

Effective 1/24/2018

Part 9
Interstate Compact on Educational Opportunity for Military Children

53E-3-901 Title -- Interstate Compact on Educational Opportunity for Military Children.

This part is known as the "Interstate Compact on Educational Opportunity for Military Children."

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-902 Article I -- Purpose.

It is the purpose of this compact 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 or 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;
- (5) providing for the promulgation and enforcement of administrative rules implementing the provisions of this compact;
- (6) providing for the uniform collection and sharing of information between and among member states, schools, and military families under this compact;
- (7) promoting coordination between this compact and other compacts affecting military children; and
- (8) promoting flexibility and cooperation between the educational system, parents, and the student in order to achieve educational success for the student.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-903 Article II -- Definitions.

- (1) As used in this compact, unless the context clearly requires a different construction:
 - (a) "Active duty" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve.
 - (b) "Children of military families" means a school-aged child, enrolled in Kindergarten through Twelfth grade, in the household of an active duty member.
 - (c) "Compact commissioner" means the voting representative of each compacting state appointed pursuant to Article VIII of this compact.
 - (d) "Deployment" means the period one month prior to the service member's departure from their home station on military orders through six months after return to their home station.
 - (e) "Education" or "educational records" means those official records, files, and data directly related to a student and maintained by the school or local education agency, including but not limited to records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance and of academic work completed, records

of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.

- (f) "Extracurricular activities" means a voluntary activity sponsored by the school or local education agency or an organization sanctioned by the local education agency. Extracurricular activities include, but are not limited to, preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.
 - (g) "Interstate Commission on Educational Opportunity for Military Children" means the commission that is created in Section 53E-3-910 and generally referred to as Interstate Commission.
 - (h) "Local education agency" means a public authority legally constituted by the state as an administrative agency to provide control of and direction for Kindergarten through Twelfth grade public educational institutions.
 - (i) "Member state" means a state that has enacted this compact.
 - (j) "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility, which is located within any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other U.S. Territory. The term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.
 - (k) "Non-member state" means a state that has not enacted this compact.
 - (l) "Receiving state" means the state to which a child of a military family is sent, brought, or caused to be sent or brought.
 - (m) "Rule" means a written statement by the Interstate Commission promulgated pursuant to Section 53E-3-913 that is of general applicability, implements, interprets, or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the Interstate Commission, and has the force and effect of a rule promulgated under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and includes the amendment, repeal, or suspension of an existing rule.
 - (n) "Sending state" means the state from which a child of a military family is sent, brought, or caused to be sent or brought.
 - (o) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other U.S. Territory.
 - (p) "Student" means the child of a military family for whom the local education agency receives public funding and who is formally enrolled in Kindergarten through Twelfth grade.
 - (q) "Transition" means:
 - (i) the formal and physical process of transferring from school to school; or
 - (ii) the period of time in which a student moves from one school in the sending state to another school in the receiving state.
 - (r) "Uniformed services" means the same as that term is defined in Section 68-3-12.5.
 - (s) "Veteran" means a person who served in the uniformed services and who was discharged or released therefrom under conditions other than dishonorable.
- (2) The definitions described in Section 53E-1-102 do not apply to this compact.

Amended by Chapter 186, 2019 General Session

53E-3-904 Article III -- Applicability.

- (1) Except as otherwise provided in Subsection (3), this compact shall apply to the children of:
 - (a) active duty members of the uniformed services as defined in this compact, including members of the National Guard and Reserve;
 - (b) members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one year after medical discharge or retirement; and
 - (c) members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one year after death.
- (2) The provisions of this interstate compact shall only apply to local education agencies as defined in this compact.
- (3) The provisions of this compact do not apply to the children of:
 - (a) inactive members of the National Guard and military reserves;
 - (b) members of the uniformed services now retired, except as provided in Subsection (1); and
 - (c) veterans of the uniformed services, except as provided in Subsection (1), and other U.S. Department of Defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-905 Article IV -- Educational records and enrollment -- Immunizations -- Grade level entrance.

- (1) Unofficial or "hand-carried" education records. In the event that official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the Interstate Commission. Upon receipt of the unofficial education records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.
- (2) Official education records or transcripts. Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official education record from the school in the sending state. Upon receipt of this request, the school in the sending state will process and furnish the official education records to the school in the receiving state within 10 days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.
- (3) Immunizations. Compacting states shall give 30 days from the date of enrollment or within such time as is reasonably determined under the rules promulgated by the Interstate Commission, for students to obtain any immunization required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within 30 days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.
- (4) Kindergarten and First grade entrance age. Students shall be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level, including Kindergarten, from a local education agency in the sending state at the time of transition, regardless of age. A student that has satisfactorily completed the prerequisite grade level in the local education agency in the sending state shall be eligible for enrollment in the next highest grade level in the receiving state, regardless of age. Students transferring after the start of the school year in the receiving state shall enter the school in the receiving state on their validated level from an accredited school in the sending state.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-906 Article V -- Course placement -- Attendance -- Special education services -- Flexibility -- Absences related to deployment.

- (1) When the student transfers before or during the school year, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending state school and/or educational assessments conducted at the school in the sending state if the courses are offered. Course placement includes but is not limited to Honors, International Baccalaureate, Advanced Placement, vocational, technical, and career pathways courses. Continuing the student's academic program from the previous school and promoting placement in academically and career challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the course.
- (2) The receiving state school shall initially honor placement of the student in educational programs based on current educational assessments conducted at the school in the sending state or participation or placement in like programs in the sending state. Such programs include, but are not limited to gifted and talented programs and English as a Second Language (ESL). This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.
- (3)
 - (a) In compliance with the federal requirements of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. Section 1400 et seq., the receiving state shall initially provide comparable services to a student with disabilities based on the student's current Individualized Education Program (IEP).
 - (b) In compliance with the requirements of Section 504 of the Rehabilitation Act, 29 U.S.C. Section 794, and with Title II of the Americans with Disabilities Act, 42 U.S.C. Sections 12131-12165, the receiving state shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or Title II Plan, to provide the student with equal access to education. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.
- (4) Local education agency administrative officials shall have flexibility in waiving course or program prerequisites, or other preconditions for placement, in courses or programs offered under the jurisdiction of the local education agency.
- (5) A student whose parent or legal guardian is an active duty member of the uniformed services, as defined by the compact, and has been called to duty for, is on leave from, or immediately returned from deployment to a combat zone or combat support posting, shall be granted additional excused absences at the discretion of the local education agency superintendent to visit with his or her parent or legal guardian relative to such leave or deployment of the parent or guardian.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-907 Article VI -- Eligibility -- Enrollment -- Extracurricular activities.

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

- (2) A local education agency shall be prohibited from charging local tuition to a transitioning military child placed in the care of a non-custodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent.
- (3) A transitioning military child, placed in the care of a non-custodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent, may continue to attend the school in which the student was enrolled while residing with the custodial parent.
- (4) State and local education agencies shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-908 Article VII -- Graduation -- Waiver -- Exit exams -- Senior year transfers.

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

- (1) Local education agency administrative officials shall waive specific courses required for graduation if similar coursework has been satisfactorily completed in another local education agency or shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school, the local education agency shall provide an alternative means of acquiring required coursework so that graduation may occur on time.
- (2) States shall accept:
 - (a) exit or end-of-course exams required for graduation from the sending state;
 - (b) national norm-referenced achievement tests; or
 - (c) alternative testing, in lieu of testing requirements for graduation in the receiving state. In the event the above alternatives cannot be accommodated by the receiving state for a student transferring in the student's Senior year, then the provisions of Subsection (3) shall apply.
- (3) Should a military student transferring at the beginning or during the student's Senior year be ineligible to graduate from the receiving local education agency after all alternatives have been considered, the sending and receiving local education agencies shall ensure the receipt of a diploma from the sending local education agency, if the student meets the graduation requirements of the sending local education agency. In the event that one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with Subsections (1) and (2).

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-909 Article VIII -- State coordination -- Membership of State Council.

- (1) Each member state shall, through the creation of a State Council or use of an existing body or board, provide for the coordination among its agencies of government, local education agencies, and military installations concerning the state's participation in, and compliance with, this compact and Interstate Commission activities. While each member state may determine the membership of its own State Council, its membership shall include at least:
 - (a) the state superintendent of education;
 - (b) a superintendent of a school district with a high concentration of military children;
 - (c) a representative from a military installation;
 - (d) one representative each from the legislative and executive branches of government; and

- (e) other offices and stakeholder groups the State Council considers appropriate.
- (2) A member state that does not have a school district that contains a high concentration of military children may appoint a superintendent from another school district to represent local education agencies on the State Council.
- (3) The State Council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact.
- (4) The compact commissioner responsible for the administration and management of the state's participation in the compact shall be appointed in accordance with Section 53E-3-921.
- (5) The compact commissioner and the designated military family education liaison shall be ex-officio members of the State Council, unless either is already a full voting member of the State Council.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-910 Article IX -- Creation of Interstate Commission.

- (1) 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.
- (2) The Interstate Commission shall:
 - (a) Be a body corporate and joint agency of the member states and have all the responsibilities, powers, and duties set forth in this compact, and any 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.
 - (b) Consist of one Interstate Commission voting representative from each member state who shall be that state's compact commissioner.
 - (i) Each member state represented at a meeting of the Interstate Commission is entitled to one vote.
 - (ii) A majority of the total member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.
 - (iii) A representative may not delegate a vote to another member state. In the event the compact commissioner is unable to attend a meeting of the Interstate Commission, the Governor or State Council may delegate voting authority to another person from their state for a specified meeting.
 - (iv) The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication.
- (3) Consist of ex-officio, non-voting representatives who are members of interested organizations. Such ex-officio members, as defined in the bylaws, may include but not be limited to, members of the representative organizations of military family advocates, local education agency officials, parent and teacher groups, the U.S. Department of Defense, the Education Commission of the States, the Interstate Agreement on the Qualification of Educational Personnel, and other interstate compacts affecting the education of children of military members.
- (4) Meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.
- (5) Establish an executive committee, whose members shall include the officers of the Interstate Commission and other members of the Interstate Commission as determined by the bylaws. Members of the executive committee shall serve a one-year term. Members of the executive committee shall be entitled to one vote each. The executive committee shall have the power to act on behalf of the Interstate Commission, with the exception of rulemaking, during

periods when the Interstate Commission is not in session. The executive committee shall oversee the day-to-day activities of the administration of the compact including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other duties considered necessary. The U.S. Department of Defense shall serve as an ex-officio, nonvoting member of the executive committee.

- (6) Establish bylaws and rules that provide for conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.
- (7) Give public notice of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and its committees may close a meeting, or portion of the meeting, where it determines by two-thirds vote that an open meeting would be likely to:
 - (a) relate solely to the Interstate Commission's internal personnel practices and procedures;
 - (b) disclose matters specifically exempted from disclosure by federal and state statute;
 - (c) disclose trade secrets or commercial or financial information which is privileged or confidential;
 - (d) involve accusing a person of a crime, or formally censuring a person;
 - (e) disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
 - (f) disclose investigative records compiled for law enforcement purposes; or
 - (g) specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.
- (8) Cause its legal counsel or designee to certify that a meeting may be closed and shall reference each relevant exemptible provision for any meeting, or portion of a meeting, which is closed pursuant to this provision. The Interstate Commission shall keep minutes which fully and clearly describe all matters discussed in a meeting and provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in the minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Interstate Commission.
- (9) Collect standardized data concerning the educational transition of the children of military families under this compact as directed through its rules which shall specify the data to be collected, the means of collection, and data exchange and reporting requirements. Such methods of data collection, exchange, and reporting shall, as far as is reasonably possible, conform to current technology and coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules.
- (10) Create a process that permits military officials, education officials, and parents to inform the Interstate Commission if and when there are alleged violations of the compact or its rules or when issues subject to the jurisdiction of the compact or its rules are not addressed by the state or local education agency. This section may not be construed to create a private right of action against the Interstate Commission or any member state.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-911 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 enumerated in this compact. The rules shall have the force and effect of rules promulgated under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, 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 monitor compliance with the compact provisions, the rules promulgated by the Interstate Commission, and the bylaws. Any action to enforce compliance with the compact provision by the Interstate Commission shall be brought against a member state only.
- (5) To establish and maintain offices which shall be located within one or more of the member states.
- (6) To purchase and maintain insurance and bonds.
- (7) To borrow, accept, hire, or contract for services of personnel.
- (8) To establish and appoint committees including, but not limited to, an executive committee as required by Subsection 53E-3-910(5), which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties.
- (9) To elect or appoint officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties and determine their qualifications, and to establish the Interstate Commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel.
- (10) To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it.
- (11) To lease, purchase, accept contributions, or donations of, or otherwise to own, hold, improve, or use any property - real, personal, or mixed.
- (12) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property - real, personal, or mixed.
- (13) To establish a budget and make expenditures.
- (14) To adopt a seal and bylaws governing the management and operation of the Interstate Commission.
- (15) To report annually to the legislatures, governors, judiciary, and state councils of the member states concerning the activities of the Interstate Commission during the preceding year. The reports shall also include any recommendations that may have been adopted by the Interstate Commission.
- (16) To coordinate education, training, and public awareness regarding the compact and its implementation and operation for officials and parents involved in such activity.
- (17) To establish uniform standards for the reporting, collecting, and exchanging of data.
- (18) To maintain corporate books and records in accordance with the bylaws.
- (19) To perform any functions necessary or appropriate to achieve the purposes of this compact.
- (20) To provide for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-912 Article XI -- Organization and operation of the Interstate Commission -- Executive committee -- Officers -- Personnel.

- (1) The Interstate Commission shall, by a majority of the members present and voting, within 12 months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as necessary or appropriate to carry out the purposes of the compact, including, but not limited to:
 - (a) establishing the fiscal year of the Interstate Commission;
 - (b) establishing an executive committee, and other committees as necessary;
 - (c) providing for the establishment of committees and for governing any general or specific delegation of authority or function of the Interstate Commission;
 - (d) providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each meeting;
 - (e) establishing the titles and responsibilities of the officers and staff of the Interstate Commission;
 - (f) providing a mechanism for concluding the operations of the Interstate Commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations; and
 - (g) providing start up rules for initial administration of the compact.
- (2) The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson, a vice-chairperson, and a treasurer, each of whom shall have the authority and duties specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice-chairperson, shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the Interstate Commission.
- (3) The executive committee shall have the authority and duties set forth in the bylaws, including, but not limited to:
 - (a) managing the affairs of the Interstate Commission in a manner consistent with the bylaws and purposes of the Interstate Commission;
 - (b) overseeing an organizational structure within, and appropriate procedures for the Interstate Commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and
 - (c) planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations in order to advance the goals of the Interstate Commission.
- (4) The executive committee may, subject to the approval of the Interstate Commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation, as the Interstate Commission may consider appropriate. The executive director shall serve as secretary to the Interstate Commission, but may not be a member of the Interstate Commission. The executive director shall hire and supervise other persons authorized by the Interstate Commission.
- (5) The Interstate Commission's executive director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that the person had a reasonable basis for believing occurred, within the scope of Interstate Commission employment, duties, or responsibilities; provided that, the person may not be protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of the person.
 - (a) The liability of the Interstate Commission's executive director and employees or Interstate Commission representatives, acting within the scope of the person's employment or duties

for acts, errors, or omissions occurring within the person's state may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any action. Nothing in this Subsection (5)(a) shall be construed to protect a person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of the person.

- (b) The Interstate Commission shall defend the executive director and its employees and, subject to the approval of the Attorney General or other appropriate legal counsel of the member state represented by an Interstate Commission representative, shall defend the Interstate Commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities; provided that, the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of the person.
- (c) To the extent not covered by the state involved, the member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney fees and costs, obtained against a person arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that the person had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities; provided that, the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of the person.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-913 Article XII -- Rulemaking -- Authority -- Procedure -- Review -- Rejection by Legislature.

- (1) The Interstate Commission shall promulgate reasonable rules in order 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, or the powers granted in accordance with this compact, then the action by the Interstate Commission shall be invalid and have no force or effect.
- (2) Rules shall be made pursuant to a rulemaking process that substantially conforms to the Model State Administrative Procedure Act, of 1981, Uniform Laws Annotated, Vol. 15, p.1 (2000) as amended, as may be appropriate to the operations of the Interstate Commission.
- (3) Not later than 30 days after a rule is promulgated, any person may file a petition for judicial review of the rule; provided that, the filing of a petition may 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 may not find the rule to be unlawful if the rule represents a reasonable exercise of the Interstate Commission's authority.
- (4) If a majority of the legislatures of the compacting states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the compact, then the rule shall have no further force and effect in any compacting state.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-914 Article XIII -- Oversight -- Enforcement -- Dispute resolution -- Default -- Technical assistance -- Suspension -- Termination.

- (1) Each member state shall enforce this compact to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated in accordance with the compact shall have standing as a rule promulgated under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (2) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the Interstate Commission.
- (3) The Interstate Commission shall be entitled to receive all service of process in any proceeding, and have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Interstate Commission shall render a judgment or order void as to the Interstate Commission, this compact, or promulgated rules.
- (4) If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or promulgated rules, the Interstate Commission shall:
 - (a) Provide written notice to the defaulting state and other member states, of the nature of the default, the means of curing the default, and any action taken by the Interstate Commission. The Interstate Commission shall specify the conditions by which the defaulting state shall cure its default.
 - (b) Provide remedial training and specific technical assistance regarding the default.
- (5) If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the member states and all rights, privileges, and benefits conferred by this compact shall be terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.
- (6) Suspension or termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Interstate Commission to the Governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.
- (7) The state which has been suspended or terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of suspension or termination, not to exceed \$5,000 per year, as provided in Subsection 53E-3-915(5), for each year that the state is a member of the compact.
- (8) The Interstate Commission may not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.
- (9) The defaulting state may appeal the action of the Interstate Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Interstate Commission has its principal offices. The prevailing party shall be awarded all costs of the litigation including reasonable attorney fees.
- (10) The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states and between member and non-member states.
- (11) The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-915 Article XIV -- Financing of the Interstate Commission.

- (1) The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.
- (2) In accordance with the funding limit established in Subsection (5), the Interstate Commission may levy 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 a rule binding upon all member states.
- (3) The Interstate Commission may 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.
- (4) The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.
- (5) The Interstate Commission may not assess, levy, or collect more than \$5,000 per year from Utah legislative appropriations. Other funding sources may be accepted and used to offset expenses related to the state's participation in the compact.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-916 Article XV -- Member states -- Effective date -- Amendments.

- (1) Any state is eligible to become a member state.
- (2) The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 10 of the states. The effective date shall be no earlier than December 1, 2007. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The governors of non-member states or their designees shall be invited to participate in the activities of the Interstate Commission on a non-voting basis prior to adoption of the compact by all states.
- (3) The Interstate Commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding upon the Interstate Commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-917 Article XVI -- Withdrawal -- Dissolution.

- (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.

- (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 60 days of its receipt of the notification.
- (4) The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, not to exceed \$5,000 per year, as provided in Subsection 53E-3-915(5), for each year that the state is a member of the compact.
- (5) Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon a later date determined by the Interstate Commission.
- (6) This compact shall dissolve effective upon the date of the withdrawal or default of a member state which reduces the membership in the compact to one member state.
- (7) Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect. The business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-918 Article XVII -- Severability -- Construction.

- (1) The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is considered unenforceable, the remaining provisions of the compact shall be enforceable.
- (2) The provisions of this compact shall be liberally construed to effectuate its purposes.
- (3) Nothing in this compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-919 Article XVIII -- Binding effect of compact -- Other state laws.

- (1) Nothing in this compact prevents the enforcement of any other law of a member state.
- (2) All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.
- (3) All agreements between the Interstate Commission and the member states are binding in accordance with their terms.
- (4) In the event any provision of this compact exceeds the statutory or constitutional limits imposed on the legislature of any member state, that provision shall be ineffective to the extent of the conflict with the statutory or constitutional provision in question in that member state.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-920.1 State council -- Creation.

The State Board of Education shall create a state council described in Section 53E-3-909 to accomplish the duties described in Section 53E-3-909.

Enacted by Chapter 246, 2019 General Session

53E-3-921 Appointment of compact commissioner.

The governor, with the advice and consent of the Senate, shall appoint a compact commissioner to carry out the duties described in this part.

Amended by Chapter 352, 2020 General Session