WEST VIRGINIA CODE: §18-10R-7

§18-10R-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 state. The commission shall come into existence on or after the effective date of the compact as set forth in §18-10R-11 of this code.

(b) Membership, Voting, and Meetings.

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

(2) The delegate shall be the primary administrative officer of the member state licensing authority or his or her 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 60 days of the vacancy.

(6) Each delegate has one 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, video conference or other similar electronic means.

(c) The powers, duties, and responsibilities of the commission include:

(1) Establishing the fiscal year of the commission;

(2) Establishing code of conduct and conflict of interest policies;

WV Legislature

(3) Establishing and amending rules and bylaws;

(4) Establishing the procedure through which a licensee may change his or her home state;

(5) Maintaining its financial records in accordance with the bylaws;

(6) Meeting and taking such actions as are consistent with the provisions of this compact, the commission’s rules, and the bylaws;

(7) Initiating and concluding 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) Maintaining and certifying records and information provided to a member state as the authenticated business records of the commission, and designating an agent to do so on the commission's behalf;

(9) Purchasing and maintaining insurance and bonds;

(10) Borrowing, accepting, or contracting for services of personnel, including, but not limited to, employees of a member state;

(11) Conducting an annual financial review;

(12) Hiring employees, electing or appointing officers, fixing compensation, defining duties, granting such individuals appropriate authority to carry out the purposes of the compact, and establishing the commission’s personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

(13) Assessing and collecting fees;

(14) Accepting any and all appropriate gifts, donations, grants of money, other sources of revenue, equipment, supplies, materials, and services, and receiving, using, and disposing of the same; provided that at all times the commission shall avoid any appearance of impropriety and/or conflict of interest;

(15) Leasing, purchasing, retaining, owning, holding, improving, or using any property, real, personal, or mixed, or any undivided interest therein;

(16) Selling, conveying, mortgaging, pledging, leasing, exchanging, abandoning, or otherwise disposing of any property real, personal, or mixed;

(17) Establishing a budget and making expenditures;

(18) Borrowing money;

(19) Appointing committees, including standing committees, composed of members, state

WV Legislature

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) Providing and receiving information from, and cooperating with, law enforcement agencies;

(21) Establishing and electing an executive committee, including a chair and a vice chair;

(22) Determining 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) Performing any other functions necessary or appropriate to achieve the purposes of this compact.

(d) The Executive committee may act on behalf of the commission according to the terms of this compact. The powers, duties, and responsibilities of the executive committee include:

(1) Overseeing of 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 considered necessary;

(2) Recommending 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;

(3) Ensuring compact administration services are appropriately provided, including by contract;

(4) Preparing and recommending the budget;

(5) Maintaining financial records on behalf of the commission;

(6) Monitoring compact compliance of member states and provide compliance reports to the commission;

(7) Establishing additional committees as necessary;

(8) Exercising 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

(9) Performing other duties as provided in the rules or bylaws of the commission.

(e) The executive committee shall be composed of up to seven members:

(1) The chair and vice chair of the commission shall be voting members of the executive

WV Legislature

committee; and

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

(f) The commission may remove any member of the executive committee as provided in the commission's bylaws.

(g) The executive committee shall meet at least annually.

(1) 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 subdivision four, subsection (h) of this section.

(2) The executive committee shall give 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.

(3) The executive committee may hold a special meeting in accordance with subsection subdivision three, subsection (h) of this section.

(4) The commission shall adopt and provide to the member states an annual report.

(h) 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 subdivision four, subsection (h) of this section.

(2) Public notice for all meetings of the full commission of meetings shall be given in the same manner as required under the rulemaking provisions in §18-10R-9 of this code, except that the commission may hold a special meeting as provided subsection subdivision three, subsection (h) of this section.

(3) The commission may hold a special meeting when it must meet to conduct emergency business by giving 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.

(4) 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:

(i) Non-compliance of a member state with its obligations under the compact;

(1) The employment, compensation, discipline or other matters, practices or procedures related to specific employees;

WV Legislature

(2) Current or threatened discipline of a Licensee by the commission or by a member state's licensing authority;

(3) Current, threatened, or reasonably anticipated litigation;

(4) Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

(5) Accusing any person of a crime or formally censuring any person;

(6) Trade secrets or commercial or financial information that is privileged or confidential;

(7) Information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(8) Investigative records compiled for law enforcement purposes;

(9) 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;

(10) Matters specifically exempted from disclosure by federal or Member state law; or

(11) Other matters as promulgated by the commission by rule.

(j) 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.

(k) 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.

(l) 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 subdivision 14, subsection (c) 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

WV Legislature

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.

(j) 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 subdivision shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct 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 in this subdivision shall be construed to prohibit that person from retaining their own counsel at their own expense: *Provided, however,* that the actual or alleged act, error, or omission did not result from that person’s intentional or willful or wanton misconduct.

(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

www.Legislature

alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

(4) Nothing in this section 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.

WV Legislature