AN ACT relating to teacher certification.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 161.030 is amended to read as follows:

(1) Notwithstanding the age of the pupil, the certification of all teachers and other school personnel, in public schools only, is vested in the Education Professional Standards Board. When so certified, teachers and other school personnel shall not be required to have licensure, certification, or other forms of approval from any other state agency for the performance of their respective assignments within the system of public schools, except as provided for by law. All certificates authorized under KRS 161.010 to 161.126 shall be issued in accordance with the administrative regulations of the Education Professional Standards Board. After July 15, 1994, all certificate applications and other data collection instruments of the board shall include a request for voluntary information about the applicant's ethnic background. This information shall be available to help local school districts locate minority candidates. A person who holds a certificate prior to this requirement may request that ethnic information be added to his or her file. Nothing in this section shall preclude the right of an individual in a nonpublic school from seeking voluntary certification by the Education Professional Standards Board.

(2) Certificates shall be issued upon written application and in accordance with statutes and regulations in effect at the time of application to persons who have completed, at colleges, universities, or local school district programs approved by the Education Professional Standards Board for the preparation of teachers and other school personnel, the curricula prescribed by the administrative regulations of the Education Professional Standards Board.

(3) (a) Certification of all new teachers and teachers seeking additional certification shall require the successful completion of appropriate assessments prior to certification. The assessments shall be selected by the Education Professional

Standards Board and shall measure knowledge in the specific teaching field of the applicant, including content of the field and teaching of that content. The Education Professional Standards Board shall determine the minimum acceptable level of achievement on each assessment. The assessments shall measure those concepts, ideas, and facts which are being taught in teacher education programs in Kentucky. Upon successful completion of the assessments and the approved teacher preparation program, a professional certificate valid for five (5) years shall be issued.

(b) If an applicant for teacher certification has completed the approved teacher preparation program and has taken but failed to successfully complete the appropriate assessments selected by the Education Professional Standards Board, a conditional certificate may be issued for a period not to exceed one (1) year. The employing school district, in collaboration with the teacher education institution, shall provide technical assistance and mentoring support to the conditionally certified teacher. The teacher shall retake the assessments during the validity period of the conditional certificate. The conditional certificate shall not be reissued. Upon successful completion of the required assessments, a professional certificate valid for five (5) years shall be issued. The Education Professional Standards Board shall promulgate administrative regulations to establish the standards and procedures for issuance of a conditional certificate.

(c) If an out-of-state teacher with less than two (2) years' experience comes to Kentucky after the deadline for taking the assessments, a temporary certificate may be issued for a period up to six (6) months. The teacher shall take the assessments during the period of the temporary certificate. If the teacher fails the assessments, the temporary certificate shall be valid only for the current semester. If the teacher passes the assessments, a professional certificate valid

for five (5) years shall be issued.

(4) A reasonable fee to be paid by the teacher and directly related to the actual cost of the administration of the assessments shall be established by the Education Professional Standards Board. Provisions shall be made for persons having less than minimum levels of performance on any assessment to repeat that assessment, and candidates shall be informed of their strengths and weaknesses in the specific performance areas. The Education Professional Standards Board shall provide for confidentiality of the individual assessment scores. Scores shall be available only to the candidate and to the education officials who are responsible for determining whether established certification standards have been met. Scores shall be used only in the assessment for certification of new teachers and of out-of-state teachers with less than two (2) years of teaching experience who are seeking initial certification in Kentucky.

(5) If an applicant establishes eligibility for a five (5) year professional certificate under the provisions of subsection (3)(a) of this section, the applicant shall also be eligible for the issuance of a certificate for substitute teaching as provided by the administrative regulations of the Education Professional Standards Board.

(6) (a) The Education Professional Standards Board shall issue a ten (10) year emeritus certificate to an applicant who has:

1. Retired or will retire not more than one (1) year prior to the expiration date of the certificate;
2. Met the requirements to receive an emeritus certificate as set forth in administrative regulation promulgated by the Education Professional Standards Board; and
3. Completed the required application unless the provisions of KRS 161.120 apply.

(b) The Education Professional Standards Board shall issue a one (1) time five (5)

year exception certificate to an individual:

1. Whose certificate has expired;
2. Whose rank upon expiration was Rank I or Rank II;
3. Who has met the requirements to receive an exception certificate as set forth in administrative regulation promulgated by the Education Professional Standards Board;
4. Who completed three (3) years of classroom instruction prior to the certificate's expiration; and
5. Who has completed the required application unless the provisions of KRS 161.120 apply.

(c) The Education Professional Standards Board shall issue a five (5) year certificate to an individual:

1. Whose certificate has expired;

2. Who has met the requirements for a certificate or statement of eligibility in administrative regulation promulgated by the Education Professional Standards Board; and

3. Who submits proof of successful completion of six (6) credit hours of graduate coursework.

(d) The Education Professional Standards Board shall issue a one (1) time five (5) year certificate to an individual:

1. Whose certificate has expired;

2. Who has met the requirements for a certificate or statement of eligibility in administrative regulation promulgated by the Education Professional Standards Board; and

3. Who submits a waiver issued by a school district superintendent exempting the applicant from the requirement to submit proof of successful completion of six (6) credit hours of graduate coursework

under paragraph (c)3. of this subsection.

(7) The Education Professional Standards Board shall approve the curricula of any college or university, or of any department thereof, for the training of teachers, and any nontraditional or alternative teacher preparation program offered in a public or private postsecondary education institution, private contractor, or state agency, and shall also approve the curricula of any local district alternative certification program, when the curricula comply with the administrative regulations of the Education Professional Standards Board for the issuance of certificates and when the institution has met the terms and conditions provided in KRS 161.010 to 161.120. Any student who has completed any of these curricula, as approved by the Education Professional Standards Board, and who has completed the prescribed requirements for the issuance of certificates shall be granted a certificate corresponding to the curricula completed.

(8) The issuance of any certificate, except emergency certificates issued pursuant to KRS 161.100, by the Education Professional Standards Board shall not be dependent upon an offer of employment. The certification process, except for emergency certificates, is independent of any job prospects and certification shall be awarded on the basis of completing a teacher preparation program or an alternative certification pathway and passing required assessments.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

SECTION 1. PURPOSE

The purpose of this compact is to facilitate the interstate practice of school psychology in educational or school settings, and in so doing to improve the availability of school psychological services to the public. This compact is intended to establish a pathway to allow school psychologists to obtain equivalent licenses to provide school psychological services in any member state. In this way, this compact shall enable the member states

to ensure that safe and effective school psychological services are available and delivered by appropriately qualified professionals in their educational settings.

To facilitate the objectives described above, this compact:

A. Enables school psychologists who qualify for receipt of an equivalent license to practice in other member states without first satisfying burdensome and duplicative requirements;

B. Promotes the mobility of school psychologists between and among the member states in order to address workforce shortages and to ensure that safe and reliable school psychological services are available in each member state;

C. Enhances the public accessibility of school psychological services by increasing the availability of qualified, licensed school psychologists through the establishment of an efficient and streamlined pathway for licensees to practice in other member states;

D. Preserves and respects the authority of each member state to protect the health and safety of its residents by ensuring that only qualified, licensed professionals are authorized to provide school psychological services within that state;

E. Requires school psychologists practicing within a member state to comply with the scope of practice laws present in the state where the school psychological services are being provided;

F. Promotes cooperation between the member states in regulating the practice of school psychology within those states; and

G. Facilitates the relocation of military members and their spouses who are licensed to provide school psychological services.

SECTION 2. DEFINITIONS

A. "Active military member" means any person with full-time duty status in the Armed Forces of the United States, including members of the National Guard and Reserve;

B. "Adverse action" means disciplinary action or encumbrance imposed on a license by a state licensing authority;

C. "Alternative program" means a non-disciplinary, prosecutorial diversion, monitoring, or practice remediation process entered into in lieu of an adverse action which is applicable to a school psychologist and approved by the state licensing authority of a member state in which the participating school psychologist is licensed. This includes but is not limited to programs to which licensees with substance abuse or addiction issues may be referred in lieu of an adverse action;

D. "Commissioner" means the individual appointed by a member state to serve as the representative to the commission for that member state;

E. "Compact" means this School Psychologist Interstate Licensure Compact;

F. "Continuing professional education" means a requirement, imposed by a member state as a condition of license renewal to provide evidence of successful participation in professional educational activities relevant to the provision of school psychological services;

G. "Criminal background check" means the submission of fingerprints or other biometric information for a license applicant for the purpose of obtaining that applicant's criminal history record information, as defined in 28 C.F.R. sec. 20.3(d), and the state's criminal history record repository as defined in 28 C.F.R. sec. 20.3(f);

H. "Doctoral level degree" means a graduate degree program that consists of at least ninety (90) graduate semester hours in the field of school psychology including a supervised internship;

I. "Encumbered license" means a license that a state licensing authority has limited in any way other than through an alternative program, including temporary or provisional licenses;

J. "Executive committee" means the commission's chair, vice chair, secretary, and treasurer and any other commissioners as may be determined by commission rule or bylaw;

K. "Equivalent license" means a license to practice school psychology which a member state has identified as a license which may be provided to school psychologists from other member states pursuant to this compact;

L. "Home state" means the member state that issued the home state license to the licensee and is the licensee's primary state of practice;

M. "Home state license" means the license that is not an encumbered license issued by the home state to provide school psychological services;

N. "License" means a current license, certification, or other authorization granted by a member state's licensing authority that permits an individual to provide school psychological services;

O. "Licensee" means an individual who holds a license from a member state to provide school psychological services;

P. "Member state" means a state that has enacted the compact and been admitted to the commission in accordance with the provisions herein and commission rules;

Q. "Model compact" means the model language for the School Psychologist Interstate Licensure Compact on file with the Council of State Governments or other entity as designated by the commission;

R. "Practice of school psychology" means the delivery of school psychological services;

S. "Qualifying national exam" means a national licensing examination endorsed by the National Association of School Psychologists and any other exam as approved by the rules of the commission;

T. "Qualifying school psychologist education program" means an education program which awards a specialist-level or doctoral-level degree or equivalent

upon completion and is approved by the rules of the commission as meeting the necessary minimum educational standards to ensure that its graduates are ready, qualified, and able to engage in the practice of school psychology;

U. "Remote state" means a member state other than the home state where a licensee holds a license through the compact;

V. "Rule" means a regulation promulgated by an entity, including but not limited to the commission and the state licensing authority of each member state, that has the force of law;

W. "School psychological services" means academic, mental and behavioral health services, including assessment, prevention, consultation and collaboration, intervention, and evaluation provided by a school psychologist in a school, as outlined in applicable professional standards as determined by commission rule;

X. "School psychologist" means an individual who has met the requirements to obtain a home state license that legally conveys the professional title of school psychologist, or its equivalent as determined by the rules of the commission;

Y. "School Psychologist Interstate Licensure Compact Commission" or "commission" means the joint government agency established by this compact whose membership consists of representatives from each member state that has enacted the compact, and as further described in Section 7 of this compact;

Z. "Scope of practice" means the procedures, actions, and processes a school psychologist licensed in a state is permitted to undertake in that state and the circumstances under which that licensee is permitted to undertake those procedures, actions, and processes. Such procedures, actions, and processes, and the circumstances under which they may be undertaken, may be established through means including but not limited to statute, regulations, case law, and other processes available to the state licensing authority or other government agency;

AA. "Specialist-level degree" means a degree program that requires at least sixty (60) graduate semester hours or equivalent in the field of school psychology including a supervised internship;

BB. "State" means any state, commonwealth, district, or territory of the United States of America;

CC. "State licensing authority" means a member state's regulatory body responsible for issuing licenses or otherwise overseeing the practice of school psychology;

DD. "State specific requirement" means a requirement for licensure covered in coursework or examination that includes content of unique interest to the state; and

EE. "Unencumbered license" means a license that authorizes a licensee to engage in the full and unrestricted practice of school psychology.

SECTION 3. STATE PARTICIPATION IN THE COMPACT

A. To be eligible to join this compact, and to maintain eligibility as a member state, a state must:

1. Enact a compact statute that is not materially different from the model compact as defined in the commission's rules;

2. Participate in the sharing of information with other member states as reasonably necessary to accomplish the objectives of this compact, and as further defined in Section 8 of this compact;

3. Identify and maintain with the commission a list of equivalent licenses available to licensees who hold a home state license under this compact;

4. Have a mechanism in place for receiving and investigating complaints about licensees;

5. Notify the commission, in compliance with the terms of the compact and the commission's rules, of any adverse action taken against a licensee, or of the availability of investigative information which relates to a licensee or

applicant for licensure;

6. Require that applicants for a home state license have:

a. Taken and passed a qualifying national exam as defined by the rules of the commission;

b. Completed a minimum of one thousand two hundred (1,200) hours of supervised internship, of which at least six hundred (600) hours must have been completed in a school, prior to being approved for licensure; and

c. Graduated from a qualifying school psychologist education program; and

7. Comply with the terms of this compact and the rules of the commission.

B. Each member state shall grant an equivalent license to practice school psychology in that state upon application by a licensee who satisfies the criteria of Section 4.A. of this compact. Each member state shall grant renewal of the equivalent license to a licensee who satisfies the criteria of Section 4.B. of this compact.

C. Member states may set and collect a fee for granting an equivalent license.

SECTION 4. SCHOOL PSYCHOLOGIST PARTICIPATION IN THE COMPACT

A. To obtain and maintain an equivalent license from a remote state under this compact, a licensee must:

1. Hold and maintain an active home state license;

2. Satisfy any applicable state specific requirements established by the member state after an equivalent license is granted;

3. Complete any administrative or application requirements which the commission may establish by rule, and pay any associated fees;

4. Complete any requirements for renewal in the home state, including applicable continuing professional education requirements; and

5. Upon their application to receive a license under this compact, undergo a criminal background check in the member state in which the equivalent license is sought in accordance with the laws and regulations of such member state.

B. To renew an equivalent license in a member state other than the home state, a licensee must only apply for renewal, complete a background check, and pay renewal fees as determined by the licensing authority.

SECTION 5. ACTIVE MILITARY MEMBERS OR THEIR SPOUSES

A licensee who is an active military member or is the spouse of an active military member shall be deemed to hold a home state license in any of the following locations:

A. The licensee's permanent residence;

B. A member state that is the licensee's primary state of practice; or

C. A member state where the licensee has relocated pursuant to a permanent change of station (PCS).

SECTION 6. DISCIPLINE AND ADVERSE ACTIONS

A. Nothing in this compact shall be deemed or construed to limit the authority of a member state to investigate or impose disciplinary measures on licensees according to the state practice laws thereof.

B. Member states shall be authorized to receive, and shall provide, files and information regarding the investigation and discipline, if any, of licensees in other member states upon request. Any member state receiving such information or files shall protect and maintain the security and confidentiality thereof, in at least the same manner that it maintains its own investigatory or disciplinary files and information. Prior to disclosing any disciplinary or investigatory information received from another member state, the disclosing state shall communicate its intention and purpose for such disclosure to the member state which originally provided that information.

SECTION 7. ESTABLISHMENT OF THE SCHOOL PSYCHOLOGIST INTERSTATE LICENSURE COMPACT COMMISSION

A. The member states hereby create and establish a joint government agency whose membership consists of all member states that have enacted the compact, and this agency shall be known as the School Psychologist Interstate Licensure Compact Commission. The commission is an instrumentality of the member states acting jointly and not an instrumentality of any one (1) state. The commission shall come into existence on or after the effective date of the compact as set forth in Section 11 of this compact.

B. Membership, voting, and meetings:

1. Each member state shall have and be limited to one (1) delegate selected by that member state's state licensing authority.

2. The delegate shall be the primary administrative officer of the member state licensing authority or their designee who is an employee of the member state licensing authority.

3. The commission shall by rule or bylaw establish a term of office for delegates and may by rule or bylaw establish term limits.

4. The commission may recommend removal or suspension of any delegate from office.

5. A member state's licensing authority shall fill any vacancy of its delegate occurring on the commission within sixty (60) days of the vacancy.

6. Each delegate shall be entitled to one (1) vote on all matters before the commission requiring a vote by commission delegates.

7. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates to meet by telecommunication, videoconference, or other means of communication.

8. The commission shall meet at least once during each calendar year.

Additional meetings may be held as set forth in the bylaws. The commission may meet by telecommunication, videoconference or other similar electronic means.

C. The commission shall have the following powers:

1. Establish the fiscal year of the commission;

2. Establish code of conduct and conflict of interest policies;

3. Establish and amend rules and bylaws;

4. Establish the procedure through which a licensee may change their home state;

5. Maintain its financial records in accordance with the bylaws;

6. Meet and take such actions as are consistent with the provisions of this compact, the commission's rules, and the bylaws;

7. Initiate and conclude legal proceedings or actions in the name of the commission, provided that the standing of any member state licensing authority to sue or be sued under applicable law shall not be affected;

8. Maintain and certify records and information provided to a member state as the authenticated business records of the commission, and designate an agent to do so on the commission's behalf;

9. Purchase and maintain insurance and bonds;

10. Borrow, accept, or contract for services of personnel, including but not limited to employees of a member state;

11. Conduct an annual financial review;

12. Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact, and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

13. Assess and collect fees;

14. Accept any and all appropriate gifts, donations, grants of money, other sources of revenue, equipment, supplies, materials, and services, and receive, utilize, and dispose of the same, provided that at all times the commission shall avoid any appearance of impropriety and/or conflict of interest;

15. Lease, purchase, retain, own, hold, improve, or use any property, real, personal, or mixed, or any undivided interest therein;

16. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

17. Establish a budget and make expenditures;

18. Borrow money;

19. Appoint committees, including standing committees, composed of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this compact and the bylaws;

20. Provide and receive information from, and cooperate with, law enforcement agencies;

21. Establish and elect an executive committee, including a chair and a vice chair;

22. Determine whether a state's adopted language is materially different from the model compact language such that the state would not qualify for participation in the compact; and

23. Perform such other functions as may be necessary or appropriate to achieve the purposes of this compact.

D. The executive committee:

1. The executive committee shall have the power to act on behalf of the

commission according to the terms of this compact. The powers, duties, and responsibilities of the executive committee shall include:

a. Oversee the day-to-day activities of the administration of the compact including enforcement and compliance with the provisions of the compact, its rules and bylaws, and other such duties as deemed necessary;

b. Recommend to the commission changes to the rules or bylaws, changes to this compact legislation, fees charged to member states, fees charged to licensees, and other fees;

c. Ensure compact administration services are appropriately provided, including by contract;

d. Prepare and recommend the budget;

e. Maintain financial records on behalf of the commission;

f. Monitor compact compliance of member states, and provide compliance reports to the commission;

g. Establish additional committees as necessary;

h. Exercise the powers and duties of the commission during the interim between commission meetings, except for adopting or amending rules, adopting or amending bylaws, and exercising any other powers and duties expressly reserved to the commission by rule or bylaw; and

i. Other duties as provided in the rules or bylaws of the commission.

2. The executive committee shall be composed of up to seven (7) members:

a. The chair and vice chair of the commission shall be voting members of the executive committee; and

b. The commission shall elect five (5) voting members from the current membership of the commission.

3. The commission may remove any member of the executive committee as

provided in the commission's bylaws.

4. The executive committee shall meet at least annually.

a. Executive committee meetings shall be open to the public, except that the executive committee may meet in a closed, non-public meeting as provided in subsection F.2. of this section.

b. The executive committee shall give thirty (30) days' notice of its meetings, posted on its website and as determined to provide notice to persons with an interest in the business of the commission.

c. The executive committee may hold a special meeting in accordance with subsection F.1.b. of this section.

E. The commission shall adopt and provide to the member states an annual report.

F. Meetings of the commission:

1. All meetings shall be open to the public, except that the commission may meet in a closed, non-public meeting as provided in subsection F.2. of this section.

a. Public notice for all meetings of the full commission shall be given in the same manner as required under the rulemaking provisions in Section 9 of this compact, except that the commission may hold a special meeting as provided in subsection F.1.b. of this section.

b. The commission may hold a special meeting when it must meet to conduct emergency business by giving forty-eight (48) hours' notice to all commissioners, on the commission's website, and other means as provided in the commission's rules. The commission's legal counsel shall certify that the commission's need to meet qualifies as an emergency.

2. The commission or the executive committee or other committees of the commission may convene in a closed, non-public meeting for the

commission or executive committee or other committees of the commission to receive legal advice or to discuss:

a. Non-compliance of a member state with its obligations under the compact;

b. The employment, compensation, discipline or other matters, practices or procedures related to specific employees;

c. Current or threatened discipline of a licensee by the commission or by a member state's licensing authority;

d. Current, threatened, or reasonably anticipated litigation;

e. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

f. Accusing any person of a crime or formally censuring any person;

g. Trade secrets or commercial or financial information that is privileged or confidential;

h. Information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

i. Investigative records compiled for law enforcement purposes;

j. Information related to any investigative reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact;

k. Matters specifically exempted from disclosure by federal or member state law; or

l. Other matters as promulgated by the commission by rule.

3. If a meeting, or portion of a meeting, is closed, the presiding officer shall state that the meeting will be closed and reference each relevant exempting provision, and such reference shall be recorded in the minutes.

4. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. 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 only by a majority vote of the commission or order of a court of competent jurisdiction.

G. Financing of the commission:

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

2. The commission may accept any and all appropriate revenue sources as provided in subsection C.14. of this section.

3. The commission may levy on and collect an annual assessment from each member state and impose fees on licensees practicing in the member states under an equivalent license to cover the cost of the operations and activities of the commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount for member states shall be allocated based upon a formula that the commission shall promulgate by rule.

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

5. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be

subject to the financial review and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be subject to an annual financial review by a certified or licensed public accountant, and the report of the financial review shall be included in and become part of the annual report of the commission.

H. Qualified immunity, defense, and indemnification:

1. The members, officers, executive director, employees and representatives of the commission shall be immune from suit and liability, both personally and in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional, willful, or wanton misconduct or negligent conduct of that person. The procurement of insurance of any type by the commission shall not in any way compromise or limit the immunity granted hereunder.

2. The commission shall defend any member, officer, executive director, employee, and representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or as determined by the commission that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from

retaining their own counsel at their own expense; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional, willful, or wanton misconduct or negligent conduct.

3. The commission shall indemnify and hold harmless any member, officer, executive director, employee, and representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional, willful, or wanton misconduct or negligent conduct of that person.

4. Nothing herein shall be construed as a limitation on the liability of any licensee for professional malpractice or misconduct, which shall be governed solely by any other applicable state laws.

5. Nothing in this compact shall be interpreted to waive or otherwise abrogate a member state's state action immunity or state action affirmative defense with respect to antitrust claims under the Sherman Act, Clayton Act, or any other state or federal antitrust or anticompetitive law or regulation.

6. Nothing in this compact shall be construed to be a waiver of sovereign immunity by the member states or by the commission.

SECTION 8. FACILITATING INFORMATION EXCHANGE

A. The commission shall provide for facilitating the exchange of information to administer and implement the provisions of this compact in accordance with the rules of the commission, consistent with generally accepted data protection principles.

B. Notwithstanding any other provision of state law to the contrary, a member state

shall agree to provide for the facilitation of the following licensee information as required by the rules of the commission, including:

1. Identifying information;

2. Licensure data;

3. Adverse actions against a license and information related thereto;

4. Non-confidential information related to alternative program participation, the beginning and ending dates of such participation, and other information related to such participation not made confidential under member state law;

5. Any denial of application for licensure, and the reason(s) for such denial;

6. The presence of investigative information; and

7. Other information that may facilitate the administration of this compact or the protection of the public, as determined by the rules of the commission.

C. Nothing in this compact shall be deemed or construed to alter, limit, or inhibit the power of a member state to control and maintain ownership of its licensee information or alter, limit, or inhibit the laws or regulations governing licensee information in the member state.

SECTION 9. RULEMAKING

A. The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this interstate compact and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

B. The commission shall promulgate reasonable rules to achieve the intent and purpose of this interstate compact. In the event the commission exercises its rulemaking authority in a manner that is beyond purpose and intent of this interstate compact, or the powers granted hereunder, then such an action by the commission shall be invalid and have no force and effect of law in the member states.

C. If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact within four (4) years of the date of adoption of the rule, then such rule shall have no further force and effect in any member state.

D. Rules or amendments to the rules shall be adopted or ratified at a regular or special meeting of the commission in accordance with commission rules and bylaws.

E. Prior to promulgation and adoption of a final rule or rules by the commission, and at least thirty (30) days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:

1. On the website of the commission or other publicly accessible platform; and

2. On the website of each member state licensing authority or other publicly accessible platform or the publication in which each state would otherwise publish proposed rules.

F. Upon determination that an emergency exists, the commission may consider and adopt an emergency rule with forty-eight (48) hours' notice, with opportunity to comment, provided that the usual rulemaking procedures shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;

2. Prevent a loss of commission or member state funds;

3. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or

4. Protect public health and safety.

SECTION 10. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

A. Oversight:

1. The executive and judicial branches of the state government in each member state shall enforce this compact and take all actions necessary and appropriate to implement the compact.

2. Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings. Nothing herein shall affect or limit the selection or propriety of venue in any action against a licensee for professional malpractice, misconduct or any such similar matter.

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

B. Default, technical assistance, and termination:

1. If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall provide written notice to the defaulting state. The notice of default shall describe the default, the proposed means of curing the default, and any other action that the commission may take, and shall offer training and specific technical assistance regarding the default.

2. The commission shall provide a copy of the notice of default to the other

member states.

C. If a state in default fails to cure the default, the defaulting state may be terminated from the compact upon an affirmative vote of a supermajority of the delegates of the member states, and all rights, privileges and benefits conferred on that state by this compact may be terminated on 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 default.

D. 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 commission to the governor, the majority and minority leaders of the defaulting state's legislature, the defaulting state's licensing authority, and each of the member states' licensing authorities.

E. A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

F. Upon the termination of a state's membership from this compact, that state shall immediately provide notice to all licensees within that state of such termination. The terminated state shall continue to recognize all licenses granted pursuant to this compact for a minimum of six (6) months after the date of said notice of termination.

G. The commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the compact, unless agreed upon in writing between the commission and the defaulting state.

H. The defaulting state may appeal the action of the commission by petitioning the United States District Court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

I. Dispute resolution:

1. Upon request by a member state, the commission shall attempt to resolve disputes related to the compact that arise among member states and between member and non-member states.

2. The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

J. Enforcement:

1. By majority vote as provided by rule, the commission may initiate legal action against a member state in default in the United States District Court for the District of Columbia or the federal district where the commission has its principal offices to enforce compliance with the provisions of the compact and its promulgated rules. 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. The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or the defaulting member state's law.

2. A member state may initiate legal action against the commission in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices to enforce compliance with the provisions of the compact and its promulgated rules. 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. No person other than a member state shall enforce this compact against the commission.

SECTION 11. EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT

A. The compact shall come into effect on the date on which the compact statute is enacted into law in the seventh member state.

1. On or after the effective date of the compact indicated above, the commission shall convene and review the enactment of each of the charter member states to determine if the statute enacted by each such charter member state is materially different than the model compact statute.

a. A charter member state whose enactment is found to be materially different from the model compact statute shall be entitled to the default process set forth in Section 10 of this compact.

b. If any member state is later found to be in default, or is terminated or withdraws from the compact, the commission shall remain in existence and the compact shall remain in effect even if the number of member states should be less than seven (7).

2. Member states enacting the compact subsequent to the charter member states shall be subject to the process set forth in Section 7.C.22. of this compact to determine if their enactments are materially different from the model compact statute and whether they qualify for participation in the compact.

3. All actions taken for the benefit of the commission or in furtherance of the purposes of the administration of the compact prior to the effective date of the compact or the commission coming into existence shall be considered to be actions of the commission unless specifically repudiated by the commission.

a. Any state that joins the compact subsequent to the commission's initial adoption of the rules and bylaws shall be subject to the rules and bylaws as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the

commission shall have the full force and effect of law on the day the compact becomes law in that state.

b. Any member state may withdraw from this compact by enacting a statute repealing the same.

B. A member state's withdrawal shall not take effect until one hundred eighty (180) days after enactment of the repealing statute.

C. Withdrawal shall not affect the continuing requirement of the withdrawing state's licensing authority to comply with the investigative and adverse action reporting requirements of this compact prior to the effective date of withdrawal.

D. Upon the enactment of a statute withdrawing from this compact, a state shall immediately provide notice of such withdrawal to all licensees within that state. Notwithstanding any subsequent statutory enactment to the contrary, such withdrawing state shall continue to recognize all licenses granted pursuant to this compact for a minimum of six (6) months after the date of such notice of withdrawal.

1. Nothing contained in this compact shall be construed to invalidate or prevent any licensure agreement or other cooperative arrangement between a member state and a non-member state that does not conflict with the provisions of this compact.

2. This compact may be amended by the member states. No amendment to this compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

SECTION 12. CONSTRUCTION AND SEVERABILITY

A. This compact and the commission's rulemaking authority shall be liberally construed so as to effectuate the purposes, and the implementation and administration of the compact. Provisions of the compact expressly authorizing or requiring the promulgation of rules shall not be construed to limit the

commission's rulemaking authority solely for those purposes.

B. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is held by a court of competent jurisdiction to be contrary to the constitution of any member state, a state seeking participation in the compact, or of the United States, or the applicability thereof to any government, agency, person or circumstance is held to be unconstitutional by a court of competent jurisdiction, the validity of the remainder of this compact and the applicability thereof to any other government, agency, person or circumstance shall not be affected thereby.

C. Notwithstanding subsection B. of this section, the commission may deny a state's participation in the compact or, in accordance with the requirements of Section 10.B. of this compact, terminate a member state's participation in the compact, if it determines that a constitutional requirement of a member state is a material departure from the compact. Otherwise, if this compact shall be held to be contrary to the constitution of any member state, the compact shall remain in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

SECTION 13. CONSISTENT EFFECT AND CONFLICT WITH OTHER STATE LAWS

A. Nothing herein shall prevent or inhibit the enforcement of any other law of a member state that is not inconsistent with the compact.

B. Any laws, statutes, regulations, or other legal requirements in a member state in conflict with the compact are superseded to the extent of the conflict.

C. All permissible agreements between the commission and the member states are binding in accordance with their terms.

SECTION 14. APPLICABILITY OF KENTUCKY STATE GOVERNMENT

In order to clarify the effect of certain provisions of this compact and to ensure that the

rights and responsibilities of the various branches of government are maintained, the following shall be in effect in this state:

A. By entering into this compact, this state authorizes the state licensing authority as defined in Section 2.CC. of this compact and as created by KRS 161.028 to implement the provisions of this compact.

B. Notwithstanding any provision of this compact to the contrary:

1. When a rule is adopted pursuant to Section 9 of this compact, the state licensing authority as defined by Section 2.CC. of this compact shall have sixty (60) days to review the rule for the purpose of filing the rule as an emergency administrative regulation pursuant to KRS 13A.190 and for filing the rule as an accompanying ordinary administrative regulation, following the requirements of KRS Chapter 13A. Failure by the state licensing authority as defined by Section 2.CC. of this compact to promulgate a rule adopted by the School Psychologist Interstate Licensure Compact Commission as an administrative regulation pursuant to KRS Chapter 13A shall result in withdrawal as set forth in Section 11 of this compact. Nothing in these provisions shall negate the applicability of a commission rule or Section 9 of this compact to this state;

2. If the proposed administrative regulation is found deficient and the deficiency is not resolved pursuant to KRS 13A.330 or 13A.335, the provisions of Section 10 of this compact shall apply. If the deficiency is resolved in a manner determined by the commission to be inconsistent with this compact or its rules, or if the procedures under Section 10 of this compact fail to resolve an issue, the withdrawal provisions of Section 11 of this compact shall apply; and

3. If a court of competent jurisdiction determines that the School Psychologist Interstate Licensure Compact Commission created by Section 7 of this

compact exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this compact, or the powers granted under this compact, then such an action by the commission shall be invalid and have no force or effect.

C. Section 7.G. of this compact pertaining to the financing of the commission shall not be interpreted to obligate the general fund of this state. Any funds used to finance this compact shall be from money collected pursuant to KRS 161.028.

D. This compact shall apply only to those school psychologists who practice or work under a compact privilege.