

***Proposed by the Rules Committee***

***RULE 2-103: Adoption of Rules and Amendments***

Proposed new rules or amendments to the rules shall be adopted by majority vote of the members of the Commission in the following manner.

1. Proposed new rules and amendments to existing rules shall be submitted to the Rules Committee for referral and final approval by the full Commission:
  - a. Any ICJ Compact Commissioner or Designee may submit proposed rules or amendments for referral to the Rules Committee for future consideration, ~~during the annual meeting of the Commission. This proposal would be made in the form of a motion and would have to be approved by a majority vote of a quorum of the Commission members present at the meeting.~~
  - b. Standing ICJ Committees may propose rules or amendments by a majority vote of that committee.
  - c. ICJ Regions may propose rules or amendments by a majority vote of members of that region.
2. The Rules Committee shall ~~prepare~~ review a drafts of all proposed rules or amendments, and provide the drafts to the Commission for review and comments. All written comments received by the Rules Committee on proposed rules or amendments shall be posted on the Commission's website upon receipt. Based on these comments, the Rules Committee shall prepare a final draft of the proposed rules or amendments for consideration by the Commission not later than the next annual meeting falling in an odd-numbered year.
3. Prior to the Commission voting on any proposed rules or amendments, said text shall be published at the direction of the Rules Committee not later than thirty (30) days prior to the meeting at which a vote on the rule or amendment is scheduled, on the official website of the Commission and in any other official publication that may be designated by the Commission for the publication of its rules. In addition to the text of the proposed rule or amendment, the reason for the proposed rule shall be provided.
4. Each proposed rule or amendment shall state:
  - a. The place, time, and date of the scheduled public hearing;
  - b. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments; and
  - c. The name, position, physical and electronic mail address, telephone, and telefax number of the person to whom interested persons may respond with notice of their attendance and written comments.

5. Every public hearing shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment. No transcript of the public hearing is required, unless a written request for a transcript is made, in which case the person requesting the transcript shall pay for the transcript. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This subsection shall not preclude the Commission from making a transcript or recording of the public hearing if it so chooses.
6. Nothing in this section shall be construed as requiring a separate public hearing on each rule or amendment. Rules or amendments may be grouped for the convenience of the Commission at public hearings required by this section.
7. Following the scheduled public hearing date, the Commission shall consider all written and oral comments received.
8. The Commission shall, by majority vote of a quorum of the Commissioners, take final action on the proposed rule or amendment by a vote of yes/no. No additional rules or amendments shall be made at the time such action is taken. A rule or amendment may be referred back to the Rules Committee for further action either prior to or subsequent to final action on the proposed rule or amendment. The Commission shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.
9. Not later than sixty (60) days after a rule is adopted, any interested person may file a petition for judicial review of the rule in the United States District Court of the District of Columbia or in the federal district court where the Commission's principal office is located. If the court finds that the Commission's action is not supported by substantial evidence, as defined in the Model State Administrative Procedures Act, in the rulemaking record, the court shall hold the rule unlawful and set it aside. In the event that a petition for judicial review of a rule is filed against the Commission by a state, the prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.
10. Upon determination that an emergency exists, the Commission may promulgate an emergency rule or amendment that shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided in the Compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the rule. An emergency rule or amendment is one that shall be made effective immediately in order to:
  - a. Meet an imminent threat to public health, safety, or welfare;
  - b. Prevent a loss of federal or state funds; or
  - c. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule.

11. The Chair of the Rules Committee may direct revisions to a rule or amendments adopted by the Commission, for purposes of correcting typographical errors, errors in format, errors in consistency or grammatical errors. Public notice of any revisions shall be posted on the official website of the Interstate Commission for Juveniles and in any other official publication that may be designated by the Interstate Commission for Juveniles for the publication of its rules. For a period of thirty (30) days after posting, the revision is subject to challenge by any Commissioner or Designee. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the Executive Director of the Commission, prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

*History: Adopted as Rule 7-101 December 3, 2009, effective March 1, 2010; amended September 15, 2010, effective January 1, 2011; amended October 9, 2013 and renumbered as Rule 2-103, effective April 1, 2014; amended September 27, 2017, effective March 1, 2018*

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**Justification:**

The Rules Committee recommends striking language from paragraph 1(a) that leads to confusion regarding how Commissioners and Designees may submit proposed new rules and amendments. The added language clarifies the appropriate process to be followed by Commissioners and Designees. The striking the language indicated will help eliminate confusion about consideration of proposed rules and amendments at annual business meetings. The practice was abandoned several years ago because it prevented full vetting of proposed changes. However, the current language in Rule 2-103(1)(a) leads to some lingering confusion.

The Rules Committee recommends the changes to paragraph 2 in order to clarify that the Rules Committee's role is primarily to review proposals submitted by other Committees and Regions, and for grammatical correctness.

**Effect on Other Rules, Advisory Opinions or Dispute Resolutions:**

No impact

**UNITY Impact:**

No impact

**Forms Impact:**

No impact

**Fiscal Impact:**

No impact

**Effective Date:**

March 1, 2022

**Rules Committee Action:** *Click on meeting date to view approved minutes.*

[03/02/21](#) – Rules Committee voted 7-0-0 to recommend for adoption.