

COMPACT FOR PENSION PORTABILITY FOR EDUCATORS

The interstate compact with respect to pension portability for educators is hereby enacted into law and entered into by this state with all states legally joining therein in the form substantially as follows:

Article I. Findings.

The parties to this compact find as follows:

(A) Interstate mobility of professional employees of public schools, colleges and universities serves the public interest by providing for a more flexible workforce that is better able to match jobs to employees, thereby helping to avoid shortages in particular geographic areas.

(B) Interstate mobility of professional employees of public schools and colleges and universities is impeded by the fact that, under the pension plans in which most of them participate, such employees who move from one state to another generally suffer a substantial forfeiture of earned pension benefits.

(C) An agreement among the states to provide increased pension portability for the professional employees of public schools; colleges and universities will reduce one of the major barriers to the interstate mobility of such employees.

Article II. Definitions.

As used in this compact, unless the context clearly indicates otherwise:

(A) A pension plan is "associated" with a state if the pension plan is maintained by the state or a political subdivision thereof;

(B) "Educator" means an individual who is employed as a teacher or in another professional position by a public school, college or university.

(C) "Eligible educator" means an educator who (1) accrues pensionable service in a pension plan associated with a state by reason of his or her employment by a public school, college or university in such state after this compact becomes effective; and (2) accrued at least one year of pensionable services in a pension plan associated with another state by reason of his or her employment by a public school, college, or university in such state;

(D) "Exporting plan" means a pension plan in which an eligible educator previously accrued, but is no longer accruing pensionable service, and from which the eligible educator has not received any pension benefits;

(E) "Importing plan" means the pension plan in which an eligible educator presently is accruing pensionable service;

(F) "Pensionable service" means a period of employment of an eligible education by a public school, college, or university which is included by a pension plan in calculating the pension benefits to which the eligible educator is entitled;

(G) "Pension plan" means a plan, program, system, fund, or other operation that provides pension benefits to educators;

(H) "State" means a state of the United States, the District of Columbia, or any territory or possession of the United States that is a party to this compact;

(I) "Stipulated rate" means:

(1) For an exporting plan, the average annual yield on pension plan assets, net of administrative costs, experienced by the pension plan during the period from the first day of the fiscal year to which the contribution in question applies through the end of the fiscal year immediately preceding the date on which the money is either transferred from the exporting plan to the importing plan, or paid to the eligible educator, as the case may be; and

(2) For an importing plan, the average annual yield on pension plan assets experienced by the pension plan during the period from the first day of the fiscal year to which the contribution would have applied through the end of the fiscal year immediately preceding the date on which the money is transferred from the exporting plan to the importing plan.

Article III. Procedures.

Each state that is a party to this compact shall establish and maintain procedures adequate to effectuate the transfer of money and pensionable service from an exporting plan to an importing plan in accordance with the following provisions:

(A) At the request of an eligible educator who has complied with the application procedures of the states with which the exporting plan and importing plan are associated, the exporting plan shall transfer to the importing plan an amount of money that is equal to the lesser of the following two (2) sums:

(1) The local contributions made to the exporting plan by or on behalf of the eligible educator, plus interest calculated at the stipulated rate for the exporting plan; or

(2) The total contributions that would have been made to the importing plan by or on behalf of the eligible educator if the eligible educator had been accruing pensionable service in the importing plan for the entire period during which he or she was accruing pensionable service in the exporting plan, assuming employment at the same salary, plus interest calculated at the stipulated rate for the importing plan.

(B) Upon receipt of the money transferred pursuant to Article III (A), the importing plan shall credit the eligible educator with pensionable service in the importing plan as follows:

(1) When the amount of money transferred is the sum calculated pursuant to Article III (A)(1), the importing plan shall, for purposes of vesting and date of eligibility to begin receiving pension benefits, credit the eligible educator with the amount of pensionable service that he or she accrued in the exporting plan. For purposes of the amount of the pension benefits to be received by the eligible educator, the importing plan shall credit the eligible educator with an amount of pensionable service calculated as follows:

(a) The amount of pensionable service that the eligible educator accrued in the exporting plan multiplied by

(b) A fraction, the numerator of which is the amount of money calculated under Article III (A)(1), plus any supplementary payments made pursuant to Article III (B)(2), and the denominator of which is the amount of money calculated under Article III (A)(2);

(2) When the amount of money transferred to the importing plan on behalf of an eligible educator is the sum calculated under Article III (A)(1), the eligible educator may elect to make supplementary payments to the importing plan up to the amount of the difference between the sum transferred and the sum calculated under Article III (A)(2). Such supplementary payments may be made by the eligible educator in conjunction with the transfer of money from the exporting plan to the importing plan, or at any time thereafter before the eligible educator receives any pension benefits from the importing plan, in such minimum amounts as may be required by the importing plan, provided that the monetary value of any supplementary payments made subsequent to the transfer of money from the exporting plan to the importing plan shall be adjusted, as determined by the actuary of the importing plan, to reflect the period elapsed between the date the money is transferred from the exporting plan and the date the supplementary payment is made;

(C) When the amount of money transferred from the exporting plan to the importing is the sum calculated pursuant to Article III (A)(2), any money remaining to the credit of the eligible educator in the exporting plan shall be retained in the exporting plan and used as follows:

(1) For transfer to another importing plan at the request of the eligible educator in accordance with the terms of this compact;

(2) To pay pension benefits to the eligible educator if he or she again becomes a participant in the exporting plan; or

(3) If not used for purpose (1) or (2) above, for payment to the eligible educator, plus interest calculated at the stipulated rate for the exporting plan, when notification has been received from the eligible educator that he or she has begun to receive pension benefits from the importing plan.

(D) There shall be no limit on the number of transfers of money and pensionable service that an eligible educator may take from an exporting plan to an importing plan under this compact. In the case of a subsequent transfer, money previously transferred to an importing plan from an exporting plan shall for purposes of such subsequent transfer be considered "contributions made to the exporting plan by or on behalf of the eligible educator" within the meaning of Article III (A)(1).

Article IV. Effective Date of Compact; Withdrawal from Compact.

(A) When two or more states enact statutes adopting this compact, it shall become effective in those states on the dates specified in such statutes. Any other state may thereafter become a party to this compact by enacting a statute adopting it, and the compact shall become effective in that state on the date specified in such statute.

(B) A party state may withdraw from this compact by repealing the statute adopting this compact, provided that no such withdrawal shall be effective until at least one (1) year after the governor of the withdrawing state has given written notice of the repeal of the statute adopting this compact to the governors of all other party states. The withdrawal of a party state shall not relieve any pension plan associated with such state of its obligation to pay to an eligible educator on whose behalf has been transferred under this compact prior to the effective date of such withdrawal the pension benefits to which he or she is entitled under this compact.

Article V. Other Arrangements Unaffected.

Nothing contained in this compact shall be construed to prevent or inhibit states that are parties to this compact from entering into other arrangements, not inconsistent with the terms of this compact, to effectuate the purpose set forth in Article I.

Article VI. Construction and Severability.

(A) This compact shall be liberally construed so as to effectuate the purpose set forth in Article I.

(B) If any provision of this compact, or application thereof, is held by a state or federal court to be invalid with respect to a particular party state, said holding shall not affect the validity of such provision, or application thereof, in any other party state. The provisions of this compact shall be severable, and, as to the party state subject to the court holding, this compact shall in all other respects remain in full force and effect. If the party states that are not subject to the court holding believe that the provision of this compact, or application thereof, that has been declared invalid is not severable, they may, by majority vote, require the party state that is subject to the court holding to withdraw from this compact, in which event the withdrawal shall be effective immediately upon such vote, provided that the withdrawal shall not relieve any pension plan associated with such party state of its obligation to pay to an eligible educator on whose behalf

money has been or is in the process of being transferred under this compact prior to the effective date of such withdrawal the pension benefits to which he or she is entitled under this compact.