



COMMONWEALTH of VIRGINIA  
Department of Education

July 15, 2011

TO: Division Superintendents

FROM: Patricia I. Wright, Superintendent of Public Instruction

**SUBJECT: Guidance for Enrollment in Kindergarten for Military Children**

Virginia is one of 39 states that are members of the Interstate Compact on Educational Opportunity for Military Children. The provisions of the interstate compact may be found in [§22.1-360](#) of the *Code of Virginia*.

Some questions have arisen regarding the enrollment of military children in kindergarten when the child has not started school, but the intent is that the child would be attending kindergarten in an out-of-state local education agency (LEA), if the military transfer had not taken place. Further, if the child was registered in kindergarten in the out-of-state LEA, would this action suffice as enrollment even if the child never actually attended kindergarten in the out-of-state LEA? This memorandum provides direction to school divisions regarding how the compact provisions should be applied for enrolling military children, who fall under the provisions of the interstate compact, in kindergarten when the child has not started school.

**Provisions of the Compact**

The provisions of the compact apply only to students in military families transferring into Virginia from an out-of-state LEA. The provisions of the compact do not apply to military families transferring from one school division in Virginia to another.

Military families transferring into Virginia to whom the compact applies must meet the following criteria, as set forth in [§22.1-360](#):

*Article III. Applicability.*

A. *Except as otherwise provided in subsection B, this compact shall apply to the children of:*

1. *Active duty members of the uniformed services as defined in this compact, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. §§ 1209 and 1211;*
2. *Members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one year after medical discharge or retirement; and*
3. *Members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one year after death.*

B. *The provisions of this interstate compact shall only apply to local education agencies as defined in this compact.*

*[Article II states: "Local education agency" means a public authority legally constituted by the state as an administrative agency to provide control of and direction for kindergarten through 12th grade public*

*educational institutions.]*

*C. The provisions of this compact shall not apply to the children of:*

- 1. Inactive members of the National Guard and Military Reserves;*
- 2. Members of the uniformed services now retired, except as provided in subsection A;*
- 3. Veterans of the uniformed services, except as provided in subsection A; and*
- 4. Other U.S. Department of Defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.*

The compact also addresses kindergarten enrollment specifically. It states, in Article IV, Section D of [§22.1-360](#):

*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 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.*

### **Virginia's Implementation of the Military Compact**

#### ***Educational Enrollment - Prospective kindergarten students who have not yet started school prior to transition***

While a student may have been eligible for enrollment in the sending state, had the parental military transfer not taken place, the question arises whether the student would be eligible for enrollment in kindergarten in the receiving state (Virginia) regardless of age under Article IV, Section D.

The key to determining whether a prospective kindergarten student, who has not yet started school in the sending state prior to transfer, can enroll in kindergarten in the receiving state regardless of their age, is determining if the student is continuing their enrollment.

Under the provisions of the compact, [§22.1-360](#), *Code of Virginia*, a prospective kindergarten student who has not yet started school prior to transition, even if eligible for enrollment in the sending state, cannot be said to be in the act of continuing their enrollment since no affirmative act has taken place by which such a student has started the enrollment process.

However, in a situation in which a military child who falls under the provisions of the interstate compact has registered for kindergarten in the sending state prior to transfer, even if the child never actually attended kindergarten in the sending state's LEA, the student would be eligible to enroll in kindergarten in the receiving state (Virginia). The registration constitutes an affirmative act of enrollment, such as recording their name and contact information with the sending state's LEA.

While registration is not defined in the *Code*, it is generally meant as the process of enrolling an individual for a program. Although the process may vary by division, kindergarten registration typically includes providing a copy of the child's birth certificate, parent or legal guardian's proof of address, completed school entrance health form, and photo ID of the parent or legal guardian to the enrolling school division.

A military child who falls under the provisions of the interstate compact and who has registered for kindergarten in the sending state prior to transfer, should be considered as meeting the requirements for school age, and thus should be counted towards average daily membership (ADM) in the receiving Virginia LEA.

This memo does not impact students who meet the age requirements for enrollment in kindergarten set out in section [§22.1-199](#) of the *Code*.

In summary, a prospective kindergarten student who has not yet started kindergarten prior to transferring to Virginia, but who is eligible for enrollment in the sending state, must have registered with the LEA in the sending state in order to be eligible for enrollment in kindergarten after the parental military transfer to Virginia regardless of age under Article IV, Section D of the compact.

Questions about the Interstate Compact on Educational Opportunity for Military Children may be directed to Melissa Luchau, military family education liaison, via e-mail at [Melissa.Luchau@doe.virginia.gov](mailto:Melissa.Luchau@doe.virginia.gov) Melissa.Luchau@doe.virginia.gov, or telephone at (804) 225-4849.

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