
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:



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

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 chapter, 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 facility
17 under the jurisdiction of the United States Department of
18 Defense, including any leased facility, which is located within
19 any of the several states, the District of Columbia, the
20 Commonwealth of Puerto Rico, the United States Virgin Islands,
21 Guam, American Samoa, the Northern Marianas Islands, and any
22 other United States territory. The term shall not include any



1 facility used primarily for civil works, rivers and harbors
2 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, has the force and effect of statutory law
14 in a member state, and includes the amendment, repeal, or
15 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.

ARTICLE IV

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 process and furnish the official education
7 records to the school in the receiving state within ten business
8 days or within such time as is reasonably determined under the
9 rules promulgated by the interstate commission. [~~The official~~
10 ~~education records shall only be furnished to the parents if all~~
11 ~~student financial and school obligations have been met.~~]

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

1 (d) Kindergarten and first grade entrance age. Students
2 [~~may~~] shall continue their enrollment at 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 validated level from an accredited school in the sending state.

13 **ARTICLE V**

14 **PLACEMENT AND ATTENDANCE**

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



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

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



1 evaluations to ensure appropriate placement of the student. The
2 receiving state school may allow the student to attend similar
3 educational courses within the school district if the receiving
4 state school does not offer such educational programs.

5 (c) Special education services.

6 (1) In compliance with the federal requirements of the
7 Individuals with Disabilities Education Act (IDEA), 20
8 United States Code Section 1400 et seq., the receiving
9 state shall initially provide comparable services to a
10 student with disabilities based on the student's
11 current individualized education program.

12 (2) In compliance with the requirements of Section 504 of
13 the Rehabilitation Act, 29 United States Code
14 Annotated Section 794, and with Title II of the
15 Americans with Disabilities Act, 42 United States Code
16 Annotated Sections 12131-12165, the receiving state
17 shall make reasonable accommodations and modifications
18 to address the needs of incoming students with
19 disabilities, subject to an existing 504 or Title II
20 Plan, to provide the student with equal access to
21 education. This paragraph shall not preclude the
22 school in the receiving state from performing



1 subsequent evaluations to ensure appropriate placement
2 of the student.

3 (d) Placement flexibility. Appropriate education agency
4 administrative officials shall have flexibility in waiving a
5 course or program prerequisite, or other precondition for
6 placement in courses or programs offered under the jurisdiction
7 of the appropriate education agency.

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

19 **ARTICLE VI**

20 **ELIGIBILITY**

21 (a) Eligibility for enrollment.



- 1 (1) Special power of attorney, relating to the
2 guardianship of a child of a military family and
3 executed under applicable law, shall be sufficient for
4 the purposes of enrollment and all other actions
5 requiring parental participation and consent.
- 6 (2) The appropriate education agency shall be prohibited
7 from charging local tuition to a transitioning
8 military child placed in the care of a non-custodial
9 parent or other person standing in loco parentis who
10 lives in a jurisdiction other than that of the
11 custodial parent.
- 12 (3) A transitioning military child, placed in the care of
13 a non-custodial parent or other person standing in
14 loco parentis who lives in a jurisdiction other than
15 that of the custodial parent, may continue to attend
16 the school in which the child was permanently enrolled
17 while residing with the custodial parent. Upon the
18 return of the custodial parent, the child shall be
19 allowed to finish the school year in the school
20 currently enrolled, but shall enroll in the school
21 within the jurisdiction of the custodial parent during
22 the following school year.



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

8 **ARTICLE VII**

9 **GRADUATION**

10 To facilitate the on-time graduation of children of
11 military families, state and appropriate education agencies
12 shall incorporate the following procedures:

13 (1) Waiver requirements. Appropriate education agency
14 administrative officials [~~may~~] shall waive specific
15 courses required for graduation if similar coursework
16 has been satisfactorily completed in another
17 appropriate education agency or shall provide
18 reasonable justification for denial. If a waiver is
19 not granted to a student who would qualify to graduate
20 from the sending school, the appropriate education
21 agency shall provide an alternative means of acquiring
22 required coursework so that graduation may occur on



1 time. This section shall not obligate the school or
2 appropriate education agency to pay for an online
3 course if funding is unavailable.

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

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

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

9 (C) Alternative testing, in lieu of testing
10 requirements for graduation in the receiving
11 state.

12 If subparagraphs (A), (B), and (C) cannot be
13 accommodated by the receiving state for a student
14 transferring in student's senior year, then paragraph
15 (3) shall apply.

16 (3) Transfers during senior year. If a military student
17 transferring at the beginning or during the senior
18 year is ineligible to graduate from the receiving
19 appropriate education agency after all alternatives
20 have been considered, the sending and receiving
21 appropriate education agencies shall ensure the
22 receipt of a diploma from the sending appropriate



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

13 ARTICLE VIII

14 STATE COORDINATION

15 (a) Each member state, through the creation of a state
16 council or use of an existing body or board, shall provide for
17 the coordination among its agencies of government, appropriate
18 education agencies, and military installations concerning the
19 state's participation in, and compliance with, this compact and
20 interstate commission activities. While each member state may
21 determine the membership of its state council, its membership
22 shall include at least the state superintendent of education,



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

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

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

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

22



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

ARTICLE IX
INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY
FOR MILITARY CHILDREN

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

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

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

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

(B) A majority of the total member states shall constitute a quorum for the transaction of

1 business, unless a larger quorum is required by
2 the bylaws of the interstate commission.

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

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

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



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

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

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

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

- 16 (1) Relate solely to the interstate commission's internal
17 personnel practices and procedures;
- 18 (2) Disclose matters specifically exempted from disclosure
19 by federal and state statute;
- 20 (3) Disclose trade secrets or commercial or financial
21 information which is privileged or confidential;



- 1 (4) Involve accusing a person of a crime, or formally
2 censuring a person;
- 3 (5) Disclose information of a personal nature where
4 disclosure would constitute a clearly unwarranted
5 invasion of personal privacy;
- 6 (6) Disclose investigative records compiled for law
7 enforcement purposes; or
- 8 (7) Specifically relate to the interstate commission's
9 participation in a civil action or other legal
10 proceeding.
- 11 (c) For a meeting, or portion of a meeting, closed
12 pursuant to subsection (b), the interstate commission's legal
13 counsel or designee shall certify that the meeting may be closed
14 and shall reference each relevant exemptible provision. The
15 interstate commission shall keep minutes which shall fully and
16 clearly describe all matters discussed in a meeting and shall
17 provide a full and accurate summary of actions taken, and the
18 reasons therefor, including a description of the views expressed
19 and the record of roll call votes. All documents considered in
20 connection with an action shall be identified in the minutes.
21 All minutes and documents of a closed meeting shall remain under



1 seal, subject to release by a majority vote of the interstate
2 commission.

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

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

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.



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

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.



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

8 (b) Default, technical assistance, suspension, and
9 termination. If the interstate commission determines that a
10 member state has defaulted in the performance of its obligations
11 or responsibilities under this compact, or the bylaws or
12 promulgated rules, the interstate commission shall:

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

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

21 (c) If the defaulting state fails to cure the default, the
22 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 offices. The
5 prevailing party shall be awarded all costs of such litigation
6 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.

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 offices, to enforce compliance with the
4 provisions of this compact, its promulgated rules and
5 bylaws, against a member state in default. The relief
6 sought may include both injunctive relief and damages.
7 In the event judicial enforcement is necessary, the
8 prevailing party shall be awarded all costs of such
9 litigation including reasonable attorney's fees.

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

15 **ARTICLE XIV**

16 **FINANCING OF THE INTERSTATE COMMISSION**

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

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



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

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

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

20 **ARTICLE XV**

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

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



- 1 (2) Withdrawal from this compact shall be by the enactment
2 of a statute repealing the same, but shall not take
3 effect until one year after the effective date of such
4 statute and until written notice of the withdrawal has
5 been given by the withdrawing state to the governor of
6 each other member state.
- 7 (3) The withdrawing state shall immediately notify the
8 chairperson of the interstate commission in writing
9 upon the introduction of legislation repealing this
10 compact in the withdrawing state. The interstate
11 commission shall notify the other member states of the
12 withdrawing state's intent to withdraw within sixty
13 days of its receipt thereof.
- 14 (4) The withdrawing state is responsible for all
15 assessments, obligations, and liabilities incurred
16 through the effective date of withdrawal, including
17 obligations, the performance of which extend beyond
18 the effective date of withdrawal.
- 19 (5) Reinstatement following withdrawal of a member state
20 shall occur upon the withdrawing state reenacting the
21 compact or upon such later date as determined by the
22 interstate commission.



1 (b) Dissolution of compact.

2 (1) This compact shall dissolve effective upon the date of
3 the withdrawal or default of the member state which
4 reduces the membership in the compact to one member
5 state.

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

11 **ARTICLE XVII**

12 **SEVERABILITY AND CONSTRUCTION**

13 (a) The provisions of this compact shall be severable, and
14 if any phrase, clause, sentence, or provision is deemed
15 unenforceable, the remaining provisions of the compact shall be
16 enforceable.

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

19 (c) Nothing in this compact shall be construed to prohibit
20 the applicability of other interstate compacts to which the
21 states are members.



1 **§ -2 State council.** There is established within the
2 board of education for administrative purposes the state council
3 on educational opportunity for military children. The board of
4 education shall establish the state council, as required by
5 article VIII of the compact. The membership of the state
6 council shall include, at a minimum:

7 (1) The superintendent of education or the

8 superintendent's designee;

9 (2) The complex area superintendents of the administrative

10 districts that contain the Leilehua, Radford/Moanalua,

11 and Kalaheo school complexes;

12 (3) A complex area superintendent from the Leeward

13 district;

14 (4) The military liaison from the department of education;

15 (5) A uniformed military representative from the United

16 States Pacific Command;

17 (6) One [~~installation level~~] uniformed military

18 representative from a military installation of each

19 branch of service of the Air Force, Army, Marine

20 Corps, Navy, and Coast Guard;

21 (7) A representative of the executive branch of

22 government;



- 1 (8) The chairperson of the senate education committee or
2 the chairperson's designee;
- 3 (9) The chairperson of the house education committee or
4 the chairperson's designee; and
- 5 (10) Other offices and stakeholder groups the state council
6 deems necessary.

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

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

19 **§ -3 Appointment of compact commissioner.** As required
20 by article VIII of the compact, the state superintendent of
21 education shall recommend, with approval of the board of
22 education, the compact commissioner, who shall be responsible



1 for the administration and management of the State's
2 participation in the compact."

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

5 SECTION 2. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

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



Report Title:

Education; Military Children

Description:

Makes permanent the interstate compact on educational opportunity for military children. Deletes the definition of "test period". Deletes provisions relating to the furnishing of unofficial education records and principal's determination of available space. Clarifies military representation on state council on educational opportunity for military children within BOE. Effective June 30, 2011. (HB4 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

