

ADOPTED**AMERICAN BAR ASSOCIATION****SECTION OF ADMINISTRATIVE LAW AND REGULATORY PRACTICE
GOVERNMENT AND PUBLIC SECTOR LAWYERS DIVISION****REPORT TO THE HOUSE OF DELEGATES****RECOMMENDATION**

1 RESOLVED, That the American Bar Association urges Congress, when it consents to the
2 creation of an interstate compact agency under Article I, Section 10, clause 3 of the U. S.
3 Constitution, to prescribe the administrative procedures to be employed by the agency,
4 provide for judicial review of agency action, and specify the standards of judicial review.
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6 FURTHER RESOLVED, That the American Bar Association urges states and territories
7 that are parties to an existing congressionally approved interstate compact to jointly
8 review the administrative procedures employed by the agency created by the compact, if
9 any, and, consistent with Congress's consent, enact necessary legislation to prescribe the
10 administrative procedures to be employed by the agency, provide for judicial review of
11 agency action, and specify the standards of judicial review.
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13 FURTHER RESOLVED, That the American Bar Association urges existing compact
14 agencies, in the absence of procedures specified by Congress or the states and territories,
15 to review their administrative procedures and adopt appropriate administrative
16 procedures to govern their functions.
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18 FURTHER RESOLVED, That the American Bar Association urges that provisions
19 concerning administrative procedure and judicial review for compact agencies should be
20 consistent with the following fundamental administrative law norms:
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22 1. In the case of adjudication, parties should be able to present their positions orally or in
23 writing and challenge positions of opposing witnesses orally or in writing; the
24 adjudicatory decision should be rendered by an impartial decision-maker; and, a
25 statement of reasons should accompany each decision.
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27 2. In the case of rulemaking, there should be an opportunity, following notice, for the
28 public to comment on proposed regulations.
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30 3. Statutory provisions relating to judicial review of agency decisions should assure that
31 those adversely affected by an agency decision should receive an appropriate form of
32 judicial review, and should specify standards of review that do not vary depending on the
33 court that reviews an action of the compact agency.

