

# **Guidelines**

**for**

## **Georgia State Board of Education Rule**

**160-5-1-.15 AWARDING UNITS OF CREDIT AND  
ACCEPTANCE OF TRANSFER CREDIT  
AND/OR GRADES.**



***Dr. John D. Barge, State School Superintendent***  
***“Making Education Work for All Georgians”***

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**Part 1: Definitions.**

**1(a) Accredited School** - an elementary, middle or secondary school accredited by or holding provisional status from the Georgia Accrediting Commission, the Georgia Association of Christian Schools, the Association of Christian Schools International, the Southern Association of Independent Schools and/or one of the accrediting agencies that is a member of the Georgia Private School Accreditation Council, and/or one of the following regional accrediting agencies and their successors:

1. Middle States Association of Colleges and Schools (MSA)
2. New England Association of Schools and Colleges (NEASC)
3. North Central Association of Colleges and Schools (NCA)
4. Northwest Association of Schools and Colleges (NASC)
5. Southern Association of Colleges and Schools (SACS)
6. Western Association of Schools and Colleges (WASC)
7. The Alabama Independent School Association

The term does not include entities that are accredited as home study programs or non-traditional educational centers.

**1(b) End of Course Tests (EOCT)** - Assessments administered at the completion of core high school courses specified by the State Board of Education, in accordance with O.C.G.A. § 20-2-281(f), to measure student achievement in the four content areas of English/Language Arts, Mathematics, Science, and Social Studies.

**1(c) Home Study Program** – an educational choice option conducted in Georgia in accordance with O.C.G.A. § 20-2-690(c) or conducted in another state in accordance with the laws applicable to that state.

**1(d) Non-traditional Educational Center** – educational institutions that support home study programs or other independent learning initiatives. This term does not include alternative/non-traditional education programs operated by local boards of education.

**1(e) Private School** – an educational choice option conducted in Georgia in accordance with O.C.G.A. § 20-2-690(b) or conducted in another state in accordance with the laws applicable to that state.

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**1(f) Subject Area Competency** - a unit of high school credit awarded to students based on subject area competency as demonstrated by a pre-defined score on state-adopted or approved assessment instruments, instead of or in combination with the completion of courses through traditional classroom instructional minutes as described in section (2)(f) of this rule.

**1(g) Unit of Credit** – evidence of course completion as demonstrated by a final course grade of 70 or higher on a numerical scale; or competency-based course credit as demonstrated by a pre-defined score on state-adopted or approved assessment instruments.

**1(h) Validation** – the process of verifying credits earned at another educational institution.

**Part 2: Requirements and Guidelines for Implementation.**

**2(a): Rule Applicability.**

1. Local boards of education shall apply the requirements of this rule to all students regardless of the date in which they first entered ninth grade. In other words, the definition of a Unit of Credit and methods of earning credit as described in this rule will take precedence over the definition of a “Unit” as indicated in SBOE Rule 160-4-2-.48 *High School Graduation Requirements for Students Enrolling in the Ninth Grade for the First Time in the 2008-09 School Year and Subsequent Years* and other rules detailing high school graduation requirements.
2. SBOE rule 160-4-2-.48 and other rules detailing high school graduation requirements requires high schools to offer a minimum of 150 clock hours of instruction, 135 hours of instruction in an approved block schedule, or a minimum of 120 clock hours of instruction for summer school prior to awarding a unit of credit. While school districts must continue to offer that minimum amount of clock hour instruction, this rule clarifies that this “seat time” requirement does not apply to individual students. Accordingly, the local board of education may award units of credit upon the student’s demonstration of subject area competency through completion of a course without regard to the amount of time the student spent in the course. Local boards of education may develop local policies consistent with this rule regarding the awarding of credit.

**2(b): Awarding Units of Credit for Courses Taken in Georgia Public Schools.**

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1. Local boards of education shall award units of credit only for courses that include concepts and skills based on the state-adopted high school curriculum for grades 9-12. Local boards of education may award units of credit for high school courses offered in the middle grades if the state-adopted high school (grades 9-12) curriculum is used for instruction and taught by a secondary certified (high school) teacher. For example, if provided for by local policy, a student may receive high school credit for CCGPS Coordinate Algebra taught in the eighth grade by a certified high school mathematics teacher.

**2(c): Awarding Units of Credit for Taking Dual Enrollment Courses.**

1. Local boards of education shall award units of credit to students for high school courses taken through postsecondary institutions as described in the State Board of Education Rule 160-4-2-.34 Dual Enrollment.

**2(d): Awarding Units of Credit for Courses of Career, Technical and Agricultural Education Study with Embedded Academic Core Standards.**

1. Local boards of education shall award course credit for the Career, Technical and Agricultural Education (CTAE) course and course credit for the associated academic core course to students who successfully complete a course or course sequence in CTAE study that includes all standards from an academic core subject as adopted by the State Board of Education embedded in the CTAE course.
2. A CTAE course with embedded academic core standards must include all academic core standards of the associated academic core subject.
3. A student shall not earn more than three units of credit for academic core courses by completing CTAE courses that include embedded standards from an academic core subject.
4. Local boards of education shall administer the appropriate End of Course Test (EOCT) to a student taking a CTAE course with embedded academic core courses of an area for which an EOCT has been adopted unless the student has already passed such EOCT.
5. CTAE courses that include embedded standards from an academic core subject area will be identified in State Board of Education Rule 160-4-2-.20 *List of State-Funded K-8 Subjects and 9-12 Courses for Students Entering Ninth Grade in 2008 and Subsequent*

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*Years.* Currently, there are no CTAE courses that include embedded standards from an academic core subject area.

6. Local school districts are encouraged to submit CTAE courses with embedded academic core standards to be approved by the State Board of Education through the state course submission process using the following link to Course Nomination Form DE 0287 - Local School System Course Request Form for Rule 160-4-2-.20 for the list of state-funded K-8 subjects and 9-12 courses as found on the following GaDOE website.

<http://www.gadoe.org/Curriculum-Instruction-and-Assessment/Curriculum-and-Instruction/Documents/Course%20Nomination%20Form%20and%20Process%201-24-13.pdf>

**2(e): Awarding Units of Credit for Mathematics Courses for Students Receiving Special Education Services Under the Individuals with Disabilities Education Act (IDEA).**

1. Local boards of education shall award units of credit for mathematics courses that will satisfy the mathematics course requirements in State Board of Education Rule 160-4-2-.48 to a student receiving special education services under IDEA if the student meets **all** of the following:
  - i. Prior to the student entering the ninth grade, the student's Individualized Education Program (IEP) Team identified that the student had a disability that affected mathematics achievement;
  - ii. The student successfully earns course credit for Mathematics I and Mathematics II or GPS Algebra and GPS Geometry or CCGPS Coordinate Algebra and CCGPS Analytic Geometry; and
  - iii. The student successfully earns course credit for at least two other state-approved mathematics courses, which may include, but not be limited to, Mathematics Support courses.
2. The IEP Team for students who receive Mathematics course in this manner shall document that:

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- i. The student's disability has precluded the student from achieving grade-level proficiency, as demonstrated by the student's pattern of performance on the state-mandated test in the area of Mathematics;
  - ii. The student's progress to date in response to appropriate instruction, including special education and related services designed to address the student's individual needs, is such that, even if significant growth occurs, the IEP team is reasonably certain that the student will not successfully master the standards in Mathematics III, GPS Advanced Algebra, or CCGPS Advanced Algebra as traditionally delivered in a single year course. The IEP team should first consider enrolling these students in a single advanced mathematics course with instruction delivered over two years prior to other considerations. The determination of the student's progress has been based on multiple measurements that are valid for the content area of mathematics and that have been collected over a period of time; and
  - iii. The student has access to instruction in the state-adopted curriculum and will be required to successfully complete Mathematics I and Mathematics II or GPS Algebra and GPS Geometry or CCGPS Coordinate Algebra and CCGPS Analytic Geometry in addition to participating and earning credit in two additional state-approved mathematics courses. As stated above, the IEP team should first consider enrolling these students in a single advanced mathematics course with instruction delivered over two years prior to other considerations. The student's IEP includes goals that are related to mathematics, support access to the content standards, and are designed to promote the student's progress in the content area state-adopted curriculum.
3. Local boards of education shall inform parents and students that students who do not complete Mathematics III, GPS Advanced Algebra, or CCGPS Advanced Algebra may not meet the mathematics admission requirements for entry into a University System of Georgia institution or other post-secondary institution without additional coursework.
4. **High School Mathematics Decision Rubric:** Local school districts shall use the High School Mathematics Decision Rubric included in Appendix 3.1 of these Guidelines to determine which students are eligible for flexibility regarding mathematics requirements for high school graduation as described in the section above. The decision rubric shall be included in the student's IEP.

**2(f): Subject Area Competency to Receive Course Credit.**

1. Local boards of education may award units of credit to students in two ways. First, a student may earn course credit by earning a final course grade of 70 or higher as required

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by State Board of Education Rule 160-4-2-.13 *Statewide Passing Score*. As discussed above, this may be achieved without regard to the number of clock hours of instruction received by the student. Second, a student may earn course credit by achieving a pre-defined performance level the state designated End of Course Test (EOCT) as described below. This method of earning course credit is referred to hereinafter as “testing-out.”

2. Beginning in school year 2013-2014, local boards of education shall award course credit to students who reach the performance level of Exceeds on an EOCT prior to taking the course. For example, a student may attempt the Biology EOCT prior to taking the course. If the student reaches the performance level of Exceeds, the local board of education shall award the student the Biology course credit.
3. A student may test-out of any course that has an associated EOCT.
4. As provided by O.C.G.A. § 20-2-159.4, a student may only earn up to three credits by testing-out.
5. Students must meet the following requirements for earning course credit through testing-out:
  - i. Not currently or previously enrolled in the course;
  - ii. Have earned a grade of B or better in a content area course that is the same content area of the course for which the student is attempting the EOCT;
  - iii. Received a teacher recommendation from a teacher in the same content area of the course for which the student is attempting the EOCT; and
  - iv. Received parent/guardian permission if the student is less than 18 years of age.
6. When allowing students to attempt to earn course credit through testing out, local boards of education shall:
  - i. Allow eligible students only one opportunity per course to demonstrate subject area competency;
  - ii. Utilize the appropriate state-approved testing window for administering the EOCT and coding for the EOCT testing-out option as described in the assessment coding procedures;
  - iii. Require students who do not reach the performance level of Exceeds when attempting to test-out to enroll in and complete the associated course and retake the EOCT even if the students make a passing grade on the EOCT during the testing-out attempt, if the course is required for graduation; and



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- iv. Count units of credit earned under this testing-out option toward fulfillment of students' requirements for a subject area course, toward fulfillment requirement as to course sequences, and towards meeting graduation requirements.
7. Local boards of education shall not allow students who are currently enrolled, or who have previously been enrolled, in a higher-level course to attempt to earn credit by testing-out. For example, a student taking AP Physics may not earn credit for Physical Science by testing-out.
8. As required in the O.C.G.A. §20-2-159.4, the local board of education shall report the course credit of students who test-out of a course in the same way as the local board of education reports course credit earned through completing courses.
9. Local boards of education may develop policies relating to utilizing grade equivalent scores in the calculation of the student's Grade Point Average (GPA).
10. Local boards of education may develop policies related to obtaining parental consent for student attempting to test-out of courses.
11. As provided in O.C.G.A. § 20-2-159.4, neither local boards of education nor charter schools shall set policies that prohibit students from utilizing testing-out to earn course credit.
12. Local boards of education may, but are not required to, provide any type of tutorials, resources, or materials to students who attempt the testing-out option.
13. The Georgia Department of Education shall be responsible for the cost of administering an EOCT for the purpose of testing-out only for those students who reach the performance level of Exceeds. The Georgia Department of Education's testing contractor for the EOCT will invoice local school systems for the cost of administering an EOCT for the purpose of testing-out for students who do not reach the performance level of Exceeds. Local boards of education may develop policies related to the collection of these costs from parents or students, provided that such policies require school or school district personnel to inform the parent or student of potential cost prior to the EOCT administration.

**2(g): Accepting Transfer Credit and Grades.**

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1. Local boards of education shall accept student course credit earned in an accredited school. The school shall have been accredited or holding provisional status at the time the credit was earned.
2. Local boards of education shall not substitute courses and exempt students from the required secondary minimum core curriculum unless the student transferred from an accredited secondary school or the courses presented for credit are consistent with Georgia's state-adopted curriculum for grades 9-12 and any applicable local policy.
3. Each local board of education shall adopt a policy for validating credit for courses taken at non-accredited schools, home study programs, and non-traditional educational centers. The policy shall include the following:
  - i. Definitions consistent with this rule;
  - ii. Procedures for determining whether transfer courses meet the state-adopted curriculum;
  - iii. Procedures for placing transfer students in elementary and middle grades at the appropriate level and for granting units of credit for high school students;
  - iv. Procedures for administering EOCT in accordance with the Georgia Department of Education's assessment guidelines and these guidelines; and
  - v. At least one of the following:
    - I. A probationary placement based on the student's records in prior school(s), home study programs or non-traditional educational centers and satisfactory performance of the student in a school under the authority of the local board of education for one or more grading periods; or
    - II. Student performance on assessments administered by the local board of education. These assessments may be standardized or locally developed and should focus on group placement, subject area and grade level.

**2(h): End of Course Test Administration to Transfer Students.**

1. Local boards of education shall administer the EOCT to students enrolled in a Georgia public school while also enrolled in a private school, home study program, or non-traditional educational center for which they receive graduation credit for one of the required EOCT courses. These students must take the EOCT regardless of the private school, home study program, or non-traditional educational center's accreditation status.

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- i. As an example, a student is enrolled in a public high school and attends an accredited private school in the evenings taking an American Literature Course. This student is required to take the American Literature EOCT before receiving credit from the public school for that course because the student was enrolled in both institutions at the same time.
2. Local boards of education shall not require students who enroll from accredited schools to take and pass the EOCT to receive credit for an EOCT course unless the student was concurrently enrolled in a Georgia public school while taking the course at an accredited private school.
  - i. As an example, a student attended a private school and received credit for Biology. The private school the student attended was accredited by the Middle States Association of Colleges and Schools (MSA). This student shall be given course credit for Biology as the private school was accredited by an entity listed in this rule at the time the student earned the credit.
3. Local boards of education shall require students who enroll from non-accredited private schools, home study programs, or other non-traditional educational centers to take and pass the EOCT with a minimum of 70 grade conversion score to receive credit for the course. A student enrolling from a non-accredited school will receive one test administration opportunity to demonstrate proficiency in order to earn credit for a course that requires the EOCT. If the student does not pass the EOCT on that administration, the local board of education shall not grant credit for that course. If the course is required to be eligible to receive a high school diploma, the student shall enroll in the course and take the EOCT at the completion of the course.
  - i. As an example, a student attended a home study program that is accredited by the Georgia Accrediting Commission (GAC) and received credit for American History. This student shall not be given credit for American History unless the student passes the American History EOCT with a minimum grade conversion score of 70 and meets all other requirements of the local board of education's policy regarding validating credit. This is because the definition of "accredited school" expressly excludes entities that are accredited as home study programs or nontraditional educational centers.

**2(i): Military Dependents.**

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1. Local boards of education shall utilize O.C.G.A. § 20-17-2 to award course credit for students who are dependents of military personnel as defined by that code section to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their families.

### **Part 3: Appendices**

#### **3.1 Students with Disabilities – High School Mathematics Decision Rubric**

The Rubric on the following two pages represents a picture of the document. The official document will be posted on the Curriculum and Instruction Web page.

<http://www.gadoe.org/Curriculum-Instruction-and-Assessment/Curriculum-and-Instruction/Pages/default.aspx>

# Guidelines for Georgia State Board of Education Rule 160-5-1-.15 AWARDING UNITS OF CREDIT AND ACCEPTANCE OF TRANSFER CREDIT AND/OR GRADES.

## Georgia Department of Education Students with Disabilities – High School Mathematics Decision Rubric

Local boards of education shall award units of math credit only for courses that include concepts and skills based on the state-adopted curriculum for grades 9-12 approved by the State Board of Education. Students with disabilities, who were identified prior to enrollment in high school and have a disability affecting mathematics achievement, may follow an alternate course sequence to meet the mathematics course requirements of the graduation rule 160-4-2-.48. The alternate course sequences include 1) students enrolling in a single advanced mathematics course and receiving instruction over two years or 2) receiving dispensation from completing Mathematics III or GPS Advanced Algebra or CCGPS Advanced Algebra. These alternate course sequences would allow a student with disabilities earning core credit in Mathematics I and II or GPS Algebra and GPS Geometry, or CCGPS Coordinate Algebra and CCGPS Analytic Geometry with two other mathematics courses to satisfy the minimum mathematics requirements for high school graduation.

Mathematics		Evidence in the IEP clearly shows that:
YES <input type="checkbox"/>	NO <input type="checkbox"/>	<p>The student's disability has precluded the student from achieving grade-level proficiency, as demonstrated by the student's pattern of performance on the state-mandated test in the area of mathematics. (i.e., CRCT). Other valid assessment evidence for the content area under consideration (such as benchmarks, unit assessments, etc.) may be used as documentation that the student did not meet grade-level expectations the prior year.</p> <p><b>What is it about the student's disability that makes it difficult for the student to learn? Indicate where this is documented in the IEP:</b></p>
YES <input type="checkbox"/>	NO <input type="checkbox"/>	<p>The student's progress to date in response to appropriate instruction, including special education and related services designed to address the student's individual needs, is such that, even if significant growth occurs, the IEP team is reasonably certain that the student will not successfully master the standards in Advanced Algebra. The determination of the student's progress has been based on multiple measurements (i.e. benchmarks, unit assessments, progress monitoring, performance in Mathematics I and II or GPS Algebra and GPS Geometry, or CCGPS Coordinate Algebra and CCGPS Analytic Geometry, etc.), that are valid for the content area of mathematics and that have been collected over a period of time.</p> <p><b>Indicate where this information is documented in the IEP:</b></p>
YES <input type="checkbox"/>	NO <input type="checkbox"/>	<p>The student has access to instruction in the state-adopted curriculum and will be required to successfully complete Mathematics I and Mathematics II or GPS Algebra and GPS Geometry or CCGPS Coordinate Algebra and CCGPS Analytic Geometry in addition to participating in 2 additional mathematics courses. The student's IEP includes goals that: 1) are related to mathematics; 2) support access to the content standards; and 3) are designed to promote the student's progress in the content area state-adopted curriculum.</p> <p><b>Indicate where this information is documented in the IEP or the student transcript:</b></p>

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## Georgia Department of Education Students with Disabilities – High School Mathematics Decision Rubric

Check "ASSURED" for each of the following statements. If assurance cannot be checked, the student is **NOT** eligible to follow an alternate course sequence to meet the mathematics course requirements of graduation rule 160-4-2-.48.  
The decision to follow an alternate course sequence for Mathematics III, GPS Advanced Algebra, or CCGPS Advanced Algebra and an additional advanced mathematics course is **NOT** based on:

ASSURED <input type="checkbox"/>	The amount of time the student has received special education services.
ASSURED <input type="checkbox"/>	Excessive or extended absences.
ASSURED <input type="checkbox"/>	A specific eligibility or combination of disabilities (i.e., deafness/blindness, visual, auditory, and/or motor disabilities), but rather the student's inability to appropriately demonstrate their knowledge of the state-adopted advanced mathematics curriculum.
ASSURED <input type="checkbox"/>	An administrative decision made outside of the IEP team's discussion of these participation criteria.

Final Decision: Based on information that has been reviewed and documented by the IEP Team, the student is eligible to follow an alternate course sequence to meet the mathematics course requirements of graduation rule 160-4-2-.48.

Students who complete Mathematics I and Mathematics II or GPS Algebra and GPS Geometry or CCGPS Coordinate Algebra and CCGPS Analytic Geometry, along with two other mathematics courses, but who do not complete Mathematics III, GPS Advanced Algebra, or CCGPS Advanced Algebra may not meet the mathematics admission requirements for entrance into a University System of Georgia institution or other post-secondary institutions without additional coursework.

\_\_\_\_ Student initials – I understand that if I do not successfully complete Mathematics III or its equivalent and one additional mathematics course then I may **NOT** be eligible to attend a University System of Georgia institution or other post-secondary institution.

*This document must be attached and regarded as part of the student's IEP. This Rubric can be scanned and attached to an electronic IEP.*

Date: \_\_\_\_\_ Parent/Guardian Name (Print) \_\_\_\_\_ Parent/Guardian (Signature): \_\_\_\_\_

Date: \_\_\_\_\_ Student Name (Print) \_\_\_\_\_ Student (Signature): \_\_\_\_\_

Date: \_\_\_\_\_ IEP Case Manager Name (Print) \_\_\_\_\_ IEP Case Manager (Signature): \_\_\_\_\_

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**3.2 State Board of Education Rule 160-5-1-.15 AWARDING UNITS OF  
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Use the link below for access to State Board of Education Rule 160-5-1-.15 AWARDING UNITS OF CREDIT AND ACCEPTANCE OF TRANSFER CREDIT AND/OR GRADES.

<http://www.gadoe.org/External-Affairs-and-Policy/State-Board-of-Education/SBOE%20Rules/160-5-1-.15.pdf>

**3.3 Official Code of Georgia Annotated (O.C.G.A.)**

**a. O.C.G.A. § 20-2-159.3. Academic core standards to be embedded in career, technical, and agricultural education courses.**

(a) The competencies and curricula established for career, technical, and agricultural education courses pursuant to Code [Section 20-2-140](#) shall include embedded standards in academic core subject areas, as appropriate. In establishing such competencies and curricula, the state board shall work to ensure that the coursework meets postsecondary requirements for acceptance of credit for such coursework at the postsecondary level. Such courses shall be taught by a highly qualified teacher in the academic content and trained or experienced in contextualized learning using project based methods; by a highly qualified career, technical, and agricultural education teacher who has completed a state-approved training program to strengthen academic content and has passed a state-approved exam for demonstrating mastery of academic content; or by a team made up of a highly qualified teacher in the academic content and a highly qualified career, technical, and agricultural education teacher working together to teach the course.

(b) Local school systems and individual charter schools may develop and implement career, technical, and agricultural courses with embedded standards in academic core subjects areas, including, but not limited to, English, language arts, science, social studies, and mathematics.

(c) For an academic core subject area for which an end-of-course assessment has been adopted pursuant to Code [Section 20-2-281](#), students shall be given the opportunity to take such end-of-course assessment upon completion of the career, technical, and agricultural education course that includes embedded standards in such academic core subject area, unless such student has already passed such end-of-course assessment.

(d) Students who successfully complete a course in career, technical, and agricultural education that includes embedded standards in academic core subject areas, as adopted or approved by the state board, shall receive course credit for both the career, technical, and agricultural education course as well as for the academic core coursework embedded in such course.

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(e) The guidelines shall limit the number of academic credits earned through career, technical, and agricultural education courses for any student to three credits and shall ensure acceptance of such credits for purposes of admission into a postsecondary institution. Further, such a credit shall count only once toward high school diploma requirements unless the course requires expanded time to cover the academic and career, technical, and agricultural education content found in both the academic and the career, technical, and agricultural education course.

(Code 1981, 20-2-159.3, enacted by Ga. L. 2011, p. 635, 5/HB 186.)

**Effective date.** - This Code section became effective May 13, 2011.

**Editor's notes.** - Ga. L. 2011, p. 635, 1/HB 186, not codified by the General Assembly, provides: "The General Assembly finds that:

"(1) Our state's long-term prosperity depends on supporting an education system that is designed to prepare our students for a global economy;

"(2) High school students and parents must understand that they have options for career pathway programs of study that join a college-ready academic core with quality career, technical, and agricultural education studies that result in a high school diploma and preparation for success in advanced training, an associate's degree, a baccalaureate degree, and a career;

"(3) Local school systems must provide every student with choices that are academically rigorous and aligned to opportunities in high-demand, high-skill, high-wage career fields and to postsecondary career and technical pathways leading to advanced credentials or degrees;

"(4) The State Board of Education, the Board of Regents of the University System of Georgia, and the Board of Technical and Adult Education must work together so that academic courses that are embedded within career, technical, and agricultural education courses (CTAE) are given appropriate academic credit at the high school level and recognized at the postsecondary level;

"(5) Teachers should be provided with professional development opportunities that enforce the academically rigorous standards in relevant, project based coursework;

"(6) High school students should clearly understand the options for dual high school and postsecondary credit, and the state should properly fund these options;

"(7) Every state education agency, postsecondary institution, and local school system should provide all high school students with opportunities for accelerated learning through dual credit coursework leading to at least six postsecondary credits and have as a collective goal to graduate every student with postsecondary credit;

"(8) Georgia's strategic industries must be partners in our public education system (secondary and postsecondary) so that they are assured that our high school graduates are prepared for success in the workforce;

"(9) Georgia's public education system must incorporate many different types of assessments and certificates into their programs so that a student's skill level is assessed and that it also has meaning to them for postsecondary and career success; and



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"(10) Georgia's students must understand that a high school diploma and some form of postsecondary credential are key to success in the workforce and earning a family living wage."

**Law reviews.** - For article on the 2011 enactment of this Code section, see 28 Ga. St. U. L. Rev. 115 (2011).

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**b. O.C.G.A. § 20-2-159.4. Policies and guidelines for awarding units of high school credit based on demonstrated proficiency.**

(a) The State Board of Education, in consultation with the Board of Regents of the University System of Georgia and the State Board of the Technical College System of Georgia, shall adopt policies and establish guidelines for awarding units of high school credit to students based on a demonstration of subject area competency, instead of or in combination with completion of courses of classroom instruction. Such policies and guidelines shall clearly delineate the manner in which students can earn credit, how mastery of standards will be assessed, how locally developed assessments will be reviewed and approved, how such credit will be recorded on high school transcripts, and when outcomes as a result of these policies and guidelines will be reviewed. The state board shall adopt such policies and establish guidelines, and such policies and guidelines shall be applicable beginning with the 2013-2014 school year.

(b) Students may earn credits through:

(1) The completion of courses; or

(2) The testing out or otherwise demonstrating mastery of the course content.

(c) The state board shall identify assessments, including various commercial assessments, for immediate use for students to demonstrate subject area competency, which may include, but not be limited to:

(1) Advanced placement exams;

(2) ACT course assessment;

(3) Industry-specific certificates and credentials for career, technical, and agricultural education courses;

(4) College Level Examination Program (CLEP) exams; and

(5) Nationally recognized foreign language performance assessments.

The state board shall establish a process for reviewing and approving performance based assessments developed commercially, by the state, or by a local school system. Initially, the state board shall limit the number of credits earned through such educational options to three credits per student until the practice is proven to yield student outcomes at least equivalent to those found in standard seat-time courses. The policy shall ensure that credit for demonstrated proficiency is reported on student transcripts in the same way that seat-time credit is recorded. The state board shall review such policy after three years to determine if student outcomes from these educational options are equivalent to, if not better than, student outcomes in traditional courses.

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(d) Each local school system shall comply with the state board's plan adopted pursuant to this Code section and shall award units of high school credit in accordance with such plan. Local boards of education and charter schools shall establish implementation policies and shall be prohibited from setting policies that negate or otherwise prohibit access to such plan.

(Code 1981, 20-2-159.4, enacted by Ga. L. 2011, p. 635, 5/HB 186; Ga. L. 2012, p. 689, 5/HB 713.)

**Effective date.** - This Code section became effective May 13, 2011.

**The 2012 amendment,** effective July 1, 2012, substituted "2013-2014" for "2012-2013" in the last sentence of subsection (a).

**Code Commission notes.** - Pursuant to Code Section 28-9-5, in 2011, "State Board of the Technical College System of Georgia" was substituted for "Board of Technical and Adult Education" in the first sentence of subsection (a).

**Editor's notes.** - Ga. L. 2011, p. 635, 1/HB 186, not codified by the General Assembly, provides: "The General Assembly finds that:

"(1) Our state's long-term prosperity depends on supporting an education system that is designed to prepare our students for a global economy;

"(2) High school students and parents must understand that they have options for career pathway programs of study that join a college-ready academic core with quality career, technical, and agricultural education studies that result in a high school diploma and preparation for success in advanced training, an associate's degree, a baccalaureate degree, and a career;

"(3) Local school systems must provide every student with choices that are academically rigorous and aligned to opportunities in high-demand, high-skill, high-wage career fields and to postsecondary career and technical pathways leading to advanced credentials or degrees;

"(4) The State Board of Education, the Board of Regents of the University System of Georgia, and the Board of Technical and Adult Education must work together so that academic courses that are embedded within career, technical, and agricultural education courses (CTAE) are given appropriate academic credit at the high school level and recognized at the postsecondary level;

"(5) Teachers should be provided with professional development opportunities that enforce the academically rigorous standards in relevant, project based coursework;

"(6) High school students should clearly understand the options for dual high school and postsecondary credit, and the state should properly fund these options;

"(7) Every state education agency, postsecondary institution, and local school system should provide all high school students with opportunities for accelerated learning through dual credit coursework leading to at least six postsecondary credits and have as a collective goal to graduate every student with postsecondary credit;

"(8) Georgia's strategic industries must be partners in our public education system (secondary and postsecondary) so that they are assured that our high school graduates are prepared for success in the workforce;

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"(9) Georgia's public education system must incorporate many different types of assessments and certificates into their programs so that a student's skill level is assessed and that it also has meaning to them for postsecondary and career success; and

"(10) Georgia's students must understand that a high school diploma and some form of postsecondary credential are key to success in the workforce and earning a family living wage."

**Law reviews.** - For article on the 2011 enactment of this Code section, see 28 Ga. St. U. L. Rev. 115 (2011).

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**c. O.C.G.A. § 20-2-159.5. Dual credit courses; requirements.**

(a) For purposes of this Code section, the term:

(1) "Dual credit course" means any arrangement whereby an eligible student takes one or more courses, including virtual courses, at or through an eligible institution while still enrolled as a public high school student and receives credit both at the high school and at the eligible institution.

(2) "Eligible institution" means any eligible postsecondary institution as defined in paragraph (7) of Code Section 20-3-519.

(3) "Eligible student" means a student entering ninth through twelfth grades who attends a public high school in this state and takes at least two courses per day on campus.

(4) "Secondary credit" means high school credit for dual credit courses taken at an eligible institution.

(b) The department, the Board of Regents of the University System of Georgia, and the State Board of the Technical College System of Georgia shall jointly:

(1) Establish the conditions under which high school students may earn dual credit for coursework completed while in high school. Such conditions shall include demonstration by students as to college readiness in reading, writing, and mathematics required for advanced training leading to a certificate, an associate's degree, or a bachelor's degree in order to receive dual credit as set forth in this Code section. A student who meets reading and writing readiness standards shall qualify to enroll in any dual credit course except in courses that require a strong mathematics foundation. To qualify for such mathematics courses, students shall be required to meet mathematics readiness standards as set forth in this Code section. Students who fail to meet these conditions may enroll in such courses if they enroll concurrently in specially designed courses to address their deficits in reading and writing or mathematics or both and shall be awarded dual credit if they meet readiness standards before or at the point they successfully complete the dual credit course;

(2) Develop appropriate forms and counseling guidelines for dual credit courses and shall make such forms and guidelines available to local school systems and eligible institutions. No later than the first day of April each year, each local school system shall provide general information about dual credit courses, including such forms, to all its eighth through eleventh grade students. A local school system shall also provide counseling services in accordance with the counseling guidelines provided by the department to such students and their parents or guardians before the students enroll in a dual credit course. Prior to participating in a dual credit course, the student and the student's parent or guardian shall sign the form provided by the school system or by an eligible institution stating that they have received the counseling

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specified in this Code section and that they understand the responsibilities that shall be assumed in participating in the dual credit program; and

(3) Establish policies to ensure that dual credit courses reflect college-level work in order for such courses to yield dual credit, which shall include:

(A) Establishing college-readiness standards in reading, writing, and mathematics that students must meet to enroll in dual credit courses;

(B) Setting minimum eligibility requirements for earning college credit while in high school and for all state postsecondary institutions to apply to both academic and career, technical, and agricultural education dual credit courses;

(C) Establishing the same content standards, requirements for faculty, course syllabi, and end-of-course exams for dual credit academic and career, technical, and agricultural education courses, whether taught to high school or college students;

(D) Developing a state-wide system for the transfer of college credits earned through dual credit courses; and

(E) Determining how dual enrollment will be monitored to assure programs meet state standards for college-level work.

(c) Any eligible student may apply to an eligible institution to take one or more dual credit courses at or through that institution which are approved for secondary credit in accordance with the conditions established pursuant to subsection (d) of this Code section. If accepted at an eligible institution, such eligible student may take any such course at that institution, whether or not the course is taught during the regular public school day, and receive secondary credit therefor under the conditions provided in this Code section.

(d) (1) A local school system shall grant academic credit to an eligible student enrolled in a dual credit course in an eligible institution if that course has been approved by the State Board of Education or in a virtual course approved by the State Board of Education if such student successfully completes such course. The State Board of Education shall approve any such course which is substantially comparable to a state approved course. The secondary credit granted shall be for the comparable course approved by the State Board of Education. Upon completion of an eligible institution's approved course, the eligible student shall be responsible for requesting that the institution notify the student's local school system regarding his or her grade in that course.

(2) Secondary school credits granted for dual credit courses under paragraph (1) of this subsection shall be counted toward State Board of Education graduation requirements and subject area requirements of the local school system. Evidence of successful completion of each course and secondary credits granted shall be included in the eligible student's secondary school records.

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(3) Following the grant of postsecondary credit for successful completion of any dual enrollment course, when a student enrolls in an eligible institution after leaving secondary school, that eligible institution shall award postsecondary credit for any dual credit course successfully completed on the same basis on which such credits are customarily awarded. An eligible institution shall not charge a student for the award of such postsecondary credit.

(4) The department shall consult the Board of Regents of the University System of Georgia and the State Board of the Technical College System of Georgia in developing rules and regulations to be recommended to the State Board of Education for approval regarding the eligibility criteria for dual credit courses.

(e) The State Board of Education shall establish rules and regulations relating to applicable state and federal testing requirements for eligible students participating in dual credit courses.

(f) Any person who knowingly makes or furnishes any false statement or misrepresentation, or who accepts such statement or misrepresentation knowing it to be false, for the purpose of enabling an eligible institution to obtain wrongfully any payment under this Code section shall be guilty of a misdemeanor.

(g) Students enrolled in the Georgia Youth Apprenticeship Program under Code [Section 20-2-161.2](#) shall be eligible to earn dual credit upon completing a planned training experience under guidelines developed by the State Board of Education and the State Board of the Technical College System of Georgia provided students meet postsecondary readiness established in reading and writing and mathematics for the particular advanced training program or associate's degree.

(Code 1981, 20-2-159.5, enacted by Ga. L. 2011, p. 635, 5/HB 186.)

**Effective date.** - This Code section became effective May 13, 2011.

**Code Commission notes.** - Pursuant to Code Section 28-9-5, in 2011, "State Board of the Technical College System of Georgia" was substituted for "Board of Technical and Adult Education" in the introductory language of subsection (b) and in subsection (g); and "the Technical College System of Georgia" was substituted for "Technical and Adult Education" in paragraph (d)(4).

**Editor's notes.** - Ga. L. 2011, p. 635, 1/HB 186, not codified by the General Assembly, provides: "The General Assembly finds that:

"(1) Our state's long-term prosperity depends on supporting an education system that is designed to prepare our students for a global economy;

"(2) High school students and parents must understand that they have options for career pathway programs of study that join a college-ready academic core with quality career, technical, and agricultural education studies that result in a high school diploma and preparation for success in advanced training, an associate's degree, a baccalaureate degree, and a career;

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"(3) Local school systems must provide every student with choices that are academically rigorous and aligned to opportunities in high-demand, high-skill, high-wage career fields and to postsecondary career and technical pathways leading to advanced credentials or degrees;

"(4) The State Board of Education, the Board of Regents of the University System of Georgia, and the Board of Technical and Adult Education must work together so that academic courses that are embedded within career, technical, and agricultural education courses (CTAE) are given appropriate academic credit at the high school level and recognized at the postsecondary level;

"(5) Teachers should be provided with professional development opportunities that enforce the academically rigorous standards in relevant, project based coursework;

"(6) High school students should clearly understand the options for dual high school and postsecondary credit, and the state should properly fund these options;

"(7) Every state education agency, postsecondary institution, and local school system should provide all high school students with opportunities for accelerated learning through dual credit coursework leading to at least six postsecondary credits and have as a collective goal to graduate every student with postsecondary credit;

"(8) Georgia's strategic industries must be partners in our public education system (secondary and postsecondary) so that they are assured that our high school graduates are prepared for success in the workforce;

"(9) Georgia's public education system must incorporate many different types of assessments and certificates into their programs so that a student's skill level is assessed and that it also has meaning to them for postsecondary and career success; and

"(10) Georgia's students must understand that a high school diploma and some form of postsecondary credential are key to success in the workforce and earning a family living wage."

**Law reviews.** - For article on the 2011 enactment of this Code section, see 28 Ga. St. U. L. Rev. 115 (2011).



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**d. O.C.G.A. § 20-2-240. Powers and duties.**

The State Board of Education shall adopt and prescribe all rules, regulations, and policies required by this article and such other rules, regulations, and policies as may be reasonably necessary or advisable for proper implementation, enforcement, and carrying out of this article and other public school laws and for assuring a more economical and efficient operation of the public schools of this state or any phase of public elementary and secondary education in this state. The state board shall establish and enforce standards for operation of all public elementary and secondary schools and local units of administration in this state so as to assure, to the greatest extent possible, equal and quality educational programs, curricula, offerings, opportunities, and facilities for all of Georgia's children and youth and for economy and efficiency in administration and operation of public schools and local school systems throughout the state. The state board shall have the power to perform all duties and to exercise all responsibilities vested in it by provisions of law for the improvement of public elementary and secondary education in this state, including actions designed to improve teacher and school effectiveness through research and demonstration projects. The state board shall have the power to take such actions as it deems necessary to ensure that the citizens have full awareness and knowledge relative to the costs, quality, and performance of the public elementary and secondary schools of this state. All rules, regulations, policies, and standards adopted or prescribed by the state board in carrying out this article and other school laws shall, if not in conflict therewith, have the full force and effect of law.

(Code 1981, 20-2-230, enacted by Ga. L. 1985, p. 1657, 1; Code 1981, 20-2-240, as redesignated by Ga. L. 1987, p. 1169, 1; Ga. L. 2012, p. 358, 15/HB 706.)

**The 2012 amendment**, effective July 1, 2012, deleted the subsection (a) designation; and deleted former subsection (b), which read: "The State Board of Education is authorized, after a reasonable attempt at consultation with the State School Superintendent, to organize and reorganize the Department of Education and the various offices, divisions, sections, and units thereof and to prescribe the duties, functions, and operations of each at such times and in such manner as the state board may deem necessary or desirable for the more economical or effective organization, administration, or functioning of the department."

**Editor's notes.** - See the Editor's note at the beginning of this part for information as to the redesignation of the former provisions of this Code section.

**JUDICIAL DECISIONS**

**Immunity from damages for discretionary rule promulgation.** - Since there were no allegations that the individual state education board members acted wilfully, maliciously, or corruptly in the promulgation of the board's rules and regulations, though subsequently declared to be unconstitutional, were clearly within the scope of the members' discretionary authority, it necessarily followed that members enjoyed governmental immunity from any liability for damages in their individual capacities and that the trial court

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correctly granted summary judgment in the members' favor. State Bd. of Educ. v. Drury, 263 Ga. 429, 437 S.E.2d 290 (1993).

**Immunity of board members.** - Teachers who were denied renewable teaching certificates under invalidly promulgated regulations were not entitled to recover damages against individual board members who were acting within the members' discretionary authority and had governmental immunity from liability for damages. State Bd. of Educ. v. Drury, 263 Ga. 429, 437 S.E.2d 290 (1993).

**OPINIONS OF THE ATTORNEY GENERAL**

**Editor's notes.** - In light of the similarity of the issues covered in the statutory provisions, opinions under Ga. L. 1937, pp. 896 and 897, Ga. L. 1974, pp. 1045 and 1085, and former Code Section 20-2-280, which were subsequently repealed but were succeeded by provisions in this Code section, are included in the annotations for this Code section.

**State Board of Education may make policy** on many matters dealing with education and is not limited to decisions dealing with expenditures of money, public or otherwise. 2001 Op. Att'y Gen. No. 2001-5.

**State Board of Education has the right to decide with which associations** the agency wishes to be affiliated. 2001 Op. Att'y Gen. No. 2001-5.

**State Board of Education may determine as a policy matter that a newsletter is needed** and what the newsletter's content should be. To implement that policy, the board may provide direction to the State School Superintendent for staff implementation and may direct that funds be spent for that purpose. However, the board must make a reasonable attempt to consult with the superintendent before directing appropriate staff to carry out this function. 2001 Op. Att'y Gen. No. 2001-5.

**Chair of the State Board of Education has the authority to set the board's agenda** and may require employees of the Department of Education to provide information to or perform functions for the board, but must first make a reasonable attempt to consult with the State School Superintendent. 2001 Op. Att'y Gen. No. 2001-5.

**Individual members of the State Board of Education may prepare draft rules** without input from the Department of Education. 2001 Op. Att'y Gen. No. 2001-5.

**State board may not hire own staff.** - State Board of Education is without the requisite statutory authority either to hire the board's own staff or to require the State School Superintendent to allocate a Department of Education employee to perform functions for the board. 1996 Op. Att'y Gen. No. 96-19.

**State board may require a lay advisory group's approval as to the textbooks the board selects,** provided that in so doing the board continues to exercise the board's own independent judgment and responsibility in making the final decisions concerning the textbook selection and does not in fact attempt to delegate the board's decision-making powers to the advisory committees. 1977 Op. Att'y Gen. No. 77-13 (decided under Ga. L. 1937, pp. 896 and 897).

**Authority of board to "organize" and "reorganize" department supersedes prior legislation.** - Authority of the State Board of Education to "organize" and "reorganize" the State Department of Education and the department's various divisions and offices supersedes prior legislation which provided for the creation of a division of "vocational education service" under a director possessed of specified

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statutory "qualifications." 1977 Op. Att'y Gen. No. 77-68 (decided under Ga. L. 1974, pp. 1045 and 1085).

**State board may condition continued state fiscal assistance on implementation of state established reading requirements.** - Although the State Board of Education does not have explicit authority to directly preclude a student in a local school district from progressing from one grade level to another if the child is not capable of reading in the higher grade level, the board may, as a condition of continued state fiscal assistance, require local boards of education to implement state board established reading requirements. 1975 Op. Att'y Gen. No. 75-63 (decided under Ga. L. 1974, pp. 1045 and 1085).

**Prohibition of nonnutritious food sales valid.** - State Board of Education policy which prohibits the sale of nonnutritious foods from the beginning of the school day through the end of the last lunch period is valid. 1984 Op. Att'y Gen. No. 84-52 (decided under former Code Section 20-2-280).

**RESEARCH REFERENCES**

**Am. Jur. 2d.** - 68 Am. Jur. 2d, Schools, 66 et seq.

**C.J.S.** - 78 C.J.S., Schools and School Districts, 98 et seq.

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**e. O.C.G.A. § 20-2-281. Assessment of effectiveness of educational programs.**

(a) The State Board of Education shall adopt a student assessment program consisting of instruments, procedures, and policies necessary to implement the program and shall fund all costs of providing and scoring such instruments, subject to appropriation by the General Assembly. Each local school system may elect to administer, with state funding, nationally norm-referenced instruments in reading, mathematics, science, or social studies in grade three, four, or five and in grade six, seven, or eight, subject to available appropriations, with assistance to such school systems by the State Board of Education with regard to administration guidance, scoring, and reporting of such assessments. The State Board of Education shall review, revise, and upgrade the quality core curriculum. Following the adoption of this revised curriculum, the State Board of Education shall contract for development of criterion-referenced competency tests to measure the quality core curriculum. Such tests in English and language arts, mathematics, and reading shall be administered annually to students in grades one through eight, and such tests in science and social studies shall be administered annually to students in grades three through eight. This action shall be completed according to a schedule established by the State Board of Education. A curriculum based assessment shall be administered in grade 11 for graduation purposes. Writing assessments shall be administered to students in grades three, five, eight, and 11. The writing assessments shall provide students and their parents with performance outcome measures resulting from the administration of such tests.

(b) The nationally normed assessments provided for in subsection (a) of this Code section shall provide students and their parents with grade equivalencies and percentile ranks which result from the administration of such tests. Criterion-referenced tests and the high school graduation test provided for in subsection (a) of this Code section shall provide for results that reflect student achievement at the individual student, classroom, school, system, and state levels. The State Board of Education shall participate in the National Assessment of Educational Progress (NAEP) and may participate in any other tests that will allow benchmarking this state's performance against national or international performance. The results of such testing shall be provided to the Governor, the General Assembly, and the State Board of Education and shall be reported to the citizens of Georgia. Further, the state board shall adopt a school readiness assessment for students entering first grade and shall administer such assessment pursuant to paragraph (2) of subsection (b) of Code [Section 20-2-151](#). One of the components in the awarding of salary supplements as part of a pay for performance or related plan under this article may be assessments of student achievement.

(b.1) The State Board of Education shall notify local school systems and individual schools of the results of the assessment instruments administered under this Code section at the earliest possible date determined by the state board, but not later than the beginning of the subsequent school year.

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(c) The State Board of Education shall have the authority to condition the awarding of a high school diploma to a student upon achievement of satisfactory scores on instruments or tests adopted and administered by the state board pursuant to subsection (a) of this Code section. The state board is authorized and directed to adopt regulations providing that any disabled child, as defined by the provisions of this article, shall be afforded opportunities to take any test adopted by the state board as a condition for the awarding of a high school diploma. Said regulations shall further provide for appropriate accommodations in the administration of such test. Said regulations shall further provide for the awarding of a special education diploma to any disabled student who is lawfully assigned to a special education program and who does not achieve a passing score on said test or who has not completed all of the requirements for a high school diploma but who has nevertheless completed his or her Individualized Education Program.

(d)(1) The State Board of Education shall develop or adopt alternate assessments to be administered to each student receiving special education services pursuant to Code [Section 20-2-152](#) who does not receive instruction in the essential knowledge and skills identified in the quality core curriculum developed pursuant to Code [Section 20-2-140](#) and for whom the assessment instruments adopted under subsection (a) of this Code section, even with allowable modifications, would not provide an appropriate measure of student achievement, as determined by the student's Individualized Education Program team. A student's Individualized Education Program may serve as an alternate assessment for that student.

(2) A student's Individualized Education Program team shall determine appropriate participation in assessment and identify necessary accommodations in accordance with the federal Individuals with Disabilities Education Act.

(e) The State Board of Education is authorized to adopt rules, regulations, policies, and procedures regarding accommodations and the participation of limited-English-proficient students, as defined in Code [Section 20-2-156](#), in the assessments described in this Code section.

(f) The State Board of Education shall adopt end-of-course assessments for students in grades nine through 12 for all core subjects to be determined by the state board. For those students with an Individualized Education Program, the student's Individualized Education Program team shall determine appropriate participation in assessments and identify necessary accommodations in accordance with the federal Individuals with Disabilities Education Act.

(g) Under rules adopted by the State Board of Education, the Department of Education shall, subject to appropriations by the General Assembly, release some or all of the questions and answers to each criterion-referenced competency test administered under subsection (a) of this Code section and each end-of-course assessment administered under subsection (e) of this Code section after the last time the instrument is administered for a school year.

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(h) The State Board of Education, through the Department of Education, shall administer the end-of-course assessments for core subject areas as defined by state board policy. The state board shall promulgate a schedule for the development and administration of all end-of-course tests. By the 2015-2016 school year, the State Board of Education shall make all end-of-course assessments available online and shall establish rules and regulations to maximize the number of students and school systems utilizing such online assessments.

(i) The Department of Education shall develop study guides for the criterion-referenced tests and end-of-course assessments administered pursuant to subsections (a) and (f) of this Code section. Each school system shall distribute the study guides to students who do not perform satisfactorily on one or more parts of an assessment instrument administered under this Code section and to the parents or guardians of such students.

(j)(1) The high school graduation test provided for in subsection (a) of this Code section shall continue in effect until all high school core subject end-of-course assessments have been developed and implemented, at which time the state board shall discontinue the test according to a schedule to be determined by the state board.

(2) The State Board of Education shall adopt rules and regulations requiring the results of core subject end-of-course assessments to be included as a factor in a student's final grade in the core subject course for which the end-of-course assessment is given.

(k)(1) In addition to the assessment instruments adopted by the State Board of Education and administered by the Department of Education, a local school system may adopt and administer criterion-referenced or norm-referenced assessment instruments, or both, at any grade level. Such locally adopted assessment instruments may not replace the state's adopted assessment instruments for purposes of state accountability programs, except as otherwise provided in paragraph (2) of this subsection. A local school system shall be responsible for all costs and expenses incurred for locally adopted assessment instruments. Students with Individualized Education Programs must be included in the locally adopted assessments or provided an alternate assessment in accordance with the federal Individuals with Disabilities Education Act.

(2) The State Board of Education shall have the authority to grant waivers until Fiscal Year 2003 to local boards of education exempting said boards from the administration of the state criterion-referenced competency tests at any or all of the subject areas and grade levels for which the local board of education implements a locally developed criterion-referenced competency test or tests based on the Quality Core Curriculum which increases the expectations for student achievement beyond that of the applicable state criterion-referenced competency test or tests and meets all other requirements of this Code section, including reliability and validity requirements, with the exception of subsection (g) of this Code section. Local boards of education with such

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waivers shall submit to the State Board of Education school and local school system score reports of the locally developed criterion-referenced competency tests.

(l) In adopting academic skills assessment instruments under this Code section, the State Board of Education or local school system shall ensure the security of the instruments in their preparation, administration, and scoring. Notwithstanding any other provision of law, meetings or portions of meetings held by the state board or a local board of education at which individual assessment instruments or assessment instrument items are discussed or adopted shall not be open to the public, and the assessment instruments or assessment instrument items shall be confidential.

(m) The results of individual student performance on academic skills assessment instruments administered under this Code section shall be confidential and may be released only in accordance with the federal Family Educational Rights and Privacy Act of 1974, 20 U.S.C. Section 1232g.

(n) Overall student performance data shall be disaggregated by ethnicity, sex, socioeconomic status, disability, language proficiency, grade level, subject area, school, system, and other categories determined by policies established by the Office of Student Achievement.

(o) Student performance data shall be made available to the public, with appropriate interpretations, by the State Board of Education, the Office of Student Achievement, and local school system. The information made available to the public shall not contain the names of individual students or teachers.

(p) Teachers in grades one through 12 shall be offered the opportunity to participate annually in a staff development program on the use of tests within the instructional program designed to improve students' academic achievement. This program shall instruct teachers on curriculum alignment related to tests, disaggregated student test data to identify student academic weaknesses by subtests, and other appropriate applications as determined by the State Board of Education.

(q) The State Board of Education shall consider the passage by a student of an industry certification examination or a state licensure examination which is approved by the State Board of Education when considering whether to grant such student a variance for one or more portions of the high school graduation test required by the State Board of Education pursuant to subsection (a) of this Code section in order to obtain a Georgia high school diploma; provided, however, that the state board shall not grant a variance to a student unless the student has attempted and failed to pass the relevant portion of the high school graduation test at least four times.

(Code 1981, 20-2-281, enacted by Ga. L. 1985, p. 1657, 1; Ga. L. 1987, p. 1169, 1; Ga. L. 1991, p. 1543, 1; Ga. L. 1995, p. 311, 1; Ga. L. 1995, p. 1302, 14; Ga. L. 1996, p. 1600, 2; Ga.

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L. 2000, p. 618, 51; Ga. L. 2003, p. 185, 3; Ga. L. 2004, p. 107, 7; Ga. L. 2008, p. 807, 1/HB 637; Ga. L. 2010, p. 186, 2/HB 400; Ga. L. 2012, p. 358, 21/HB 706; Ga. L. 2012, p. 775, 20/HB 942; Ga. L. 2012, p. 893, 3/SB 289.)

**The 2010 amendment**, effective May 20, 2010, added subsection (q).

**The 2012 amendments.** The first 2012 amendment, effective July 1, 2012, deleted "pursuant to Code Section 20-2-213 or other Code sections" following "related plan" in the last sentence of subsection (b). The second 2012 amendment, effective May 1, 2012, part of an Act to revise, modernize, and correct the Code, revised punctuation in subsection (a). The third 2012 amendment, effective July 1, 2012, in subsection (h), deleted "by December 1, 2000" from the end of the second sentence, and added the last sentence.

**Code Commission notes.** - Pursuant to Code Section 28-9-5, in 1996, "disabled" was substituted for "handicapped" in the second and fourth sentences of subsection (c).

**Editor's notes.** - Ga. L. 2000, p. 618, 1, not codified by the General Assembly, provides: "This Act shall be known and may be cited as the 'A Plus Education Reform Act of 2000.'"

**Law reviews.** - For note on the 2003 amendment to this Code section, see 20 Ga. St. U. L. Rev. 147 (2003).

**OPINIONS OF THE ATTORNEY GENERAL**

**Exemption of students with disabilities.** - State Board of Education has authority to provide an exemption for students with disabilities from the graduation assessments, and local school systems may modify the test to accommodate such students. 1997 Op. Att'y Gen. No. 97-11.



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**f. O.C.G.A. §20-2-690. “Educational entities” listed; requirements for private schools and home study programs.**

(a) This subpart recognizes the existence of public schools, private schools, and home study programs as educational entities.

(b) As used in this subpart, the term "private school" means an institution meeting the following criteria or requirements:

(1) The primary purpose of the institution is to provide education or, if the primary purpose of the institution is religious in nature, the institution shall provide the basic academic educational program specified in paragraph (4) of this subsection;

(2) The institution is privately controlled and operates on a continuing basis;

(3) The institution provides instruction each 12 months for the equivalent of 180 school days of education with each school day consisting of at least four and one-half school hours;

(4) The institution provides a basic academic educational program which includes, but is not limited to, reading, language arts, mathematics, social studies, and science;

(5) Within 30 days after the beginning of each school year, it shall be the duty of the administrator of each private school to provide to the school superintendent of each local public school district which has residents enrolled in the private school a list of the name, age, and residence of each resident so enrolled. At the end of each school month, it shall be the duty of the administrator of each private school to notify the school superintendent of each local public school district of the name, age, and residence of each student residing in the public school district who enrolls or terminates enrollment at the private school during the immediately preceding school month. Such records shall indicate when attendance has been suspended and the grounds for such suspension. Enrollment records and reports shall not be used for any purpose except providing necessary enrollment information, except with the permission of the parent or guardian of a child, pursuant to the subpoena of a court of competent jurisdiction, or for verification of attendance by the Department of Public Safety for the purposes set forth in subsection (a.1) of Code [Section 40-5-22](#); and

(6) Any building used by the institution for private school purposes meets all health and safety standards established under state law and local ordinances.

(c) Parents or guardians may teach their children at home in a home study program which meets the following requirements:

(1) The parent, parents, or guardian must submit within 30 days after the establishment of a home study program and by September 1 annually thereafter a declaration of intent to utilize a

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home study program to the Department of Education, which may provide for electronic submittal of such declaration of intent;

(2) The declaration shall include a list of the names and ages of the students who are enrolled in the home study program, the address where the home study program is located, and a statement of the 12 month period that is to be considered the school year for that home study program. Enrollment records and reports shall not be used for any purpose except providing necessary enrollment information, except with the permission of the parent or guardian of a child, pursuant to the subpoena of a court of competent jurisdiction, or for verification of attendance by the Department of Public Safety for the purposes set forth in subsection (a.1) of Code [Section 40-5-22](#);

(3) Parents or guardians may teach only their own children in the home study program, provided the teaching parent or guardian possesses at least a high school diploma or a general educational development diploma, but the parents or guardians may employ a tutor who holds a high school diploma or a general educational development diploma to teach such children;

(4) The home study program shall provide a basic academic educational program which includes, but is not limited to, reading, language arts, mathematics, social studies, and science;

(5) The home study program must provide instruction each 12 months to home study students equivalent to 180 school days of education with each school day consisting of at least four and one-half school hours unless the child is physically unable to comply with the rule provided for in this paragraph;

(6) Attendance records for the home study program shall be kept and shall be submitted annually to the Department of Education and additionally, in accordance with department regulations for purposes of verification of attendance by the Department of Public Safety, for the purposes set forth in subsection (a.1) of Code [Section 40-5-22](#). The department may provide for electronic submittal of such records. Attendance records and reports shall not be used for any purpose except providing necessary attendance information, except with the permission of the parent or guardian of a child, pursuant to the subpoena of a court of competent jurisdiction, or for verification of attendance by the Department of Public Safety for the purposes set forth in subsection (a.1) of Code [Section 40-5-22](#);

(7) Students in home study programs shall be subject to an appropriate nationally standardized testing program administered in consultation with a person trained in the administration and interpretation of norm reference tests to evaluate their educational progress at least every three years beginning at the end of the third grade and records of such tests and scores shall be retained but shall not be required to be submitted to public educational authorities; and

(8) The home study program instructor shall write an annual progress assessment report which shall include the instructor's individualized assessment of the student's academic progress in each

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of the subject areas specified in paragraph (4) of this subsection, and such progress reports shall be retained by the parent, parents, or guardian of children in the home study program for a period of at least three years.

(d) Any person who operates a private school without complying with the requirements of subsection (b) of this Code section or any person who operates a home study program without complying with the requirements of subsection (c) of this Code section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed \$100.00.

(e) The State Board of Education shall devise, adopt, and make available to local school superintendents, who shall in turn make available to administrators of private schools and parents or guardians with children in home study programs, such printed forms and procedures as may be reasonably necessary to carry out efficiently the reporting provisions of this Code section, but such printed forms and procedures shall not be inconsistent with or exceed the requirements of this Code section.

(Code 1981, 20-2-690, enacted by Ga. L. 1984, p. 1266, 1; Ga. L. 1985, p. 149, 20; Ga. L. 1986, p. 10, 20; Ga. L. 1997, p. 760, 4; Ga. L. 2001, p. 4, 20; Ga. L. 2004, p. 945, 1; Ga. L. 2012, p. 358, 30/HB 706; Ga. L. 2012, p. 648, 1/HB 39.)

**The 2012 amendments.** The first 2012 amendment, effective July 1, 2012, substituted "Department of Education, which may provide for electronic submittal of such declaration of intent" for "superintendent of schools of the local school district in which the home study program is located" in paragraph (c)(1); and substituted "Department of Education, which may provide for electronic submittal of such declaration of intent" for "superintendent of schools of the local school district in which the home study program is located" at the end of paragraph (c)(6). The second 2012 amendment, effective July 1, 2012, in subsection (c), substituted "Department of Education, which may provide for electronic submittal of such declaration of intent" for "superintendent of schools of the local school district in which the home study program is located" in paragraph (c)(1); and substituted the present provisions of the first sentence of paragraph (c)(6) for the former provisions, which read: "Attendance records for the home study program shall be kept and shall be submitted at the end of each month to the school superintendent of the local school district in which the home study program is located." See editor's note for applicability. See the Code Commission note regarding the effect of these amendments.

**Cross references.** - Characterization as "unruly" of child who is habitually truant from school, 15-11-2(12)(A).

Disposition of child found by juvenile court to be unruly, 15-11-67.

**Code Commission notes.** - Pursuant to Code Section 28-9-3, in 2012, the amendment of paragraph (c)(6) of this Code section by Ga. L. 2012, p. 358, 30/HB 706, was treated as impliedly repealed and superseded by Ga. L. 2012, p. 648, 1/HB 39, due to irreconcilable conflict. See *County of Butts v. Strahan*, 151 Ga. 417 (1921); *Keener v. McDougall*, 232 Ga. 273 (1974).

**Editor's notes.** - Ga. L. 1984, p. 1266, 1 repealed former Code [Section 20-2-690](#) and substituted in lieu thereof present Code [Sections 20-2-690](#) and [20-2-690.1](#). Present Code [Section 20-2-690.1](#) is

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essentially a continuation of the provisions of former Code [Section 20-2-690](#). See the editor's notes to Code [Section 20-2-690.1](#).

Ga. L. 1997, p. 760, 27(a), not codified by the General Assembly, provides: "Except as otherwise provided in subsection (b) of this section, this Act shall become effective on July 1, 1997, and shall apply to offenses committed on or after that date and, except for subsection (b.1) of Code Section 40-5-67.1 as enacted by this Act, this Act shall not apply to offenses committed prior to that date."

Ga. L. 2012, p. 648, 6/HB 39, not codified by the General Assembly, provides that the amendment by that Act shall apply beginning with school year 2012-2013.

**Law reviews.** - For article commenting on the 1997 amendment of this Code section, see 14 Ga. St. U. L. Rev. 203 (1997).

For note, "A Constitutional Analysis of Compulsory School Attendance Laws in the Southeast: Do They Unlawfully Interfere with Alternatives to Public Education?," see 8 Ga. St. U. L. Rev. 457 (1992).

**OPINIONS OF THE ATTORNEY GENERAL**

**Requiring parents to produce evidence of compliance.** - While responsibility for the enforcement of the statutory requirements pertaining to home study programs rests in large measure upon local school superintendents, a local school superintendent does not have the power to issue subpoenas, require the production of documents, or to otherwise require parents to affirmatively "produce evidence" of the parents' continuing compliance with the law in the operation of home study programs, and while the local school superintendent is free to "request" such materials and statements, the superintendent has no compulsory process which can be invoked to secure such information other than in connection with a pending legal proceeding. 1986 Op. Att'y Gen. No. U86-19.

**Fingerprinting of offenders.** - Offense covered by O.C.G.A. [20-2-690\(d\)](#) is not currently designated as an offense requiring fingerprinting. 1997 Op. Att'y Gen. No. 97-330.

**RESEARCH REFERENCES**

**Am. Jur. 2d.** - 42 Am. Jur. 2d, Infants, 14. 68 Am. Jur. 2d, Schools, 266 et seq., 271.

**C.J.S.** - 78A C.J.S., Schools and School Districts, 1017, 1019, 1022, 1023, 1026.

**ALR.** - Schools: extent of legislative power with respect to attendance and curriculum, 39 ALR 477; 53 ALR 832.

Religious beliefs of parents as defense to prosecution for failure to comply with compulsory education law, 3 ALR2d 1401.

What constitutes a private, parochial, or denominational school within statute making attendance at such school a compliance with compulsory school attendance law, 65 ALR3d 1222.

Validity of local or state denial of public school courses or activities to private or parochial school students, 43 ALR4th 776.

Validity of state or local government regulation requiring private school to report attendance and similar information to government - post-Yoder cases, 8 ALR5th 875.

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**O.C.G.A. § 20-17-2. Provisions of Compact.**

"The Interstate Compact on Educational Opportunity for Military Children" is enacted into law and entered into by the State of Georgia with any and all states legally joining therein in the form substantially as follows:

"Interstate Compact on Educational Opportunity for Military Children

The Contracting States solemnly agree that:

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:

A. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous school district or variations in entrance or age requirements;

B. Facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content, or assessment;

C. Facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities;

D. Facilitating the on-time graduation of children of military families;

E. Providing for the promulgation and enforcement of administrative rules implementing the provisions of this compact;

F. Providing for the uniform collection and sharing of information between and among member states, schools, and military families under this compact;

G. Promoting coordination between this compact and other compacts affecting military children; and

H. Promoting flexibility and cooperation between the educational system, parents, and the student in order to achieve educational success for the student.

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ARTICLE II

DEFINITIONS

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 on active duty orders pursuant to 10 U.S.C. Sections 1209 and 1211.

B. 'Children of military families' means school-aged children in the household of an active duty member enrolled in kindergarten through grade 12.

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 members' departure from their home station on military orders though six months after return to their home station.

E. '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' or 'Interstate Commission' means the commission that is created under Article IX of this compact.

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 grade 12 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 United States 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 United States Virgin Islands, Guam,

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American Samoa, the Northern Marianas Islands, and any other United States Territory. Such term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

K. 'Nonmember 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 Article XII of this compact 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 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 United States Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other United States 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 grade 12.

Q. 'Transition' means the formal and physical process of transferring from school to school or 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 service' means the Army, Navy, Air Force, Marine Corps, or Coast Guard as well as the Commissioned Corps of the National Oceanic and Atmospheric Administration and Public Health Services.

S. 'Veteran' means a person who served in the uniformed services and who was discharged or released therefrom under conditions other than dishonorable.

**ARTICLE III**

**APPLICABILITY**

A. Except as otherwise provided in Section B of this article, this compact shall apply to the children of:

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(1) Active duty members of the uniformed services as defined in this compact, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Sections 1209 and 1211;

(2) 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

(3) 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.

B. The provisions of this interstate compact shall only apply to local education agencies as defined in this compact.

C. The provisions of this compact shall not apply to the children of:

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

(2) Members of the uniformed services now retired, except as provided in Section A of this article;

(3) Veterans of the uniformed services, except as provided in Section A of this article; and

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

ARTICLE IV

EDUCATIONAL RECORDS & ENROLLMENT

A. *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.

B. *Official education records and 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 ten days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.



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C. *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.

D. *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 who 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. A student 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.

ARTICLE V

PLACEMENT & ATTENDANCE

A. *Course placement* - . 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 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.

B. *Educational program placement* - . 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. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

C. *Special education services.*

(1) In compliance with the federal requirements of the Individuals with Disabilities Education Act, 20 U.S.C.A. Section 1400 et seq, the receiving state shall initially provide comparable

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services to a student with a disability based on his or her current Individualized Education Program.

(2) In compliance with the requirements of Section 504 of the Rehabilitation Act, 29 U.S.C.A. Section 794, and with Title II of the Americans with Disabilities Act, 42 U.S.C.A. 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.

D. *Placement flexibility* - . 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.

E. *Absence as related to deployment activities* - . 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.

ARTICLE VI

ELIGIBILITY

A. *Eligibility for enrollment.*

(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 noncustodial 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 noncustodial 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 he or she was enrolled while residing with the custodial parent.

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B. *Eligibility for extracurricular participation* - . 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.

ARTICLE VII

GRADUATION

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

A. *Waiver requirements* - . Local education agency administrative officials shall waive specific courses required for graduation if similar course work 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.

B. *Exit exams* - . States shall accept exit or end-of-course exams required for graduation from the sending state, national norm-referenced achievement tests, or 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 his or her senior year, then the provisions of Section C of this article shall apply.

C. *Transfers during Senior year* - . Should a military student transferring at the beginning or during his or her 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 Sections A and B of this article.

ARTICLE VIII

STATE COORDINATION

A. 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

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membership of its own state council, its membership must include at least the state superintendent of education, a superintendent of a school district with a high concentration of military children, a representative from a military installation, one representative from the executive branch of government, and other offices and stakeholder groups the state council deems appropriate. A member state that does not have a school district deemed to contain a high concentration of military children may appoint a superintendent from another school district to represent local education agencies on the state council.

B. 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.

C. The compact commissioner responsible for the administration and management of the state's participation in the compact shall be appointed by the Governor or as otherwise determined by each member state.

D. The compact commissioner and the military family education liaison designated herein shall be ex-officio members of the state council, unless either is already a full voting member of the state council.

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ARTICLE IX

INTERSTATE COMMISSION ON EDUCATIONAL

OPPORTUNITY FOR MILITARY CHILDREN

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 and:

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 business, unless a larger quorum is required by the bylaws of the Interstate Commission;

C. A representative shall not delegate a vote to another member state. In the event the compact commissioner is unable to attend a meeting of the Interstate Commission, the Governor or state council may delegate voting authority to another person from their state for a specified meeting; and

D. The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication;

(3) Consist of ex-officio, nonvoting 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 United States 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;

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(5) Establish an executive committee, whose members shall include the officers of the Interstate Commission and such 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 and its bylaws and rules, and other such duties as deemed necessary. The United States 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 thereof, 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) For a meeting, or portion of a meeting, closed pursuant to this provision, the Interstate Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exemptible provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the

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views expressed and the record of a roll-call vote. All documents considered in connection with an action shall be identified in such 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, in so 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; and

(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 shall not be construed to create a private right of action against the Interstate Commission or any member state.

**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 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, using all necessary and proper means, including, but not limited to, the use of judicial process;
- (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;

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(8) To establish and appoint committees, including, but not limited to, an executive committee as required by Article IX, Section (5) of this compact which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder;

(9) To elect or appoint such 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. Such 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, 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 such functions as may be necessary or appropriate to achieve the purposes of this compact; and

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

**ARTICLE XI**

**ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION**



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A. 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 may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

- (1) Establishing the fiscal year of the Interstate Commission;
- (2) Establishing an executive committee, and such other committees as may be necessary;
- (3) Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the Interstate Commission;
- (4) Providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each such meeting;
- (5) Establishing the titles and responsibilities of the officers and staff of the Interstate Commission;
- (6) 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
- (7) Providing 'start up' rules for initial administration of the compact.

B. 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 such authority and duties as may be 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, however, 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.

C. Executive Committee, Officers, and Personnel.

(1) The executive committee shall have such authority and duties as may be set forth in the bylaws, including, but not limited to:

(i) Managing the affairs of the Interstate Commission in a manner consistent with the bylaws and purposes of the Interstate Commission;

(ii) 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

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(iii) 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.

(2) 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 deem appropriate. The executive director shall serve as secretary to the Interstate Commission, but shall not be a member of the Interstate Commission. The executive director shall hire and supervise such other persons as may be authorized by the Interstate Commission.

D. 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 such person had a reasonable basis for believing occurred, within the scope of Interstate Commission employment, duties, or responsibilities; provided, however, that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

(1) The liability of the Interstate Commission's executive director and employees or Interstate Commission representatives, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such 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 such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

(2) 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 such 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 such person.

(3) To the extent not covered by the state involved, member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held

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harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons 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 such persons 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 such persons.

**ARTICLE XII**

**RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION**

A. *Rulemaking Authority* - . The Interstate Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of this compact; provided however, that 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 hereunder, then such an action by the Interstate Commission shall be invalid and have no force or effect.

B. *Rulemaking Procedure* - . Rules shall be made pursuant to a rulemaking process that substantially conforms to the 'Model State Administrative Procedure Act,' of 1981 Act, Uniform Laws Annotated, Vol. 15, p. 1 (2000) as amended, as may be appropriate to the operations of the Interstate Commission.

C. 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 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 represents a reasonable exercise of the Interstate Commission's authority.

D. 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 such rule shall have no further force and effect in any compacting state.

**ARTICLE XIII**

**OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION**

A. *Oversight.*

(1) The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the

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compact's purposes and intent. The provisions of this compact shall have standing as statutory law.

(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 such proceeding and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Interstate Commission shall render a judgment or order void as to the Interstate Commission, this compact, or promulgated rules.

*B. Default, Technical Assistance, Suspension, and Termination* - . If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or promulgated rules, the Interstate Commission shall:

(1) Provide written notice to the defaulting state and other member states of the nature of the default, the means of curing the default, and any action taken by the Interstate Commission. The Interstate Commission shall specify the conditions by which the defaulting state must cure its default;

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

(3) 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;

(4) 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;

(5) 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, including obligations, the performance of which extends beyond the effective date of suspension or termination;

(6) The Interstate Commission shall 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; and

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(7) The defaulting state may appeal the action of the Interstate Commission by petitioning the United States 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 such litigation including reasonable attorney's fees.

*C. Dispute Resolution.*

(1) 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 nonmember states.

(2) The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

*D. Enforcement.*

(1) The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

(2) The Interstate Commission may, by majority vote of the members, initiate legal action in the United State District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its principal offices, to enforce compliance with the provisions of the compact, its promulgated rules, and bylaws against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

(3) The remedies herein shall not be the exclusive remedies of the Interstate Commission. The Interstate Commission may avail itself of any other remedies available under state law or the regulation of a profession.

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ARTICLE XIV

FINANCING OF THE INTERSTATE COMMISSION

A. The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

B. The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff which must 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.

C. The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the member states.

D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its 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.

ARTICLE XV

MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT

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

B. This compact shall become effective and binding upon legislative enactment of this compact into law by no less than ten of the states. The effective date shall be no earlier than December 1, 2011. 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 nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the compact by all states.

C. 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.

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ARTICLE XVI

WITHDRAWAL AND DISSOLUTION

*A. Withdrawal.*

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

(2) Withdrawal from this compact shall be by the enactment of a statute repealing the same.

(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 thereof.

(4) The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, including obligations, the performance of which extend beyond the effective date of withdrawal.

(5) Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the Interstate Commission.

*B. Dissolution of Compact.*

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

(2) Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XVII

SEVERABILITY AND CONSTRUCTION

A. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

B. The provisions of this compact shall be liberally construed to effectuate its purposes.

C. Nothing in this compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

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ARTICLE XVIII

BINDING EFFECT OF COMPACT AND OTHER LAWS

*A. Other Laws.*

(1) Nothing herein shall prevent the enforcement of any other law of a member state that is not inconsistent with this compact.

(2) All member states' laws conflicting with this compact are superseded to the extent of the conflict.

*B. Binding Effect of the Compact.*

(1) All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.

(2) All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

(3) In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state."

(Code 1981, 20-17-2, enacted by Ga. L. 2012, p. 377, 1/SB 227.)