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|  <p><b>Interstate Commission<br/>for Juveniles</b></p> | <p><b>Policy Number</b><br/><br/>02-2017</p> | <p><b>Page Number:</b><br/><br/>1</p>  |
| <p><b>ICJ Compliance Policy</b><br/>Sanctioning Guidelines</p>  |  | <p><b>Dated:</b><br/>November 16,<br/>2017</p> <p><b>Revised:</b><br/>September 17,<br/>2020</p> |

**I. Authorization**

Article VII(B)(3) of the Interstate Compact for Juveniles (ICJ), in relevant part, provides: “The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact using any or all means set forth in Article XI of this compact.” Rule 9-103 addresses “Enforcement Action Against a Defaulting State.” This policy ensures compliance with Article VII(B) and Rule 9-103.

ICJ Policy 03-2009 establishes the Commission’s primary Dispute Resolution Policy, which states, “The Commission and its members shall use proactive processes for resolving disputes and controversies in order to promote resolution through positive interactions.” Pursuant to this policy, dispute resolution may include mediation, training and/or technical assistance.

ICJ Policy 01-2009 establishes that “If it is alleged that a state has defaulted in the performance of any of its obligations or responsibilities under this Compact, the by-laws or any duly promulgated rules, and the allegation was not resolved through dispute resolution processes, the Executive Committee shall review the allegations, determine whether an investigation is warranted, and determine whether a finding of default is substantiated.”

**II. Policy**

This policy provides a matrix for assessing sanctions after the Compliance Committee has decided to recommend a state be found in default of the Compact, its rules, and Bylaws through the process set forth in ICJ Policy 01-2009. If a state has not successfully come into compliance through the implementation of a Corrective Action Plan, the state may be found in default. Sanctions may include training and/or monetary sanctions. Monetary sanctions may be assessed when all other efforts to assist the defaulting state to come into compliance are exhausted or in cases where such default warrants punitive action.

If other violations are discovered during the course of the investigation of a complaint, they may be considered when assessing sanctions. However, other violations discovered through technical assistance shall not be considered when assessing sanctions.

**III. Responsibility**

- A. The Compliance Committee shall recommend specific sanctions to the Executive Committee based on the application of this policy.
- B. The Compliance Committee Chairperson will ensure the Compliance Committee understands it has full discretion regarding whether maximum scores should be assigned.
- C. The Executive Committee shall make a final determination regarding sanctions assessed to a defaulting state.

**IV. Procedures**

- A. The Compliance Committee shall review and score each Determining Factor. The Default Type indicated by the Maximum Sanctions Matrix shall be assigned based on the total score, which increases monetarily for repeated findings of default.
- B. After the Default Type has been determined, the Compliance Committee shall consider aggravating and mitigating factors to recommend a specific sanction as prescribed within the range indicated by the Maximum Sanctions Matrix.
- C. Determining Factors Scoring Chart

The factors below that are assigned a score pertain only to the allegation of default. The aggravating and mitigating factors below the Scoring Chart may take into consideration findings of the investigation.

| <b>Factors to consider in determining appropriate Default Type based upon complaint</b>   |   |
|---|---|
| <b>1. Whether the default resulted in injury, death, or sexual harm</b>   | <ul style="list-style-type: none"> <li>a. Default did not result in injury, death, or sexual harm = <b>0</b></li> <li>b. Default resulted in minor or moderate injury or sexual harm = <b>25</b></li> <li>c. Default resulted in serious injury, sexual harm, or death = <b>50</b></li> </ul> |
| <b>2. Whether juveniles/cases were involved in the allegation of default</b>  | <ul style="list-style-type: none"> <li>a. Administrative violation only (no juvenile/case was involved) = <b>5</b></li> <li>b. 1 juvenile/case was involved = <b>10</b></li> <li>c. Multiple juveniles/cases were involved = <b>15</b></li> </ul>   |
| <b>3. Whether the default was the result of an intentional act or failure to act by a state or local government official, including court personnel</b> | <ul style="list-style-type: none"> <li>a. No evidence supporting intentional act = <b>0</b></li> <li>b. Evidence of failure to act after notice of requirements = <b>10</b></li> <li>c. Evidence supporting intentional act = <b>20</b></li> </ul>  |
| <b>4. Whether the state ICJ Office was cooperative with the investigation of the underlying misconduct</b>  | <ul style="list-style-type: none"> <li>a. State ICJ Office was cooperative with the investigation = <b>0</b></li> <li>b. State ICJ Office was not cooperative with the investigation = <b>15</b></li> </ul>   |

D. Aggravating and Mitigating Factors

1. **Aggravating Factors to Consider Based upon Investigation**

- a. Whether additional violations of a similar nature were discovered
- b. Whether additional violations of a different nature were discovered
- c. Whether multiple states were affected by additional violations discovered
- d. The duration of the violation(s)

2. **Mitigating Factors to Consider Based upon Investigation**

- a. Whether the state accepted responsibility prior to the complaint and employed corrective measures
- b. Whether the state requested Training and Technical Assistance to address the default

V. **Maximum Sanctions Matrix**

| <b>Default Type based on Total Score</b>          | <b>Type I<br/>Up to 10</b>                     | <b>Type II<br/>15 - 30</b>   | <b>Type III<br/>35 - 50</b>   | <b>Type IV<br/>55 - 75</b>  | <b>Type V<br/>80 – 100</b>  |
|---|--|--|---|---|---|
| <b>Maximum Sanction First Finding of Default</b>  | Mandatory Training and Corrective Action Plan  | Mandatory Training and Technical Assistance and Corrective Action Plan | Mandatory Training and up to \$15,000 fine and Corrective Action Plan | Mandatory Training and up to \$20,000 fine and Corrective Action Plan | Mandatory Training and up to \$25,000 fine and Corrective Action Plan |
| <b>Maximum Sanction Second Finding of Default</b> | Up to \$10,000 fine and Corrective Action Plan | Up to \$20,000 fine and Corrective Action Plan                         | Up to \$30,000 fine and Corrective Action Plan                        | Up to \$40,000 fine and Corrective Action Plan                        | Up to \$50,000 fine and Corrective Action Plan                        |
| <b>Maximum Sanction Third Finding of Default</b>  | Up to \$15,000 fine and Corrective Action Plan | Up to \$30,000 fine and Corrective Action Plan                         | Up to \$45,000 fine and Corrective Action Plan                        | Up to \$60,000 fine and Corrective Action Plan                        | Up to \$75,000 fine and Corrective Action Plan                        |

**Appendix: Sanctioning Guidelines Worksheet**