



GOV. MSG. NO. 769

EXECUTIVE CHAMBERS

HONOLULU

LINDA LINGLE
GOVERNOR

June 25, 2009

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on June 25, 2009, the following bill was signed into law:

SB1164 SD2 HD2 CD1

A BILL FOR AN ACT
RELATING TO INTERSTATE COMPACT ON
EDUCATIONAL OPPORTUNITY FOR MILITARY
CHILDREN.

ACT 152 (09)

Sincerely,

LINDA LINGLE

- 1 (1) Facilitating the timely enrollment of children of
2 military families and ensuring that they are not
3 placed at a disadvantage due to difficulty in the
4 transfer of education records from the previous school
5 district or variations in entrance and age
6 requirements;
- 7 (2) Facilitating the student placement process through
8 which children of military families are not
9 disadvantaged by variations in attendance
10 requirements, scheduling, sequencing, grading, course
11 content, or assessment;
- 12 (3) Facilitating the qualification and eligibility for
13 enrollment, educational programs, and participation in
14 extracurricular academic, athletic, and social
15 activities;
- 16 (4) Facilitating the on-time graduation of children of
17 military families;
- 18 (5) Providing for the adoption and enforcement of
19 administrative rules implementing the provisions of
20 this compact;



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

9 **ARTICLE II**

10 **DEFINITIONS**

11 As used in this compact, unless the context clearly
12 requires a different construction:

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

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



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

4 "Compact" means the interstate compact on educational
5 opportunity for military children.

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

9 "Deployment" means the period of one month prior to the
10 service members' departure from their home station on military
11 orders through six months after return to their home station.

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

20 "Extracurricular activities" means a voluntary activity
21 sponsored by the school or appropriate education agency or an
22 organization sanctioned by the appropriate education agency.



1 Extracurricular activities include preparation for and
2 involvement in public performances, contests, athletic
3 competitions, demonstrations, displays, and club activities.

4 "Interstate commission on educational opportunity for
5 military children" or "interstate commission" means the
6 commission that is created under article IX of this compact.

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

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

12 "Military installation" means a base, camp, post, station,
13 yard, center, homeport facility for any ship, or other activity
14 under the jurisdiction of the United States Department of
15 Defense, including any leased facility, which is located within
16 any of the several states, the District of Columbia, the
17 Commonwealth of Puerto Rico, the United States Virgin Islands,
18 Guam, American Samoa, the Northern Marianas Islands, and any
19 other United States territory. The term shall not include any
20 facility used primarily for civil works, rivers and harbors
21 projects, or flood control projects.



1 "Non-member state" means a state that has not enacted this
2 compact.

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

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

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

17 "State" means a state of the United States, the District of
18 Columbia, the Commonwealth of Puerto Rico, the United States
19 Virgin Islands, Guam, American Samoa, the Northern Marianas
20 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.



- 1 (2) Members of the uniformed services now retired, except
2 as provided in subsection (a);
- 3 (3) Veterans of the uniformed services, except as provided
4 in subsection (a); and
- 5 (4) Other United States Department of Defense personnel
6 and other federal agency civilian and contract
7 employees not defined as active duty members of the
8 uniformed services.

9 **ARTICLE IV**

10 **EDUCATIONAL RECORDS AND ENROLLMENT**

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



1 unofficial records pending validation by the official records,
2 as quickly as possible.

3 (b) Official education records and transcripts.

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

14 (c) Immunizations. Compacting states shall give thirty
15 days from the date of enrollment or within such time as is
16 reasonably determined under the rules promulgated by the
17 interstate commission, for students to obtain any immunizations
18 required by the receiving state. For a series of immunizations,
19 initial vaccinations shall be obtained within thirty days or
20 within such time as is reasonably determined under the rules
21 promulgated by the interstate commission. This section shall



1 not prohibit state department of health requirements concerning
2 tuberculosis examinations.

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

15 **ARTICLE V**

16 **PLACEMENT AND ATTENDANCE**

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



1 programs exist in the receiving state school and space is
2 available as determined by the principal. Course placement
3 includes honors, international baccalaureate, advanced
4 placement, vocational, technical, and career pathways courses.
5 Continuing the student's academic program from the previous
6 school and promoting placement in academically and career
7 challenging courses should be paramount when considering
8 placement. This subsection shall not preclude the school in the
9 receiving state from performing subsequent evaluations to ensure
10 appropriate placement and continued enrollment of the student in
11 the course.

12 (b) Educational program placement. The receiving state
13 school shall initially honor placement of the student in
14 educational programs based on current educational assessments
15 conducted at the school in the sending state or participation
16 and placement in like programs in the sending state; provided
17 that these programs exist in the receiving state school and
18 space is available as determined by the principal. The programs
19 include gifted and talented programs and English as a second
20 language programs. This subsection shall not preclude the
21 school in the receiving state from performing subsequent
22 evaluations to ensure appropriate placement of the student.



1 (c) Special education services.

2 (1) In compliance with the federal requirements of the
3 Individuals with Disabilities Education Act (IDEA), 20
4 U.S.C. Section 1400 et seq., the receiving state shall
5 initially provide comparable services to a student
6 with disabilities based on the student's current
7 individualized education program.

8 (2) In compliance with the requirements of Section 504 of
9 the Rehabilitation Act, 29 U.S.C.A. Section 794, and
10 with Title II of the Americans with Disabilities Act,
11 42 U.S.C.A. Sections 12131-12165, the receiving state
12 shall make reasonable accommodations and modifications
13 to address the needs of incoming students with
14 disabilities, subject to an existing 504 or Title II
15 Plan, to provide the student with equal access to
16 education. This paragraph shall not preclude the
17 school in the receiving state from performing
18 subsequent evaluations to ensure appropriate placement
19 of the student.

20 (d) Placement flexibility. Appropriate education agency
21 administrative officials shall have flexibility in waiving a
22 course or program prerequisites, or other precondition for



1 placement in courses or programs offered under the jurisdiction
2 of the appropriate education agency.

3 (e) Absence as related to deployment activities. A
4 student whose parent or legal guardian is an active duty member
5 of the uniformed services, as defined by the compact, and has
6 been called to duty for, is on leave from, or immediately
7 returned from deployment to a combat zone or combat support
8 posting, shall be granted additional excused absences at the
9 discretion of the appropriate education agency superintendent to
10 visit with the student's parent or legal guardian relative to
11 such leave or deployment of the parent or guardian. This
12 subsection shall not require excused absences to be granted
13 during test periods.

14 **ARTICLE VI**

15 **ELIGIBILITY**

16 (a) Eligibility for enrollment.
17 (1) Special power of attorney, relating to the
18 guardianship of a child of a military family and
19 executed under applicable law, shall be sufficient for
20 the purposes of enrollment and all other actions
21 requiring parental participation and consent.



1 (2) The appropriate education agency shall be prohibited
2 from charging local tuition to a transitioning
3 military child placed in the care of a non-custodial
4 parent or other person standing in loco parentis who
5 lives in a jurisdiction other than that of the
6 custodial parent.

7 (3) A transitioning military child, placed in the care of
8 a non-custodial parent or other person standing in
9 loco parentis who lives in a jurisdiction other than
10 that of the custodial parent, may continue to attend
11 the school in which the child was permanently enrolled
12 while residing with the custodial parent. Upon the
13 return of the custodial parent, the child shall be
14 allowed to finish the school year in the school
15 currently enrolled, but shall enroll in the school
16 within the jurisdiction of the custodial parent during
17 the following school year.

18 (b) Eligibility for extracurricular participation. State
19 education agencies and appropriate education agencies shall
20 facilitate the opportunity for transitioning military children's
21 inclusion in extracurricular activities, regardless of
22 application deadlines, to the extent the children are otherwise



1 qualified and space is available in the receiving state school
2 as determined by the principal.

3 **ARTICLE VII**

4 **GRADUATION**

5 To facilitate the on-time graduation of children of
6 military families, state and appropriate education agencies
7 shall incorporate the following procedures:

8 (1) Waiver requirements. Appropriate education agency
9 administrative officials may waive specific courses
10 required for graduation if similar coursework has been
11 satisfactorily completed in another appropriate
12 education agency or shall provide reasonable
13 justification for denial. If a waiver is not granted
14 to a student who would qualify to graduate from the
15 sending school, the appropriate education agency shall
16 provide an alternative means of acquiring required
17 coursework so that graduation may occur on time. This
18 section shall not obligate the school or appropriate
19 education agency to pay for an online course if
20 funding is unavailable.

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



- 1 (A) Exit or end-of-course exams required for
2 graduation from the sending state;
- 3 (B) National norm-referenced achievement tests; or
4 (C) Alternative testing, in lieu of testing
5 requirements for graduation in the receiving
6 state.

7 If subparagraphs (A), (B), and (C) cannot be
8 accommodated by the receiving state for a student
9 transferring in student's senior year, then paragraph
10 (3) shall apply.

- 11 (3) Transfers during senior year. If a military student
12 transferring at the beginning or during the senior
13 year is ineligible to graduate from the receiving
14 appropriate education agency after all alternatives
15 have been considered, the sending and receiving
16 appropriate education agencies shall ensure the
17 receipt of a diploma from the sending appropriate
18 education agency, if the student meets the graduation
19 requirements of the sending appropriate education
20 agency. If one of the states in question is not a
21 member of this compact, the member state shall use
22 best efforts to facilitate the on-time graduation of



1 the student in accordance with paragraphs (1) and (2)
 2 of this article. This paragraph permits but shall not
 3 require a sending state to deny a diploma to a student
 4 transferring to a receiving state with an exit exam
 5 requirement if the student does not meet the
 6 graduation requirements of the appropriate education
 7 agency of the sending state.

8 **ARTICLE VIII**

9 **STATE COORDINATION**

10 (a) Each member state, through the creation of a state
 11 council or use of an existing body or board, shall provide for
 12 the coordination among its agencies of government, appropriate
 13 education agencies, and military installations concerning the
 14 state's participation in, and compliance with, this compact and
 15 interstate commission activities. While each member state may
 16 determine the membership of its state council, its membership
 17 shall include at least the state superintendent of education,
 18 superintendent of a school district with a high concentration of
 19 military children, representative from a military installation,
 20 one representative each from the legislative and executive
 21 branches of government, and other offices and stakeholder groups
 22 the state council deems appropriate. A member state that does



1 not have a school district deemed to contain a high
2 concentration of military children may appoint a superintendent
3 from another school district to represent appropriate education
4 agencies on the state council.

5 (b) The state council of each member state shall appoint
6 or designate a military family education liaison to assist
7 military families and the state in facilitating the
8 implementation of this compact.

9 (c) The compact commissioner responsible for the
10 administration and management of the state's participation in
11 the compact shall be recommended by the superintendent of
12 education with the approval of the board of education.

13 (d) The compact commissioner and the military family
14 education liaison designated herein shall be ex-officio members
15 of the state council, unless either is already a full voting
16 member of the state council.

17 **ARTICLE IX**

18 **INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY**

19 **FOR MILITARY CHILDREN**

20 (a) The member states hereby create the "interstate
21 commission on educational opportunity for military children".
22 The activities of the interstate commission are the formation of



1 public policy and are a discretionary state function. The
2 interstate commission shall:

3 (1) Be a body corporate and joint agency of the member
4 states and shall have all the responsibilities,
5 powers, and duties set forth herein, and such
6 additional powers as may be conferred upon it by a
7 subsequent concurrent action of the respective
8 legislatures of the member states in accordance with
9 the terms of this compact;

10 (2) Consist of one interstate commission voting
11 representative from each member state who shall be
12 that state's compact commissioner.

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

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

19 (C) A representative shall not delegate a vote to
20 another member state. In the event the compact
21 commissioner is unable to attend a meeting of the
22 interstate commission, the governor or state



1 council may delegate voting authority to another
2 person from their state for a specified meeting.

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

6 (3) Include ex-officio, non-voting representatives who are
7 members of interested organizations. The ex-officio
8 members, as defined in the bylaws, may include members
9 of the representative organizations of military family
10 advocates, appropriate education agency officials,
11 parent and teacher groups, the United States
12 Department of Defense, the Education Commission of the
13 States, the Interstate Agreement on the Qualification
14 of Educational Personnel, and other interstate
15 compacts affecting the education of children of
16 military members;

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

21 (5) Establish an executive committee, whose members shall
22 include the officers of the interstate commission and



1 such other members of the interstate commission as
2 determined by the bylaws. Members of the executive
3 committee shall serve a one-year term. Members of the
4 executive committee shall be entitled to one vote
5 each. The executive committee shall have the power to
6 act on behalf of the interstate commission, with the
7 exception of rulemaking, during periods when the
8 interstate commission is not in session. The
9 executive committee shall oversee the day-to-day
10 activities of the administration of the compact,
11 including enforcement and compliance with the
12 provisions of the compact, its bylaws and rules, and
13 other such duties as deemed necessary. The United
14 States Department of Defense shall serve as an ex-
15 officio, nonvoting member of the executive committee;

16 (6) Establish bylaws and rules that provide for conditions
17 and procedures under which the interstate commission
18 shall make its information and official records
19 available to the public for inspection or copying.
20 The interstate commission may exempt from disclosure
21 information or official records to the extent they



1 would adversely affect personal privacy rights or
2 proprietary interests.

3 (b) Public notice shall be given by the interstate
4 commission of all meetings and all meetings shall be open to the
5 public, except as set forth in the rules or as otherwise
6 provided in the compact. The interstate commission and its
7 committees may close a meeting, or portion thereof, where it
8 determines by two-thirds vote that an open meeting would be
9 likely to:

- 10 (1) Relate solely to the interstate commission's internal
11 personnel practices and procedures;
- 12 (2) Disclose matters specifically exempted from disclosure
13 by federal and state statute;
- 14 (3) Disclose trade secrets or commercial or financial
15 information which is privileged or confidential;
- 16 (4) Involve accusing a person of a crime, or formally
17 censuring a person;
- 18 (5) Disclose information of a personal nature where
19 disclosure would constitute a clearly unwarranted
20 invasion of personal privacy;
- 21 (6) Disclose investigative records compiled for law
22 enforcement purposes; or



1 (7) Specifically relate to the interstate commission's
2 participation in a civil action or other legal
3 proceeding.

4 (c) For a meeting, or portion of a meeting, closed
5 pursuant to subsection (b), the interstate commission's legal
6 counsel or designee shall certify that the meeting may be closed
7 and shall reference each relevant exemptible provision. The
8 interstate commission shall keep minutes which shall fully and
9 clearly describe all matters discussed in a meeting and shall
10 provide a full and accurate summary of actions taken, and the
11 reasons therefor, including a description of the views expressed
12 and the record of roll call votes. All documents considered in
13 connection with an action shall be identified in the minutes.
14 All minutes and documents of a closed meeting shall remain under
15 seal, subject to release by a majority vote of the interstate
16 commission.

17 (d) The interstate commission shall collect standardized
18 data concerning the educational transition of the children of
19 military families under this compact as directed through its
20 rules which shall specify the data to be collected, the means of
21 collection, and data exchange and reporting requirements. The
22 methods of data collection, exchange, and reporting, as is



1 reasonably possible, shall conform to current technology and
2 coordinate its information functions with the appropriate
3 custodian of records as identified in the bylaws and rules.

4 (e) The interstate commission shall create a process that
5 permits military officials, education officials, and parents to
6 inform the interstate commission if and when there are alleged
7 violations of the compact or its rules or when issues subject to
8 the jurisdiction of the compact or its rules are not addressed
9 by the state or appropriate education agency. This section
10 shall not be construed to create a private right of action
11 against the interstate commission, any member state, or any
12 state education agency or appropriate education agency.

13 ARTICLE X

14 POWERS AND DUTIES OF THE INTERSTATE COMMISSION

15 The interstate commission shall have the following powers:

- 16 (1) To provide for dispute resolution among member states;
17 (2) To promulgate rules and take all necessary actions to
18 effect the goals, purposes, and obligations as
19 enumerated in this compact. The rules shall have the
20 force and effect of statutory law and shall be binding
21 in the compact states to the extent and in the manner
22 provided in this compact;



- 1 (3) To issue, upon request of a member state, advisory
2 opinions concerning the meaning or interpretation of
3 the interstate compact, its bylaws, rules, and
4 actions;
- 5 (4) To enforce compliance with the compact provisions, the
6 rules promulgated by the interstate commission, and
7 the bylaws, use all necessary and proper means,
8 including the use of judicial process. Any action to
9 enforce compliance with the compact provisions by the
10 interstate commission shall be brought against a
11 member state only;
- 12 (5) To establish and maintain offices which shall be
13 located within one or more of the member states;
- 14 (6) To purchase and maintain insurance and bonds;
- 15 (7) To borrow, accept, hire, or contract for services of
16 personnel;
- 17 (8) To establish and appoint committees including an
18 executive committee as required by article IX,
19 subsection (a), paragraph (5), which shall have the
20 power to act on behalf of the interstate commission in
21 carrying out its powers and duties hereunder;



- 1 (9) To elect or appoint such officers, attorneys,
2 employees, agents, or consultants, and to fix their
3 compensation, define their duties, and determine their
4 qualifications; and to establish the interstate
5 commission's personnel policies and programs relating
6 to conflicts of interest, rates of compensation, and
7 qualifications of personnel;
- 8 (10) To accept any and all donations and grants of money,
9 equipment, supplies, materials, and services, and to
10 receive, use, and dispose of it;
- 11 (11) To lease, purchase, accept contributions or donations
12 of, or otherwise to own, hold, improve, or use any
13 property, real, personal, or mixed;
- 14 (12) To sell, convey, mortgage, pledge, lease, exchange,
15 abandon, or otherwise dispose of any property, real,
16 personal, or mixed;
- 17 (13) To establish a budget and make expenditures;
- 18 (14) To adopt a seal and bylaws governing the management
19 and operation of the interstate commission;
- 20 (15) To report annually to the legislatures, governors,
21 judiciary, and state councils of the member states
22 concerning the activities of the interstate commission



1 during the preceding year. The reports shall include
2 any recommendations that may have been adopted by the
3 interstate commission;

4 (16) To coordinate education, training, and public
5 awareness regarding the compact, its implementation
6 and operation for officials and parents involved in
7 such activity;

8 (17) To establish uniform standards for the reporting,
9 collecting, and exchanging of data;

10 (18) To maintain corporate books and records in accordance
11 with the bylaws;

12 (19) To perform such functions as may be necessary or
13 appropriate to achieve the purposes of this compact;
14 and

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

18 **ARTICLE XI**

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

20 (a) The interstate commission, by a majority of the
21 members present and voting, within twelve months after the first
22 interstate commission meeting, shall adopt bylaws to govern its



1 conduct as may be necessary or appropriate to carry out the
2 purposes of the compact including:

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



1 (b) The interstate commission, by a majority of the
2 members, shall elect annually from among its members a
3 chairperson, a vice-chairperson, and a treasurer, each of whom
4 shall have such authority and duties as may be specified in the
5 bylaws. The chairperson or, in the chairperson's absence or
6 disability, the vice-chairperson, shall preside at all meetings
7 of the interstate commission. The officers elected shall serve
8 without compensation or remuneration from the interstate
9 commission; provided that, subject to the availability of
10 budgeted funds, the officers shall be reimbursed for ordinary
11 and necessary costs incurred by them in the performance of their
12 responsibilities as officers of the interstate commission.

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

15 (1) Managing the affairs of the interstate commission in a
16 manner consistent with the bylaws and purposes of the
17 interstate commission;

18 (2) Overseeing an organizational structure within, and
19 appropriate procedures for, the interstate commission
20 to provide for the creation of rules, operating
21 procedures, and administrative and technical support
22 functions; and

1 (3) Planning, implementing, and coordinating
2 communications and activities with other state,
3 federal, and local government organizations to advance
4 the goals of the interstate commission.

5 (d) The executive committee, subject to the approval of
6 the interstate commission, may appoint or retain an executive
7 director for such period, upon such terms and conditions and for
8 such compensation, as the interstate commission may deem
9 appropriate. The executive director shall serve as secretary to
10 the interstate commission, but shall not be a member of the
11 interstate commission. The executive director shall hire and
12 supervise such other persons as may be authorized by the
13 interstate commission.

14 (e) The interstate commission's executive director and its
15 employees shall be immune from suit and liability, either
16 personally or in their official capacity, for a claim for damage
17 to or loss of property or personal injury or other civil
18 liability caused or arising out of or relating to an actual or
19 alleged act, error, or omission that occurred, or that such
20 person had a reasonable basis for believing occurred, within the
21 scope of interstate commission employment, duties, or
22 responsibilities; provided that such person shall not be



1 protected from suit or liability for damage, loss, injury, or
2 liability caused by the intentional or wilful and wanton
3 misconduct of such person.

4 (1) The liability of the interstate commission's executive
5 director and employees or interstate commission
6 representatives, acting within the scope of such
7 person's employment or duties for acts, errors, or
8 omissions occurring within the person's state may not
9 exceed the limits of liability set forth under the
10 constitution and laws of that state for state
11 officials, employees, and agents. The interstate
12 commission is considered to be an instrumentality of
13 the states for the purposes of any such action.
14 Nothing in this paragraph shall be construed to
15 protect such person from suit or liability for damage,
16 loss, injury, or liability caused by the intentional
17 or wilful and wanton misconduct of such person.

18 (2) The interstate commission shall defend the executive
19 director and its employees and, subject to the
20 approval of the attorney general or other appropriate
21 legal counsel of the member state represented by an
22 interstate commission representative, shall defend



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

- 12 (3) To the extent not covered by the state involved, a
13 member state, the interstate commission, or the
14 representatives or employees of the interstate
15 commission shall be held harmless in the amount of a
16 settlement or judgment, including attorney's fees and
17 costs, obtained against such persons arising out of an
18 actual or alleged act, error, or omission that
19 occurred within the scope of interstate commission
20 employment, duties, or responsibilities, or that such
21 persons had a reasonable basis for believing occurred
22 within the scope of interstate commission employment,



1 duties, or responsibilities; provided that the actual
2 or alleged act, error, or omission did not result from
3 intentional or wilful and wanton misconduct on the
4 part of such persons.

5 (f) The compact commissioner and any person representing
6 the state in the interstate commission, in their individual or
7 official capacity, and the member state, shall be immune from
8 suit and liability caused by or arising out of actions, errors,
9 or omissions of the interstate commission.

10 ARTICLE XII

11 RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

12 (a) The interstate commission shall promulgate reasonable
13 rules to effectively and efficiently achieve the purposes of
14 this compact. Notwithstanding the foregoing, in the event the
15 interstate commission exercises its rulemaking authority in a
16 manner that is beyond the scope of the purposes of this compact,
17 then the action by the interstate commission shall be invalid
18 and have no force or effect.

19 (b) Rules shall be made pursuant to a rulemaking process
20 that substantially conforms to the Model State Administrative
21 Procedure Act of 1981, as may be appropriate to the operations
22 of the interstate commission.



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

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

15 **ARTICLE XIII**

16 **OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION**

17 (a) Oversight.

18 (1) The executive, legislative, and judicial branches of
19 state government in each member state shall enforce
20 this compact and shall take all actions necessary and
21 appropriate to effectuate the compact's purposes and
22 intent. The provisions of this compact and the rules



1 adopted hereunder shall have the force and effect of
2 law.

3 (2) All courts shall take judicial notice of the compact
4 and the rules in any judicial or administrative
5 proceeding in a member state pertaining to the subject
6 matter of this compact which may affect the powers,
7 responsibilities, or actions of the interstate
8 commission.

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

16 (b) Default, technical assistance, suspension, and
17 termination. If the interstate commission determines that a
18 member state has defaulted in the performance of its obligations
19 or responsibilities under this compact, or the bylaws or
20 promulgated rules, the interstate commission shall:

21 (1) Provide written notice to the defaulting state and
22 other member states, of the nature of the default, the



1 means of curing the default, and any action taken by
2 the interstate commission. The interstate commission
3 shall specify the conditions by which the defaulting
4 state must cure its default; and

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

7 (c) If the defaulting state fails to cure the default, the
8 defaulting state shall be terminated from the compact upon an
9 affirmative vote of a majority of the member states and all
10 rights, privileges, and benefits conferred by this compact shall
11 be terminated from the effective date of termination. A cure of
12 the default shall not relieve the offending state of obligations
13 or liabilities incurred during the period of the default.

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

20 (e) The state which has been suspended or terminated is
21 responsible for all assessments, obligations, and liabilities
22 incurred through the effective date of suspension or termination



1 including obligations, the performance of which extends beyond
2 the effective date of suspension or termination.

3 (f) The interstate commission shall not bear any costs
4 relating to any state that has been found to be in default or
5 which has been suspended or terminated from the compact, unless
6 otherwise mutually agreed upon in writing between the interstate
7 commission and the defaulting state.

8 (g) The defaulting state may appeal the action of the
9 interstate commission by petitioning the United States District
10 Court for the District of Columbia or the federal district where
11 the interstate commission has its principal offices. The
12 prevailing party shall be awarded all costs of such litigation
13 including reasonable attorney's fees.

14 (h) Dispute resolution.

15 (1) The interstate commission shall attempt, upon the
16 request of a member state, to resolve disputes which
17 are subject to the compact and which may arise among
18 member states and between member and non-member
19 states.

20 (2) The interstate commission shall promulgate rules
21 providing for both mediation and binding dispute
22 resolution for disputes as appropriate.



1 (i) Enforcement.

2 (1) The interstate commission, in the reasonable exercise
3 of its discretion, shall enforce the provisions and
4 rules of this compact.

5 (2) The interstate commission may, by majority vote of the
6 members, initiate legal action in the United States
7 District Court for the District of Columbia or, at the
8 discretion of the interstate commission, in the
9 federal district where the interstate commission has
10 its principal offices, to enforce compliance with the
11 provisions of this compact, its promulgated rules and
12 bylaws, against a member state in default. The relief
13 sought may include both injunctive relief and damages.
14 In the event judicial enforcement is necessary, the
15 prevailing party shall be awarded all costs of such
16 litigation including reasonable attorney's fees.

17 (3) The remedies herein shall not be the exclusive
18 remedies of the interstate commission. The interstate
19 commission may avail itself of any other remedies
20 available under state law or the regulation of a
21 profession.



ARTICLE XIV

FINANCING OF THE INTERSTATE COMMISSION

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

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

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

(d) The interstate commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the interstate commission shall be subject to the audit and accounting procedures established under its



1 bylaws. All receipts and disbursements of funds handled by the
2 interstate commission shall be audited yearly by a certified or
3 licensed public accountant and the report of the audit shall be
4 included in and become part of the annual report of the
5 interstate commission.

6 **ARTICLE XV**

7 **MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT**

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

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

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



ARTICLE XVI

WITHDRAWAL AND DISSOLUTION

(a) Withdrawal.

(1) Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the compact by specifically repealing the statute which enacted the compact into law.

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

(3) The withdrawing state shall immediately notify the chairperson of the interstate commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The interstate commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty days of its receipt thereof.



- 1 (4) The withdrawing state is responsible for all
2 assessments, obligations, and liabilities incurred
3 through the effective date of withdrawal, including
4 obligations, the performance of which extend beyond
5 the effective date of withdrawal.
- 6 (5) Reinstatement following withdrawal of a member state
7 shall occur upon the withdrawing state reenacting the
8 compact or upon such later date as determined by the
9 interstate commission.
- 10 (b) Dissolution of compact.
- 11 (1) This compact shall dissolve effective upon the date of
12 the withdrawal or default of the member state which
13 reduces the membership in the compact to one member
14 state.
- 15 (2) Upon the dissolution of this compact, the compact
16 becomes void and shall be of no further force or
17 effect, and the business and affairs of the interstate
18 commission shall be concluded and surplus funds shall
19 be distributed in accordance with the bylaws.



1 ARTICLE XVII

2 SEVERABILITY AND CONSTRUCTION

3 (a) The provisions of this compact shall be severable, and
4 if any phrase, clause, sentence, or provision is deemed
5 unenforceable, the remaining provisions of the compact shall be
6 enforceable.

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

9 (c) Nothing in this compact shall be construed to prohibit
10 the applicability of other interstate compacts to which the
11 states are members.

12 ARTICLE XVIII

13 BINDING EFFECT OF COMPACT AND OTHER LAWS

14 (a) Other laws.

15 (1) Nothing herein prevents the enforcement of any other
16 law of a member state that is not inconsistent with
17 this compact.

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

20 (b) Binding effect of the compact.

21 (1) All lawful actions of the interstate commission,
22 including all rules and bylaws promulgated by the



1 interstate commission, shall be binding upon the
2 member states.

3 (2) All agreements between the interstate commission and
4 the member states shall be binding in accordance with
5 their terms.

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

11 § -2 State council. There is established within the
12 board of education for administrative purposes the state council
13 on educational opportunity for military children. The board of
14 education shall establish the state council, as required by
15 article VIII of the compact. The membership of the state
16 council shall include, at a minimum:

- 17 (1) The superintendent of education or the
18 superintendent's designee;
- 19 (2) The complex area superintendents of the administrative
20 districts that contain the Leilehua, Radford/Moanalua,
21 and Kalaheo school complexes;



- 1 (3) A complex area superintendent from the Leeward
2 district;
- 3 (4) The military liaison from the department of education;
- 4 (5) A military representative from the United States
5 Pacific Command;
- 6 (6) One installation-level representative from each branch
7 of service of the Air Force, Army, Marine Corps, Navy,
8 and Coast Guard;
- 9 (7) A representative of the executive branch of
10 government;
- 11 (8) The chairperson of the senate education committee or
12 the chairperson's designee;
- 13 (9) The chairperson of the house education committee or
14 the chairperson's designee; and
- 15 (10) Other offices and stakeholder groups the state council
16 deems necessary.

17 Members of the state council may delegate voting authority to
18 another person for a specified meeting or meetings. The state
19 council shall appoint or designate a military family education
20 liaison to assist military families and the state in
21 facilitating the implementation of this compact. The compact
22 commissioner and the military family education liaison



1 designated herein shall be ex-officio members of the state
2 council, unless either is already a full voting member of the
3 state council.

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

7 § -3 Appointment of compact commissioner. As required
8 by article VIII of the compact, the state superintendent of
9 education shall recommend, with approval of the board of
10 education, the compact commissioner, who shall be responsible
11 for the administration and management of the State's
12 participation in the compact."

13 SECTION 2. This Act shall take effect on July 1, 2009, and
14 shall be repealed on July 1, 2011.

APPROVED this 25 day of JUN, 2009



GOVERNOR OF THE STATE OF HAWAII