 shall request the student's official education record from the
21 school in the sending state. Upon receipt of this request, the
22 school in the sending state shall process and furnish the
23 official education records to the school in the receiving state
24 within ten days or within such time as is reasonably determined
25 under the rules promulgated by the interstate commission.

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

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

21 ARTICLE 5

22 PLACEMENT AND ATTENDANCE

23 A. When a student transfers before or during the
24 school year, the receiving state school shall initially honor
25 placement of the student in educational courses based on the

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1 student's enrollment in the sending state school or educational
2 assessments conducted at the school in the sending state if the
3 courses are offered. Course placement includes honors,
4 international baccalaureate, advanced placement, vocational,
5 technical and career pathways courses. Continuing the
6 student's academic program from the previous school and
7 promoting placement in academically and career-challenging
8 courses should be paramount when considering placement. This
9 subsection does not preclude the school in the receiving state
10 from performing subsequent evaluations to ensure appropriate
11 placement and continued enrollment of the student in the
12 courses.

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

22 C. In compliance with the federal requirements of
23 the Individuals with Disabilities Education Act, 20 U.S.C.
24 Section 1400 et seq., the receiving state shall initially
25 provide comparable services to a student with disabilities

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

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

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

24 ARTICLE 6

25 ELIGIBILITY

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1 incorporate the following procedures:

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

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

20 C. if a military student transferring at the
21 beginning of or during the military student's senior year is
22 ineligible to graduate from the receiving local education
23 agency after all alternatives have been considered, the sending
24 and receiving local education agencies shall ensure the receipt
25 of a diploma from the sending local education agency if the

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1 student meets the graduation requirements of the sending local
2 education agency. In the event that one of the states in
3 question is not a member of the Interstate Compact on
4 Educational Opportunity for Military Children, the member state
5 shall use best efforts to facilitate the on-time graduation of
6 the student in accordance with Subsections A and B of this
7 article.

8 ARTICLE 8

9 STATE COORDINATION

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

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1 from another school district to represent local education
2 agencies on the state council.

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

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

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

17 ARTICLE 9

18 INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY

19 CHILDREN

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

25 A. be a body corporate and joint agency of the

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1 member states and shall have all the responsibilities, powers
2 and duties set forth in the Interstate Compact on Educational
3 Opportunity for Military Children, and such additional powers
4 as may be conferred upon it by a subsequent concurrent action
5 of the respective legislatures of the member states in
6 accordance with the terms of that compact;

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

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

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

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

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

23 C. consist of ex-officio, nonvoting representatives
24 who are members of interested organizations. The ex-officio
25 members, as defined in the bylaws, may include members of the

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1 representative organizations of military family advocates,
2 local education agency officials, parent and teacher groups,
3 the United States department of defense, the education
4 commission of the states, the interstate agreement on the
5 qualification of educational personnel and other interstate
6 compacts affecting the education of children of military
7 members;

8 D. meet at least once each calendar year. The
9 chair may call additional meetings and, upon the request of a
10 simple majority of the member states, shall call additional
11 meetings;

12 E. establish an executive committee whose members
13 shall include the officers of the interstate commission and
14 such other members of the interstate commission as determined
15 by the bylaws. Members of the executive committee shall serve
16 a one-year term. Members of the executive committee shall be
17 entitled to one vote each. The executive committee shall have
18 the power to act on behalf of the interstate commission, with
19 the exception of rulemaking, during periods when the interstate
20 commission is not in session. The executive committee shall
21 oversee the day-to-day activities of the administration of the
22 compact, including enforcement and compliance with the
23 provisions of the compact, its bylaws and rules and other such
24 duties as deemed necessary. The United States department of
25 defense shall serve as an ex-officio nonvoting member of the

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1 executive committee;

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

9 G. give public notice of all meetings and all
10 meetings shall be open to the public, except as set forth in
11 the rules or as otherwise provided in the Interstate Compact on
12 Educational Opportunity for Military Children. The interstate
13 commission and its committees may close a meeting, or a portion
14 of a meeting, if it determines by a two-thirds' vote that an
15 open meeting would be likely to:

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

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

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

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

24 (5) disclose information of a personal nature
25 if the disclosure would constitute a clearly unwarranted

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1 invasion of personal privacy;

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

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

7 H. cause its legal counsel or designee to certify
8 that a meeting may be closed and shall reference each relevant
9 exemptible provision for any meeting, or portion of a meeting,
10 that is closed pursuant to this subsection. The interstate
11 commission shall keep minutes that shall fully and clearly
12 describe all matters discussed in a meeting and shall provide a
13 full and accurate summary of actions taken, and the reasons for
14 the actions, including a description of the views expressed and
15 the record of a roll call vote. All documents considered in
16 connection with an action shall be identified in the minutes.

17 All minutes and documents of a closed meeting shall remain
18 under seal, subject to release by a majority vote of the
19 interstate commission;

20 I. collect standardized data concerning the
21 educational transition of the children of military families
22 under the Interstate Compact on Educational Opportunity for
23 Military Children as directed through its rules, which shall
24 specify the data to be collected, the means of collection and
25 data exchange and reporting requirements. The methods of data

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1 collection, exchange and reporting shall, insofar as is
2 reasonably possible, conform to current technology and
3 coordinate its information functions with the appropriate
4 custodian of records as identified in the bylaws and rules; and

5 J. create a process that permits military
6 officials, education officials and parents to inform the
7 interstate commission if and when there are alleged violations
8 of the Interstate Compact on Educational Opportunity for
9 Military Children or its rules or when issues subject to the
10 jurisdiction of the compact or its rules are not addressed by
11 the state or local education agency. This subsection shall not
12 be construed to create a private right of action against the
13 interstate commission or any member state.

14 ARTICLE 10

15 POWERS AND DUTIES OF THE INTERSTATE COMMISSION

16 The interstate commission may:

- 17 A. provide for dispute resolution among member
18 states;
- 19 B. promulgate rules and take all necessary actions
20 to effect the goals, purposes and obligations as enumerated in
21 the Interstate Compact on Educational Opportunity for Military
22 Children. The rules shall have the force and effect of
23 statutory law and shall be binding in the compact states to the
24 extent and in the manner provided in that compact;
- 25 C. issue, upon request of a member state, advisory

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1 opinions concerning the meaning or interpretation of the
2 interstate compact and its bylaws, rules and actions;

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

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

9 F. purchase and maintain insurance and bonds;

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

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

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

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

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

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1 of them;

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

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

8 N. establish a budget and make expenditures;

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

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

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

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

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

25 T. perform such functions as may be necessary or

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1 appropriate to achieve the purposes of the Interstate Compact
2 on Educational Opportunity for Military Children; and

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

7 ARTICLE 11

8 ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

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

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

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

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

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

25 (5) establishing the titles and

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1 responsibilities of the officers and staff of the interstate
2 commission;

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

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

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

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

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

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

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

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

22 E. The interstate commission shall defend the
23 executive director and its employees and, subject to the
24 approval of the attorney general or other appropriate legal
25 counsel of the member state represented by an interstate

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

11 ARTICLE 12

12 RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

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

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

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1 operations of the interstate commission.

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

12 D. If a majority of the legislatures of the
13 compacting states rejects a rule by enactment of a statute or
14 resolution in the same manner used to adopt the Interstate
15 Compact on Educational Opportunity for Military Children, then
16 the rule shall have no further force and effect in any
17 compacting state.

18 ARTICLE 13

19 OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION

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

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1 interstate commission.

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

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

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

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

19 D. If the defaulting state fails to cure the
20 default, the defaulting state shall be terminated from the
21 Interstate Compact on Educational Opportunity for Military
22 Children upon an affirmative vote of a majority of the member
23 states and all rights, privileges and benefits conferred by
24 that compact shall be terminated from the effective date of
25 termination. A cure of the default does not relieve the

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1 offending state of obligations or liabilities incurred during
2 the period of the default.

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

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

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

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

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1 offices.

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

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

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

14 L. The interstate commission may, by majority vote
15 of the members, initiate legal action in the United States
16 district court for the District of Columbia or, at the
17 discretion of the interstate commission, in the federal
18 district where the interstate commission has its principal
19 offices to enforce compliance with the provisions of the
20 Interstate Compact on Educational Opportunity for Military
21 Children and its promulgated rules and bylaws against a member
22 state in default. The relief sought may include both
23 injunctive relief and damages.

24 M. The remedies in the Interstate Compact on
25 Educational Opportunity for Military Children shall not be the

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1 exclusive remedies of the interstate commission. The
2 interstate commission may avail itself of any other remedies
3 available under state law or the regulation of a profession.

4 ARTICLE 14

5 FINANCING OF THE INTERSTATE COMMISSION

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

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

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

23 D. The interstate commission shall keep accurate
24 accounts of all receipts and disbursements. The receipts and
25 disbursements of the interstate commission shall be subject to

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

7 ARTICLE 15

8 MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

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

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

21 C. The interstate commission may propose amendments
22 to the Interstate Compact on Educational Opportunity for
23 Military Children for enactment by the member states. No
24 amendment shall become effective and binding upon the
25 interstate commission and the member states unless and until it

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1 is enacted into law by unanimous consent of the member states.

2 ARTICLE 16

3 WITHDRAWAL AND DISSOLUTION

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

10 B. Withdrawal from the Interstate Compact on
11 Educational Opportunity for Military Children shall be by the
12 enactment of a statute repealing that compact. The withdrawal
13 shall not take effect until one year after the effective date
14 of the statute repealing that compact and until written notice
15 of the withdrawal has been given by the withdrawing state to
16 the governor of each other member jurisdiction.

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

24 D. The withdrawing state is responsible for all
25 assessments, obligations and liabilities incurred on its behalf

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1 through the effective date of withdrawal, including obligations
2 the performance of which extend beyond the effective date of
3 withdrawal.

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

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

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

19 ARTICLE 17

20 SEVERABILITY AND CONSTRUCTION

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

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

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

8 ARTICLE 18

9 BINDING EFFECT OF COMPACT AND OTHER LAWS

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

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

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

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

25 Section 2. MILITARY CHILDREN EDUCATION COMPACT STATE

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1 COUNCIL, MILITARY FAMILY EDUCATION LIAISON AND COMPACT
2 COMMISSIONER.--

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

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

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

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1 voting member of the council.

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

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