



GOV. MSG. NO. 1185

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

June 3, 2011

The Honorable Shan Tsutsui, President
and Members of the Senate
Twenty-Sixth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

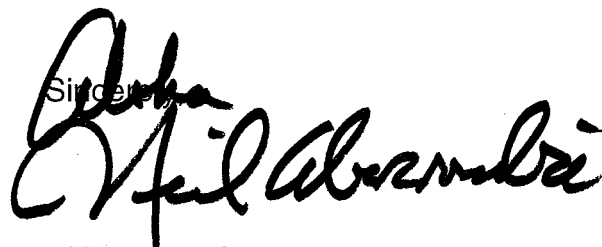
The Honorable Calvin Say, Speaker
and Members of the House
Twenty-Sixth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on June 3, 2011, the following bill was signed into law:

HB4 HD2 SD2 CD1

RELATING TO THE INTERSTATE COMPACT ON
EDUCATIONAL OPPORTUNITY FOR MILITARY
CHILDREN
ACT 082 (11)

Sincerely,


NEIL ABERCROMBIE
Governor, State of Hawaii

on JUN 3 2011

ACT 082

HOUSE OF REPRESENTATIVES
TWENTY-SIXTH LEGISLATURE, 2011
STATE OF HAWAII

H.B. NO. 4
H.D. 2
S.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO THE INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY
FOR MILITARY CHILDREN.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Act 152, Session Laws of Hawaii 2009, is
2 amended to read as follows:

3 "SECTION 1. The Hawaii Revised Statutes is amended by
4 adding a new chapter to be appropriately designated and to read
5 as follows:

6 "CHAPTER

7 INTERSTATE COMPACT ON EDUCATIONAL

8 OPPORTUNITY FOR MILITARY CHILDREN

9 § -1 Enactment of compact. The interstate compact on
10 educational opportunity for military children is hereby enacted
11 into law and entered into by the State of Hawaii as a party, and
12 is in full force and effect between the State and any other
13 state joining therein in accordance with the terms of the
14 compact, which compact is substantially as follows:



ARTICLE I

PURPOSE

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

(1) 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;

(2) 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;

(3) Facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities;

(4) Facilitating the on-time graduation of children of military families;



- 1 (5) Providing for the adoption and enforcement of
2 administrative rules implementing the provisions of
3 this compact;
- 4 (6) Providing for the uniform collection and sharing of
5 information between and among member states, schools,
6 and military families under this compact;
- 7 (7) Promoting coordination between this compact and other
8 compacts affecting military children; and
- 9 (8) Promoting flexibility and cooperation between the
10 educational system, parents, and the student to
11 achieve educational success for the student.

12 **ARTICLE II**

13 **DEFINITIONS**

14 As used in this compact, unless the context clearly
15 requires a different construction:

16 "Active duty" means full-time duty status in the active
17 uniformed service of the United States, including members of the
18 national guard and reserve on active duty orders pursuant to 10
19 United States Code Section 101(d)(1) and Section 101(d)(6)(A).

20 "Appropriate education agency" means a public authority
21 legally constituted by a state as an administrative agency to



1 provide control of and direction for kindergarten through
2 twelfth grade public educational institutions.

3 "Children of military families" means school-aged children,
4 enrolled in kindergarten through twelfth grade, in the
5 households of active duty members.

6 "Compact" means the interstate compact on educational
7 opportunity for military children.

8 "Compact commissioner" means the voting representative of
9 each compacting state appointed pursuant to article VIII of this
10 compact.

11 "Deployment" means the period of [~~one month~~] three months
12 prior to the service members' departure from their home station
13 on military orders through six months after return to their home
14 station.

15 "Education records" means those official records, files,
16 and data directly related to a student and maintained by the
17 school or appropriate education agency, including records
18 encompassing all the material kept in the student's cumulative
19 folder such as general identifying data, records of attendance
20 and of academic work completed, records of achievement and
21 results of evaluative tests, health data, disciplinary status,
22 test protocols, and individualized education programs.



1 "Extracurricular activities" means a voluntary activity
2 sponsored by the school or appropriate education agency or an
3 organization sanctioned by the appropriate education agency.

4 Extracurricular activities include preparation for and
5 involvement in public performances, contests, athletic
6 competitions, demonstrations, displays, and club activities.

7 "Interstate commission on educational opportunity for
8 military children" or "interstate commission" means the
9 commission that is created under article IX of this compact.

10 "Local education agency" means a public authority legally
11 constituted by a state as an administrative agency to provide
12 control of and direction for kindergarten through twelfth grade
13 public educational institutions.

14 "Member state" means a state that has enacted this compact.

15 "Military installation" means a base, camp, post, station,
16 yard, center, homeport facility for any ship, or other
17 [~~aetivity~~] facility under the jurisdiction of the United States
18 Department of Defense, including any leased facility, which is
19 located within any of the several states, the District of
20 Columbia, the Commonwealth of Puerto Rico, the United States
21 Virgin Islands, Guam, American Samoa, the Northern Marianas
22 Islands, and any other [~~Unites~~] United States territory. The



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

3 "Non-member state" means a state that has not enacted this
4 compact.

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

8 "Rule" means a written statement by the interstate
9 commission promulgated pursuant to article XII of this compact
10 that is of general applicability, implements, interprets, or
11 prescribes a policy or provision of the compact, or an
12 organizational, procedural, or practice requirement of the
13 interstate commission, [and] has the force and effect of
14 statutory law in a member state, and includes the amendment,
15 repeal, or suspension of an existing rule.

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

19 "State" means a state of the United States, the District of
20 Columbia, the Commonwealth of Puerto Rico, the United States
21 Virgin Islands, Guam, American Samoa, the Northern Marianas
22 Islands, and any other United States territory.



1 "Student" means the child of a military family for whom the
2 local education agency receives public funding and who is
3 formally enrolled in kindergarten through twelfth grade.

4 "Student financial obligation" means any unpaid or
5 outstanding fines or fees.

6 ~~["Test period" means the date(s) in which schools are~~
7 ~~conducting testing, assessments, or both, that are required by~~
8 ~~federal or state laws.]~~

9 "Transition" means the formal and physical process of
10 transferring from school to school, or the period of time in
11 which a student moves from one school in the sending state to
12 another school in the receiving state.

13 "Uniformed service" means the Army, Navy, Air Force, Marine
14 Corps, Coast Guard as well as the Commissioned Corps of the
15 National Oceanic and Atmospheric Administration, and Public
16 Health Services.

17 "Veteran" means a person who served in the uniformed
18 services and who was discharged or released therefrom under
19 honorable conditions.

20 **ARTICLE III**

21 **APPLICABILITY**

22 (a) Except as otherwise provided in subsection (b), this



1 compact shall apply to the children of:

2 (1) Active duty members of the uniformed services as
3 defined in this compact, including members of the
4 national guard and military reserves on active duty
5 orders pursuant to 10 United States Code Section
6 101(d) (1) and Section 101(d) (6) (A);

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

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

14 (b) This interstate compact shall only apply to
15 appropriate education agencies as defined in this compact.

16 (c) The provisions of this compact shall not apply to the
17 children of:

18 (1) Inactive members of the national guard and military
19 reserves;

20 (2) Members of the uniformed services now retired, except
21 as provided in subsection (a);



1 (3) Veterans of the uniformed services, except as provided
2 in subsection (a); and

3 (4) Other United States Department of Defense personnel
4 and other federal agency civilian and contract
5 employees not defined as active duty members of the
6 uniformed services.

7 **ARTICLE IV**

8 **EDUCATIONAL RECORDS AND ENROLLMENT**

9 (a) Unofficial or "hand-carried" education records. If
10 official education records cannot be released to the parents for
11 the purpose of transfer, the custodian of the records in the
12 sending state shall prepare and furnish to the parent a complete
13 set of unofficial education records containing uniform
14 information as determined by the interstate commission. [The
15 ~~unofficial education records shall only be furnished to the~~
16 ~~parents if all student financial obligations have been met.]~~
17 Upon receipt of the unofficial education records by a school in
18 the receiving state, the school shall enroll and appropriately
19 place the student based on the information provided in the
20 unofficial records pending validation by the official records,
21 as quickly as possible.



1 (b) Official education records and transcripts.
2 Simultaneous with the enrollment and conditional placement of
3 the student, the school in the receiving state shall request the
4 student's official education record from the school in the
5 sending state. Upon receipt of this request, the school in the
6 sending state ~~[will]~~ shall process and furnish the official
7 education records to the school in the receiving state within
8 ten business days or within such time as is reasonably
9 determined under the rules promulgated by the interstate
10 commission. ~~[The official education records shall only be
11 furnished to the parents if all student financial and school
12 obligations have been met.]~~

13 (c) Immunizations. Compacting states shall give thirty
14 days from the date of enrollment or within such time as is
15 reasonably determined under the rules promulgated by the
16 interstate commission, for students to obtain any immunizations
17 required by the receiving state. For a series of immunizations,
18 initial vaccinations shall be obtained within thirty days or
19 within such time as is reasonably determined under the rules
20 promulgated by the interstate commission. This section shall
21 not prohibit state department of health requirements concerning
22 tuberculosis examinations.



1 (d) Kindergarten and first grade entrance age. Students
2 [~~may~~] shall continue their enrollment at a grade level in the
3 receiving state commensurate with their grade level (including
4 kindergarten) from an appropriate education agency in the
5 sending state at the time of transition, regardless of age. A
6 student that has satisfactorily completed the prerequisite grade
7 level in the appropriate education agency in the sending state
8 shall be eligible for enrollment in the next higher grade level
9 in the receiving state, regardless of age. A student
10 transferring after the start of the school year in the receiving
11 state shall enter the school in the receiving state on [~~their~~]
12 the student's validated level from an accredited school in the
13 sending state.

14 ARTICLE V

15 PLACEMENT AND ATTENDANCE

16 (a) Course placement. If the student transfers before or
17 during the school year, the receiving state school shall
18 initially honor placement of the student in educational courses
19 based on the student's enrollment in the sending state school or
20 educational assessments conducted at the school in the sending
21 state if the courses are offered or both; provided that these
22 programs exist in the receiving state school [~~and space is~~]



1 ~~available as determined by the principal~~]. Course placement
2 includes but is not limited to honors, international
3 baccalaureate, advanced placement, vocational, technical, and
4 career pathways courses. Continuing the student's academic
5 program from the previous school and promoting placement in
6 academically and career challenging courses should be paramount
7 when considering placement. This subsection shall not preclude
8 the school in the receiving state from performing subsequent
9 evaluations to ensure appropriate placement and continued
10 enrollment of the student in the course. The receiving state
11 school may allow the student to attend similar educational
12 courses within the school district if the receiving state school
13 does not offer such educational courses.

14 (b) Educational program placement. The receiving state
15 school shall initially honor placement of the student in
16 educational programs based on current educational assessments
17 conducted at the school in the sending state or participation
18 and placement in like programs in the sending state; provided
19 that these programs exist in the receiving state school [~~and~~
20 ~~space is available as determined by the principal~~]. The
21 programs include but are not limited to gifted and talented
22 programs and English as a second language programs. This



1 subsection shall not preclude the school in the receiving state
2 from performing subsequent evaluations to ensure appropriate
3 placement of the student. The receiving state school may allow
4 the student to attend similar educational courses within the
5 school district if the receiving state school does not offer
6 such educational programs.

7 (c) Special education services[-]:

8 (1) In compliance with the federal requirements of the
9 Individuals with Disabilities Education Act (IDEA), 20
10 [~~U.S.C.~~] United States Code Section 1400 et seq., the
11 receiving state shall initially provide comparable
12 services to a student with disabilities based on the
13 student's current individualized education program[-];
14 and

15 (2) In compliance with the requirements of Section 504 of
16 the Rehabilitation Act, 29 [~~U.S.C.A.~~] United States
17 Code Annotated Section 794, and with Title II of the
18 Americans with Disabilities Act, 42 [~~U.S.C.A.~~] United
19 States Code Annotated Sections 12131-12165, the
20 receiving state shall make reasonable accommodations
21 and modifications to address the needs of incoming
22 students with disabilities, subject to an existing



1 Section 504 or Title II Plan, to provide the student
2 with equal access to education. This paragraph shall
3 not preclude the school in the receiving state from
4 performing subsequent evaluations to ensure
5 appropriate placement of the student.

6 (d) Placement flexibility. Appropriate education agency
7 administrative officials shall have flexibility in waiving a
8 course or program [~~prerequisites,~~] prerequisite, or other
9 precondition for placement in courses or programs offered under
10 the jurisdiction of the appropriate education agency.

11 (e) Absence as related to deployment activities. A
12 student whose parent or legal guardian is an active duty member
13 of the uniformed services, as defined by the compact, and has
14 been called to duty for, is on leave from, or immediately
15 returned from deployment to a combat zone or combat support
16 posting, shall be granted additional excused absences at the
17 discretion of the appropriate education agency superintendent to
18 visit with the student's parent or legal guardian relative to
19 such leave or deployment of the parent or guardian. [~~This~~
20 ~~subsection shall not require excused absences to be granted~~
21 ~~during test periods.~~]



ARTICLE VI

ELIGIBILITY

(a) Eligibility for enrollment[-]:

(1) Special power of attorney, relating 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[-];

(2) The appropriate education agency shall be prohibited from charging local tuition to a transitioning military child placed in the care of a non-custodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent[-]; and

(3) A transitioning military child, placed in the care of a non-custodial 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 permanently enrolled while residing with the custodial parent. Upon the return of the custodial parent, the child shall be allowed to finish the school year in the school



1 currently enrolled, but shall enroll in the school
2 within the jurisdiction of the custodial parent during
3 the following school year.

4 (b) Eligibility for extracurricular participation. State
5 education agencies and appropriate education agencies shall
6 facilitate the opportunity for transitioning military children's
7 inclusion in extracurricular activities, regardless of
8 application deadlines, to the extent the children are otherwise
9 qualified and space is available in the receiving state school
10 as determined by the principal.

11 ARTICLE VII

12 GRADUATION

13 To facilitate the on-time graduation of children of
14 military families, state and appropriate education agencies
15 shall incorporate the following procedures:

- 16 (1) Waiver requirements. Appropriate education agency
17 administrative officials [~~may~~] shall waive specific
18 courses required for graduation if similar coursework
19 has been satisfactorily completed in another
20 appropriate education agency or shall provide
21 reasonable justification for denial. If a waiver is
22 not granted to a student who would qualify to graduate



1 from the sending school, the appropriate education
2 agency shall provide an alternative means of acquiring
3 required coursework so that graduation may occur on
4 time. This section shall not obligate the school or
5 appropriate education agency to pay for an online
6 course if funding is unavailable[-];

7 (2) Exit exams. For students entering high school in the
8 eleventh or twelfth grade, states shall accept:

9 (A) Exit or end-of-course exams required for
10 graduation from the sending state;

11 (B) National norm-referenced achievement tests; or

12 (C) Alternative testing, in lieu of testing
13 requirements for graduation in the receiving
14 state.

15 If subparagraphs (A), (B), and (C) cannot be
16 accommodated by the receiving state for a student
17 transferring in the student's senior year, then
18 paragraph (3) shall apply[-]; and

19 (3) Transfers during senior year. If a military student
20 transferring at the beginning or during the senior
21 year is ineligible to graduate from the receiving
22 appropriate education agency after all alternatives



1 have been considered, the sending and receiving
2 appropriate education agencies shall ensure the
3 receipt of a diploma from the sending appropriate
4 education agency, if the student meets the graduation
5 requirements of the sending appropriate education
6 agency. If one of the states in question is not a
7 member of this compact, the member state shall use
8 best efforts to facilitate the on-time graduation of
9 the student in accordance with paragraphs (1) and (2)
10 of this article. This paragraph permits but shall not
11 require a sending state to deny a diploma to a student
12 transferring to a receiving state with an exit exam
13 requirement if the student does not meet the
14 graduation requirements of the appropriate education
15 agency of the sending state.

16 **ARTICLE VIII**

17 **STATE COORDINATION**

18 (a) Each member state, through the creation of a state
19 council or use of an existing body or board, shall provide for
20 the coordination among its agencies of government, appropriate
21 education agencies, and military installations concerning the
22 state's participation in, and compliance with, this compact and



1 interstate commission activities. While each member state may
2 determine the membership of its state council, its membership
3 shall include at least the state superintendent of education,
4 superintendent of a school district with a high concentration of
5 military children, representative from a military installation,
6 one representative each from the legislative and executive
7 branches of government, and other offices and stakeholder groups
8 the state council deems appropriate. A member state that does
9 not have a school district deemed to contain a high
10 concentration of military children may appoint a superintendent
11 from another school district to represent appropriate education
12 agencies on the state council.

13 (b) The state council of each member state shall appoint
14 or designate a military family education liaison to assist
15 military families and the state in facilitating the
16 implementation of this compact.

17 (c) The compact commissioner responsible for the
18 administration and management of the state's participation in
19 the compact shall be recommended by the superintendent of
20 education with the approval of the board of education.

21 (d) The compact commissioner and the military family
22 education liaison designated herein shall be ex-officio members



1 of the state council, unless either is already a full voting
2 member of the state council.

3 **ARTICLE IX**

4 **INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY**

5 **FOR MILITARY CHILDREN**

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

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

18 (2) Consist of one interstate commission voting
19 representative from each member state who shall be
20 that state's compact commissioner[-];

21 (A) Each member state represented at a meeting of the
22 interstate commission is entitled to one vote[-];



(B) 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[-];

(C) 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 their state for a specified meeting[-]; and

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

(3) Include ex-officio, non-voting 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, appropriate education agency officials, parent and teacher groups, the United States Department of Defense, the Education Commission of the States, the Interstate Agreement on the Qualification



1 of Educational Personnel, and other interstate
2 compacts affecting the education of children of
3 military members;

4 (4) Meet at least once each calendar year. The
5 chairperson may call additional meetings and, upon the
6 request of a simple majority of the member states,
7 shall call additional meetings;

8 (5) Establish an executive committee, whose members shall
9 include the officers of the interstate commission and
10 such other members of the interstate commission as
11 determined by the bylaws. Members of the executive
12 committee shall serve a one-year term. Members of the
13 executive committee shall be entitled to one vote
14 each. The executive committee shall have the power to
15 act on behalf of the interstate commission, with the
16 exception of rulemaking, during periods when the
17 interstate commission is not in session. The
18 executive committee shall oversee the day-to-day
19 activities of the administration of the compact,
20 including enforcement and compliance with the
21 provisions of the compact, its bylaws and rules, and
22 other such duties as deemed necessary. The United



1 States Department of Defense shall serve as an ex-
2 officio, nonvoting member of the executive committee;
3 and

4 (6) Establish bylaws and rules that provide for conditions
5 and procedures under which the interstate commission
6 shall make its information and official records
7 available to the public for inspection or copying.

8 The interstate commission may exempt from disclosure
9 information or official records to the extent they
10 would adversely affect personal privacy rights or
11 proprietary interests.

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

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

21 (2) Disclose matters specifically exempted from disclosure
22 by federal and state statute;



1 (3) Disclose trade secrets or commercial or financial
2 information which is privileged or confidential;

3 (4) Involve accusing a person of a crime, or formally
4 censuring a person;

5 (5) Disclose information of a personal nature where
6 disclosure would constitute a clearly unwarranted
7 invasion of personal privacy;

8 (6) Disclose investigative records compiled for law
9 enforcement purposes; or

10 (7) Specifically relate to the interstate commission's
11 participation in a civil action or other legal
12 proceeding.

13 (c) For a meeting, or portion of a meeting, closed
14 pursuant to subsection (b), the interstate commission's legal
15 counsel or designee shall certify that the meeting may be closed
16 and shall reference each relevant ~~[exemptible]~~ exempt provision.
17 The interstate commission shall keep minutes which shall fully
18 and clearly describe all matters discussed in a meeting and
19 shall provide a full and accurate summary of actions taken, and
20 the reasons therefor, including a description of the views
21 expressed and the record of roll call votes. All documents
22 considered in connection with an action shall be identified in



1 the minutes. All minutes and documents of a closed meeting
2 shall remain under seal, subject to release by a majority vote
3 of the interstate commission.

4 (d) The interstate commission shall collect standardized
5 data concerning the educational transition of the children of
6 military families under this compact as directed through its
7 rules which shall specify the data to be collected, the means of
8 collection, and data exchange and reporting requirements. The
9 methods of data collection, exchange, and reporting, as is
10 reasonably possible, shall conform to current technology and
11 coordinate its information functions with the appropriate
12 custodian of records as identified in the bylaws and rules.

13 (e) The interstate commission shall create a process that
14 permits military officials, education officials, and parents to
15 inform the interstate commission if and when there are alleged
16 violations of the compact or its rules or when issues subject to
17 the jurisdiction of the compact or its rules are not addressed
18 by the state or appropriate education agency. This section
19 shall not be construed to create a private right of action
20 against the interstate commission, any member state, or any
21 state education agency or appropriate education agency.



ARTICLE X

POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The interstate commission shall have the following powers:

- (1) To provide for dispute resolution among member states;
- (2) To promulgate rules and take all necessary actions to effect the goals, purposes, and obligations as enumerated in this compact. The rules shall have the force and effect of statutory law and shall be binding in the compact states to the extent and in the manner provided in this compact;
- (3) To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules, and actions;
- (4) To enforce compliance with the compact provisions, the rules promulgated by the interstate commission, and the bylaws, use all necessary and proper means, including the use of judicial process. Any action to enforce compliance with the compact provisions by the interstate commission shall be brought against a member state only;



- 1 (5) To establish and maintain offices which shall be
2 located within one or more of the member states;
3 (6) To purchase and maintain insurance and bonds;
4 (7) To borrow, accept, hire, or contract for services of
5 personnel;
6 (8) To establish and appoint committees including an
7 executive committee as required by article IX,
8 subsection (a), paragraph (5), which shall have the
9 power to act on behalf of the interstate commission in
10 carrying out its powers and duties hereunder;
11 (9) To elect or appoint such officers, attorneys,
12 employees, agents, or consultants, and to fix their
13 compensation, define their duties, and determine their
14 qualifications; and to establish the interstate
15 commission's personnel policies and programs relating
16 to conflicts of interest, rates of compensation, and
17 qualifications of personnel;
18 (10) To accept any and all donations and grants of money,
19 equipment, supplies, materials, and services, and to
20 receive, use, and dispose of it;



- 1 (11) To lease, purchase, or accept contributions or
2 donations of, or otherwise to own, hold, improve, or
3 use any property, real, personal, or mixed;
- 4 (12) To sell, convey, mortgage, pledge, lease, exchange,
5 abandon, or otherwise dispose of any property, real,
6 personal, or mixed;
- 7 (13) To establish a budget and make expenditures;
- 8 (14) To adopt a seal and bylaws governing the management
9 and operation of the interstate commission;
- 10 (15) To report annually to the legislatures, governors,
11 judiciary, and state councils of the member states
12 concerning the activities of the interstate commission
13 during the preceding year. The reports shall include
14 any recommendations that may have been adopted by the
15 interstate commission;
- 16 (16) To coordinate education, training, and public
17 awareness regarding the compact[7] and its
18 implementation and operation for officials and parents
19 involved in such activity;
- 20 (17) To establish uniform standards for the reporting,
21 collecting, and exchanging of data;



1 (18) To maintain corporate books and records in accordance
2 with the bylaws;

3 (19) To perform such functions as may be necessary or
4 appropriate to achieve the purposes of this compact;
5 and

6 (20) To provide for the uniform collection and sharing of
7 information between and among member states, schools,
8 and military families under this compact.

9 **ARTICLE XI**

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

11 (a) The interstate commission, by a majority of the
12 members present and voting, within twelve months after the first
13 interstate commission meeting, shall adopt bylaws to govern its
14 conduct as may be necessary or appropriate to carry out the
15 purposes of the compact including:

16 (1) Establishing the fiscal year of the interstate
17 commission;

18 (2) Establishing an executive committee and such other
19 committees as may be necessary;

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



1 (4) Providing reasonable procedures for calling and
2 conducting meetings of the interstate commission, and
3 ensuring reasonable notice of each such meeting;

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

6 (6) Providing a mechanism for concluding the operations of
7 the interstate commission and the return of surplus
8 funds that may exist upon the termination of the
9 compact after the payment and reserving of all of its
10 debts and obligations; and

11 (7) Providing "start up" rules for the initial
12 administration of the compact.

13 (b) The interstate commission, by a majority of the
14 members, shall elect annually from among its members a
15 chairperson, a vice-chairperson, and a treasurer, each of whom
16 shall have such authority and duties as may be specified in the
17 bylaws. The chairperson or, in the chairperson's absence or
18 disability, the vice-chairperson, shall preside at all meetings
19 of the interstate commission. The officers elected shall serve
20 without compensation or remuneration from the interstate
21 commission; provided that, subject to the availability of
22 budgeted funds, the officers shall be reimbursed for ordinary



1 and necessary costs incurred by them in the performance of their
2 responsibilities as officers of the interstate commission.

3 (c) The executive committee shall have such authority and
4 duties as may be set forth in the bylaws, including:

5 (1) Managing the affairs of the interstate commission in a
6 manner consistent with the bylaws and purposes of the
7 interstate commission;

8 (2) Overseeing an organizational structure within, and
9 appropriate procedures for, the interstate commission
10 to provide for the creation of rules, operating
11 procedures, and administrative and technical support
12 functions; and

13 (3) Planning, implementing, and coordinating
14 communications and activities with other state,
15 federal, and local government organizations to advance
16 the goals of the interstate commission.

17 (d) The executive committee, subject to the approval of
18 the interstate commission, may appoint or retain an executive
19 director for such period, upon such terms and conditions and for
20 such compensation, as the interstate commission may deem
21 appropriate. The executive director shall serve as secretary to
22 the interstate commission, but shall not be a member of the



1 interstate commission. The executive director shall hire and
2 supervise such other persons as may be authorized by the
3 interstate commission.

4 (e) The interstate commission's executive director and its
5 employees shall be immune from suit and liability, either
6 personally or in their official capacity, for a claim for damage
7 to or loss of property or personal injury or other civil
8 liability caused or arising out of or relating to an actual or
9 alleged act, error, or omission that occurred, or that such
10 person had a reasonable basis for believing occurred, within the
11 scope of interstate commission employment, duties, or
12 responsibilities; provided that such person shall not be
13 protected from suit or liability for damage, loss, injury, or
14 liability caused by the intentional or wilful and wanton
15 misconduct of such person[-];

16 (1) The liability of the interstate commission's executive
17 director and employees or interstate commission
18 representatives, acting within the scope of such
19 person's employment or duties for acts, errors, or
20 omissions occurring within the person's state may not
21 exceed the limits of liability set forth under the
22 constitution and laws of that state for state



1 officials, employees, and agents. The interstate
2 commission is considered to be an instrumentality of
3 the states for the purposes of any such action.

4 Nothing in this paragraph shall be construed to
5 protect such person from suit or liability for damage,
6 loss, injury, or liability caused by the intentional
7 or wilful and wanton misconduct of such person[-];

8 (2) The interstate commission shall defend the executive
9 director and its employees and, subject to the
10 approval of the attorney general or other appropriate
11 legal counsel of the member state represented by an
12 interstate commission representative, shall defend
13 such interstate commission representative in any civil
14 action seeking to impose liability arising out of an
15 actual or alleged act, error, or omission that
16 occurred within the scope of interstate commission
17 employment, duties, or responsibilities, or that the
18 defendant had a reasonable basis for believing
19 occurred within the scope of interstate commission
20 employment, duties, or responsibilities; provided that
21 the actual or alleged act, error, or omission did not



1 result from intentional or wilful and wanton
2 misconduct on the part of such person[-]; and

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

18 (f) The compact commissioner and any person representing
19 the state in the interstate commission, in their individual or
20 official capacity, and the member state, shall be immune from
21 suit and liability caused by or arising out of actions, errors,
22 or omissions of the interstate commission.



ARTICLE XII

RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

(a) The interstate commission shall promulgate reasonable rules to effectively and efficiently achieve the purposes of this compact. Notwithstanding the foregoing, in the event the interstate commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this compact, then the 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 of 1981, as may be appropriate to the operations of the interstate commission.

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



1 represents a reasonable exercise of the interstate commission's
2 authority.

3 (d) If a majority of the legislatures of the compacting
4 states rejects a rule by enactment of a statute or resolution in
5 the same manner used to adopt this compact, then such rule shall
6 have no further force and effect in any compacting state.

7 **ARTICLE XIII**

8 **OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION**

9 (a) Oversight[-]:

10 (1) The executive, legislative, and judicial branches of
11 state government in each member state shall enforce
12 this compact and shall take all actions necessary and
13 appropriate to effectuate the compact's purposes and
14 intent. The provisions of this compact and the rules
15 adopted hereunder shall have the force and effect of
16 law[-];

17 (2) All courts shall take judicial notice of the compact
18 and the rules in any judicial or administrative
19 proceeding in a member state pertaining to the subject
20 matter of this compact which may affect the powers,
21 responsibilities, or actions of the interstate
22 commission[-]; and



(3) The interstate commission shall be entitled to receive all service of process in any such proceeding[7] and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the interstate commission shall render a judgment or order void as to the interstate commission, this compact, or promulgated rules.

(b) Default, technical assistance, suspension, and termination. If the interstate commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, 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 conditions by which the defaulting state must cure its default; and

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

(c) If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an



1 affirmative vote of a majority of the member states and all
2 rights, privileges, and benefits conferred by this compact shall
3 be terminated from the effective date of termination. A cure of
4 the default shall not relieve the offending state of obligations
5 or liabilities incurred during the period of the default.

6 (d) Suspension or termination of membership in the compact
7 shall be imposed only after all other means of securing
8 compliance have been exhausted. Notice of intent to suspend or
9 terminate shall be given by the interstate commission to the
10 governor, the majority and minority leaders of the defaulting
11 state's legislature, and each of the member states.

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

17 (f) The interstate commission shall not bear any costs
18 relating to any state that has been found to be in default or
19 which has been suspended or terminated from the compact, unless
20 otherwise mutually agreed upon in writing between the interstate
21 commission and the defaulting state.



1 (g) The defaulting state may appeal the action of the
2 interstate commission by petitioning the United States District
3 Court for the District of Columbia or the federal district where
4 the interstate commission has its [~~principal~~] principle offices.
5 The prevailing party shall be awarded all costs of such
6 litigation including reasonable attorney's fees.

7 (h) Dispute resolution[~~-~~]:

8 (1) The interstate commission shall attempt, upon the
9 request of a member state, to resolve disputes which
10 are subject to the compact and which may arise among
11 member states and between member and non-member
12 states[~~-~~]; and

13 (2) The interstate commission shall promulgate rules
14 providing for both mediation and binding dispute
15 resolution for disputes as appropriate.

16 (i) Enforcement[~~-~~]:

17 (1) The interstate commission, in the reasonable exercise
18 of its discretion, shall enforce the provisions and
19 rules of this compact[~~-~~];

20 (2) The interstate commission may, by majority vote of the
21 members, initiate legal action in the United States
22 District Court for the District of Columbia or, at the



1 discretion of the interstate commission, in the
2 federal district where the interstate commission has
3 its [~~principal~~] principle offices, to enforce
4 compliance with the provisions of this compact, its
5 promulgated rules and bylaws, against a member state
6 in default. The relief sought may include both
7 injunctive relief and damages. In the event judicial
8 enforcement is necessary, the prevailing party shall
9 be awarded all costs of such litigation, including
10 reasonable attorney's fees[-]; and

11 (3) The remedies herein shall not be the exclusive
12 remedies of the interstate commission. The interstate
13 commission may avail itself of any other remedies
14 available under state law or the regulation of a
15 profession.

16 ARTICLE XIV

17 FINANCING OF THE INTERSTATE COMMISSION

18 (a) The interstate commission shall pay, or provide for
19 the payment of, the reasonable expenses of its establishment,
20 organization, and ongoing activities.

21 (b) The interstate commission may levy on and collect an
22 annual assessment from each member state to cover the cost of



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

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

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



1
2 **ARTICLE XV**3 **MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT**

4 (a) Any state is eligible to become a member state.

5 (b) The compact shall become effective and binding upon
6 legislative enactment of the compact into law by no less than
7 ten of the states. The effective date shall be no earlier than
8 December 1, 2007. Thereafter, it shall become effective and
9 binding as to any other member state upon enactment of the
10 compact into law by that state. The governors of non-member
11 states or their designees shall be invited to participate in the
12 activities of the interstate commission on a non-voting basis
13 prior to adoption of the compact by all states.

14 (c) The interstate commission may propose amendments to
15 the compact for enactment by the member states. No amendment
16 shall become effective and binding upon the interstate
17 commission and the member states unless and until it is enacted
18 into law by unanimous consent of the member states.

19 **ARTICLE XVI**20 **WITHDRAWAL AND DISSOLUTION**

21 (a) Withdrawal[-]:

22 (1) Once effective, the compact shall continue in force
and remain binding upon each and every member state;



1 provided that a member state may withdraw from the
2 compact by specifically repealing the statute which
3 enacted the compact into law[-];

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

10 (3) The withdrawing state shall immediately notify the
11 chairperson of the interstate commission in writing
12 upon the introduction of legislation repealing this
13 compact in the withdrawing state. The interstate
14 commission shall notify the other member states of the
15 withdrawing state's intent to withdraw within sixty
16 days of its receipt thereof[-];

17 (4) The withdrawing state is responsible for all
18 assessments, obligations, and liabilities incurred
19 through the effective date of withdrawal, including
20 obligations, the performance of which extend beyond
21 the effective date of withdrawal[-]; and



1 (5) Reinstatement following withdrawal of a member state
2 shall occur upon the withdrawing state reenacting the
3 compact or upon such later date as determined by the
4 interstate commission.

5 (b) Dissolution of compact[-]:

6 (1) This compact shall dissolve effective upon the date of
7 the withdrawal or default of the member state which
8 reduces the membership in the compact to one member
9 state[-]; and

10 (2) Upon the dissolution of this compact, the compact
11 becomes void and shall be of no further force or
12 effect, and the business and affairs of the interstate
13 commission shall be concluded and surplus funds shall
14 be distributed in accordance with the bylaws.

15 **ARTICLE XVII**

16 **SEVERABILITY AND CONSTRUCTION**

17 (a) The provisions of this compact shall be severable, and
18 if any phrase, clause, sentence, or provision is deemed
19 unenforceable, the remaining provisions of the compact shall be
20 enforceable.

21 (b) The provisions of this compact shall be liberally
22 construed to effectuate its purposes.



1 (c) Nothing in this compact shall be construed to prohibit
2 the applicability of other interstate compacts to which the
3 states are members.

4 ARTICLE XVIII

5 BINDING EFFECT OF COMPACT AND OTHER LAWS

6 (a) Other laws[-]:

7 (1) Nothing herein prevents the enforcement of any other
8 law of a member state that is not inconsistent with
9 this compact[-]; and

10 (2) All member states' laws conflicting with this compact
11 shall be superseded to the extent of the conflict.

12 (b) Binding effect of the compact[-]:

13 (1) All lawful actions of the interstate commission,
14 including all rules and bylaws promulgated by the
15 interstate commission, shall be binding upon the
16 member states[-];

17 (2) All agreements between the interstate commission and
18 the member states shall be binding in accordance with
19 their terms[-]; and

20 (3) If any provision of this compact exceeds the
21 constitutional limits imposed on the legislature of
22 any member state, such provision shall be ineffective



1 to the extent of the conflict with the constitutional
2 provision in question in that member state.

3 **§ -2 State council.** There is established within the
4 board of education for administrative purposes the state council
5 on educational opportunity for military children. The board of
6 education shall establish the state council, as required by
7 article VIII of the compact. The membership of the state
8 council shall include, at a minimum:

- 9 (1) The superintendent of education or the
10 superintendent's designee;
- 11 (2) The complex area superintendents of the administrative
12 districts that contain the Leilehua, Radford/Moanalua,
13 and Kalaheo school complexes;
- 14 (3) A complex area superintendent from the Leeward
15 district;
- 16 (4) The military liaison from the department of education;
- 17 (5) A uniformed military representative from the United
18 States Pacific Command;
- 19 (6) One installation-level uniformed military
20 representative from each branch of service of the Air
21 Force, Army, Marine Corps, Navy, and Coast Guard;



(7) ~~[A representative of the executive branch of government,]~~ The governor or the governor's designee;

(8) The chairperson of the senate education committee or the chairperson's designee;

(9) The chairperson of the house education committee or the chairperson's designee; and

(10) Other offices and stakeholder groups the state council deems necessary.

Members of the state council may delegate voting authority to another person for a specified meeting or meetings. The state council shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact. The compact commissioner and the military family education liaison designated herein shall be ex-officio members of the state council, unless either is already a full voting member of the state council.

The council shall establish policies and procedures governing its operations but subject to the open meeting requirements of chapter 92.

§ -3 Appointment of compact commissioner. As required by article VIII of the compact, the state superintendent of



1 education shall recommend, with the approval of the board of
2 education, the compact commissioner, who shall be responsible
3 for the administration and management of the State's
4 participation in the compact."

5 SECTION 2. This Act shall take effect on July 1, 2009[
6 ~~and shall be repealed on July 1, 2011~~]."

7 SECTION 2. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 3. This Act shall take effect on June 30, 2011.

APPROVED this 3 day of JUN, 2011

Neil Abernethy

GOVERNOR OF THE STATE OF HAWAII

