

	Advisory Opinion Number 2-2011	Page Number:
<p align="center">MIC 3 Advisory Opinion Issued by: Executive Director- BG(R) Norman E. Arflack Chief Legal Counsel: Richard L Masters</p>		
State Requesting Opinion: Virginia	Dated: January 18, 2011	
Description: If a child is pre-registered in kindergarten prior to the military transfer, will this suffice as enrollment in kindergarten under Article IV of the Compact?		

Background:

Pursuant to Article X, Section C. of the Interstate Compact on Educational Opportunity for Military Children (hereinafter ‘Compact’) the State of Virginia has submitted a request for an advisory opinion concerning clarification of three issues pertaining to the compact.

Issues:

Virginia seeks guidance concern the following question:

How is Article IV applied when the child has not started school but the intent is that the child would be attending kindergarten in an out-of-state LEA if the military transfer had not taken place? If the child was pre-registered in kindergarten, would this action suffice as enrollment even if the child never actually attended kindergarten in the out-of-state LEA?

Applicable Compact Provisions or Rules:

Article IV, Section D. of the Compact provides:

“D. Kindergarten and first grade entrance age. Students shall be allowed to continue their enrollment at the 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 minimum age. A student who has satisfactorily completed the prerequisite grade level in the local education agency in the sending state

	Advisory Opinion Number 2-2011	Page Number:
<p align="center">MIC 3 Advisory Opinion Issued by: Executive Director- BG(R) Norman E. Arflack Chief Legal Counsel: Richard L Masters</p>		
State Requesting Opinion: Virginia	Dated: January 18, 2011	
Description: If a child is pre-registered in kindergarten prior to the military transfer, will this suffice as enrollment in kindergarten under Article IV of the Compact?		

shall be eligible for enrollment in the next highest grade level in the receiving state, regardless of minimum 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 a local education agency in the sending state.”

Review and Analysis

The provisions of Article IV, Section D. allow students enrolled in Kindergarten and first grade to “**continue their enrollment** at the grade level in the receiving state commensurate with their grade level (including Kindergarten) from a local education agency (LEA) in the sending state at the time of transition regardless of age.” This section also permits students who have ‘satisfactorily completed the prerequisite grade level in the LEA in the sending state’ to enroll ‘in the next highest grade level in the receiving state, regardless of age.’ In addition this compact provision authorizes “[A] student transferring after the start of the school year in the receiving state to enroll in school in the receiving state ‘on their validated level from an LEA in the sending state.’”

Virginia asks whether a prospective kindergarten student who has not yet started school prior to transition, but who would have (arguably) been eligible for enrollment in the sending state had the parental military transfer not taken place, would be eligible for enrollment in Kindergarten in the receiving state regardless of age under Article IV D.

Further, under the same provision of the compact, Virginia asks whether ‘pre-registration’ in kindergarten in the sending state prior to transfer would suffice as enrollment even if the child never attended kindergarten in the sending state’s LEA.

	Advisory Opinion Number 2-2011	Page Number:
<p align="center">MIC 3 Advisory Opinion Issued by: Executive Director- BG(R) Norman E. Arflack Chief Legal Counsel: Richard L Masters</p>		
State Requesting Opinion: Virginia	Dated: January 18, 2011	
Description: If a child is pre-registered in kindergarten prior to the military transfer, will this suffice as enrollment in kindergarten under Article IV of the Compact?		

The relevant language of Article IV, Section D., above, contemplates that the transitioning student has previously enrolled in Kindergarten prior to the parental military transfer since the literal text refers to allowing such students to “continue their enrollment.” Thus, the determination of the questions which Virginia poses depends upon the meaning of the terms ‘**continue their enrollment.**’ Since neither the term ‘**continue**’ nor ‘**enroll**’ are defined in the compact, the accepted maxim of statutory construction requires recourse to the ordinary meaning of these terms as defined in a dictionary. *See Diamond v. Diehr, 450 U.S. 175, 182 (1981) (‘In all statutory construction,’ “[u]nless otherwise defined, “words will be interpreted as taking their ordinary, contemporary, common meaning.”) Id at p.182.*

“Continue” is defined as ‘**to remain in a particular state or capacity.**’ *See Random House, Dictionary of the English Language, 2d Ed. (1987).*

“Enroll” is defined as ‘to write the name of (a person) in a roll or **register**; place upon a list; **register.**’ *See Random House, Dictionary of the English Language, 2d Ed. (1987).*

Based upon the common usage of these terms, with regard to the first question, prospective kindergarten students who have not yet started school prior to transition, even if arguably eligible for enrollment in the sending state, cannot logically be said to be in the act of ‘**continuing their enrollment**’ since no affirmative act has taken place by which such a student has acquired the ‘**particular state or capacity**’ of being **enrolled**.

On the other hand, the second question raised by Virginia posits a situation in which the student has ‘pre-registered’ in the sending state which does constitute an affirmative act of pre-recording the student’s name, and presumably other contact information, with the

	Advisory Opinion Number 2-2011	Page Number:
<p align="center">MIC 3 Advisory Opinion Issued by: Executive Director- BG(R) Norman E. Arflack Chief Legal Counsel: Richard L Masters</p>		
State Requesting Opinion: Virginia	Dated: January 18, 2011	
Description: If a child is pre-registered in kindergarten prior to the military transfer, will this suffice as enrollment in kindergarten under Article IV of the Compact?		

appropriate LEA in the sending state. In fact to be ‘registered’ is synonymous with being ‘enrolled.’ See *Random House, Dictionary of the English Language, 2d Ed. (1987)*.

Conclusion

In summary, based upon the relevant provisions of the Compact and referenced authorities and analysis, a prospective kindergarten student who has not yet started school prior to transition but who is eligible for enrollment in the sending must have pre-registered with the LEA in the sending state in order to be eligible for enrollment in Kindergarten after the parental military transfer to the receiving state regardless of age under Article IV, Section D. of the compact.