

	<p>Number: 3-2018</p>
<p>Advisory Opinion issued by: Cherise Imai, Executive Director Richard L Masters, General Counsel</p>	<p>Dated: June 15, 2018 Approved: June 21, 2018</p>
<p>Requestor: District of Columbia</p>	
<p>Description: Does the Compact require a Charter School which ordinarily requires families to apply through a school lottery, to make preferences for children of military families for admission to such charter schools?</p>	

I. Background

Pursuant to Article X, Section C. of the Interstate Compact on Educational Opportunity for Military Children (hereinafter 'Compact') the District of Columbia (DC) has submitted a request for an advisory opinion concerning clarification of an issue pertaining to the Compact.

II. Issue

The Commissioner from the District of Columbia has requested guidance from the Military Interstate Children's Compact Commission concerning whether the Compact requires a DC Charter School, which ordinarily requires families to apply through the DC School Lottery, to make preferences for children of military families for admission to Charter Schools.

III. Applicable Compact Provisions or Rules

Article I, B., C., and H. of the Compact provides as follows:

It is the purpose of this compact to remove barriers to educational success imposed upon children of military families because of frequent moves and deployment by their parents by:

B. Facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content or assessment.

C. Facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities

H. Promoting flexibility and cooperation between the educational system, parents and

the student.

Article III, B. of the Compact states as follows:

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

IV. Review and Analysis

The Commissioner for the District of Columbia seeks an opinion concerning the requirements of the Compact, if any, with respect to a family that believes the Compact should apply to require charter schools to provide for preferences for students of military families.

An incoming family desires for their children to attend a DC charter school which they believe is similar to a magnet school that they currently attend in their state. DC does not agree with the family's assessment that the school is similar to a magnet school, as the school does not screen students and entry is solely granted based upon applying through a citywide lottery. The DC charter schools require all families to apply through a lottery if there are more applicants than available seats. The family will move to DC this summer and did not apply through the initial lottery since they were informed of their move to DC after the first lottery deadline had passed. The family may still apply to the school via a post lottery application. Under the Compact, the parents said the children must be placed in a new school with similar programs provided in the previous school. They have asked for a waiver of the lottery requirement and requested for their children to be enrolled in the preferred charter school. There is a waiting list for enrollment in the grades the parents are requesting.

Clearly the Charter Schools, since funded by state tax dollars, constitutes an LEA as defined by the Compact to which it applies like other public school. While the compact clearly applies to such schools no provision of the compact guarantees enrollment at a particular school whether pursuant to the lottery or otherwise. The purposes of the compact include facilitating placement and eligibility for enrollment and to promote flexibility and cooperation between the education system and students. (See Art. I, B., C., and H.) However, in the case presented here, a lottery is required for enrollment by all students and there is no provision of the compact which requires that this condition of enrollment be waived.

V. Conclusion

While DC and any other member state has the discretion to make allowances for military children notwithstanding the Charter School lottery, it has not been mandated under the statute or by administrative rule. While it could be argued that Art. I, B., C. & H. permit rulemaking in this regard, the MIC3 has not yet determined that such a rule should be promulgated.