

INTERSTATE COMMISSION FOR JUVENILES

Rules Committee Meeting Minutes

May 16, 2023

9:00 a.m. ET

Hilton Lexington Green

Lexington, KY



Voting Members in Attendance:

1. Stephen Horton (NC), Commissioner, Chair
2. Caitlyn Bickford (NH), Commissioner, Vice Chair
3. Judy Miller (AR), Designee
4. Howard Wykes (AZ), Designee
5. Michael Tymkew (MI), Commissioner
6. Tracy Hudrik (MN), Commissioner
7. Julie Hawkins (MO), Commissioner
8. Edwin Lee, Jr. (NJ), Designee
9. Trissie Casanova (VT), Designee
10. Dawn Bailey (WA), Designee

Non-Voting Members in Attendance:

1. Michael Farmer (CA)
2. Kelly Palmateer (NY)

Members not in Attendance:

1. Nita Wright (IN)
2. Raymundo Gallardo (UT)

Guest in Attendance:

1. None

National Office Staff & Legal Counsel in Attendance:

1. MaryLee Underwood, Executive Director
2. Jenny Adkins, Operations and Policy Specialist
3. Emma Goode, Logistics and Administrative Specialist
4. Joe Johnson, Project Manager

Call to Order

Chair S. Horton (NC) called the meeting to order at 9:00 a.m. ET.

Roll Call

Director Underwood called the roll and quorum was established.

Agenda

T. Casanova (VT) made a motion to approve the agenda. C. Bickford (NH) seconded. The motion passed.

Minutes

J. Miller (AR) made a motion to approve the April 5, 2023 meeting minutes as presented. C. Bickford (NH) seconded. The motion passed.

Discussion

2023 Proposed Rules and Amendments Comments Review

- The Rules Committee reviewed all comments about proposed rule amendments submitted during the 30-day comment period and discussed each of the proposed amendments in numerical order by the rule number. A summary of the discussion and actions taken by the Rules Committee are outlined below.
- Chair S. Horton (NC) led the discussion of each proposal beginning with a brief overview of the proposed change, the comments, and action of the Rules Committee prior to the meeting.

Amendment to Rule 1-101: Definitions: Relocate by the Rules Committee

- The proposed rule amendment deletes the definition of “relocate” from the rules. The proposal is presented as part of a bundle with proposals related to Rule 4-101 and Rule 4-103.
- One comment was received in support of the proposal.
- J. Miller (AR) voiced her support for the proposal which originated from her concerns.
- J. Hawkins (MO) emphasized the importance of education about this proposal and the related proposals. The presentation should include the purpose of all three proposals and the connections between them.
- No further action was taken. The original recommendation for adoption of the proposal stands.

Amendment to Rule 4-101: Eligibility Requirement for the Transfer of Supervision by the Rules Committee

- The proposed rule amendment deletes the term “relocating” and substitutes it with the phrase “residing in.” The proposal is presented as part of a bundle with proposals related to Rule 1-101: Relocate and Rule 4-103.
- One comment was received in support of the proposal.
- J. Miller (AR) asked what effect the proposed change would have on the five (5) legal advisory opinions listed in the proposal. Director Underwood replied that the proposal review process includes a review of other rules and advisory opinions for potential impacts resulting from passage of the rule. One advisory opinion may require substantial revision and the others would only require that quotations be updated.
- No further action was taken. The original recommendation for adoption of the proposal stands.

Amendment to Rule 4-102: Sending and Receiving Referrals by the Midwest Region

- The rule amendment proposal includes a new paragraph related to reporting instructions.
- Five (5) comments were received, including two comments from the Midwest Region in support and three comments not in support of the proposal.
- T. Hudrlik (MN) commented that the primary concerns are regarding provisions related to “supervision” in the proposed new paragraph 2(c)(iv); therefore, she suggested striking that section. K. Palmateer (NY) noted that the “reporting instructions” language proposed in new paragraph 2(c)(iv) mirrors the language currently in ICJ Rule 4-103.

- T. Casanova (VT) stated that she has concerns about juveniles being in the receiving state for a long time without any contact while awaiting acceptance of a referral; however, she did not support the proposed rule amendment as presented.
- The Rules Committee deliberated the proposal at length, particularly:
 - what “reporting instructions” would include and how they would be shared;
 - who the “point of contact” would be in the receiving state; and
 - the point of contact’s lack of authority to take action before the referral is accepted.
- The Rules Committee discussed recommending edits to the proposal for the Midwest Region to consider. Chair Horton read the recommendations aloud to ensure members understanding.
- **H. Wykes (AZ) made a motion that the Rules Committee’s recommended modifications to the proposed amendment of Rule 4-102 be provided to the Midwest Region for consideration. T. Casanova (VT) seconded. The motion passed by a 10-0-0 vote.**
- No further action was taken. The original recommendation not to support adoption of the proposal stands.

Amendment to Rule 4-103: Transfer of Supervision Procedures for Juvenile Sex Offenders by the Rules Committee

- The proposed rule amendment adds the phrase “or reside.” The proposal is presented as part of a bundle with proposals related to Rule 1-101: Relocate and Rule 4-101.
- One comment was received in support of the proposal.
- No further action was taken. The original recommendation for adoption of the proposal stands.

Amendment to Rule 4-104: Authority to Accept/Deny Supervision by Commissioner S. Jones (MD) and Commissioner M. Casey (DE)

- The rule amendment proposal introduces new language to address mandatory acceptance when there is no legal guardian in the sending state. The amendment promotes closer review of reasons for denials, particularly for Black, Brown, and Native American juveniles who may be more likely to live in kinship care arrangements.
- One (1) comment received did not support of the proposal.
- The Rules Committee deliberated the proposal at length, discussing:
 - the intended impact of the proposal;
 - the purpose of the home evaluation;
 - concerns that could arise if acceptance is mandatory when the receiving state determines the situation is unsafe; and
 - instances when the legal guardian may not be in a good position to assess whether a third party could provide appropriate supervision.
- J. Hawkins (MO) added that the proposal empowers the sending state to make the final decision, which would be a significant change from current responsibilities. M. Farmer (CA) commented about the ambiguity of the term “unsuitable.” J. Hawkins (MO) commented that it is very important to communicate the reasons for denial. She shared instances when she has asked for reconsideration when states have decided not to accept supervision.

- E. Lee, Jr. (NJ) commented about the merits of requiring states to explain “why” when transfers are denied. J. Miller (AR) noted that some states provide cover letters that explain their decisions.
- J. Johnson, Project Manager, confirmed there is no field on the Home Evaluation Form in UNITY for entering justification of why transfer requests are denied.
- The Rules Committee recommended edits to the proposal for the Delaware and Maryland Commissioners to consider. Chair Horton read aloud the recommendation for clarity and consensus.
- **J. Hawkins (MO) made a motion that the Rules Committee’s recommended edits to the proposed amendment to Rule 4-104 be provided to Commissioners S. Jones (MD) and M. Casey (DE) for consideration; and recommended the Racial Diversity Equity and Inclusion (RDEI) Committee develop a corresponding Best Practice. J. Miller (AR) seconded. The motion passed by a 10-0-0 vote.**
- No further action was taken. The original recommendation not to support adoption of the proposal as presented stands.

Amendment to Rule 4-104: Authority to Accept/Deny Supervision by the West Region

- The rule amendment proposal introduces new language to clarify which form should be used and to reduce confusion about how written notifications should be provided.
- One (1) comment was received in support of the proposal.
- M. Farmer (CA) questioned whether there was a pending UNITY enhancement related to acknowledging receipt of juveniles’ departing instructions. J. Johnson, Systems Project Manager, indicated that there was not.
- No further action was taken. The original recommendation for adoption of the proposal stands.

Proposed Rule 5-103: Reporting Juvenile for Non-Compliance, Failed Supervision, and Retaking AND

Proposed new Rule 5-103A: Failed Supervision Determined by Receiving State by the Technology Committee

- The two amendments are related. The proposed new rule is based on language to be removed from Rule 5-103, and is intended to provide clarity regarding the process and expectations for both the sending and receiving states once the determination has been made that supervision has failed.
- The proposed new rule (5-103A) was supported by the Rules Committee in the April meeting, after the Technology Committee approved suggested edits from the Rules Committee.
- Three (3) comments were received. Two comments were supportive of the proposal and the third comment expressed concern about the difficulty of returning juveniles within the 10-day time frame.
- J. Miller (AR) asked for clarification about when a Failed Supervision Report would be used rather than a Violation Report. K. Palmateer (NY) shared that she uses the Violation Report for incidents that would necessitate sanctions and provide an opportunity to correct the behavior within the receiving state. Failed Supervision implies that all efforts to address violations have failed and/or the severity of the incident warrants the possible return of the juvenile to the sending state.

- J. Hawkins (MO) recalled the Rules Committee previously recommended modifying the title of new Rule 5-103A: “Failed Supervision Determined by Receiving State” and the Technology Committee agreed to the change. After further consideration, she suggested that the title should also include “mandatory retaking” to provide more clarity, particularly for new staff.
- The Rules Committee discussed another recommendation related to the Rule 5-103A title for the Technology Committee to consider.
- **J. Hawkins (MO) made a motion to recommend that the Technology Committee consider adding the phrase “mandatory retaking” to the title of the proposed new Rule 5-103A. E. Lee, Jr. (NJ) seconded. S. Horton (NC) opposed. The motion passed by a 9-1-0 vote.**

Proposed Amendment to Rule 5-103: Reporting Juvenile Non-Compliance, Failed Supervision, and Retaking by the West Region

- The rule amendment proposal would require that violations be reported within 10 days.
- One (1) comment was received in support of the proposal.
- Chair Horton (NC) reminded members that the Rules Committee previously voted not to support the proposal for adoption.
- The Rules Committee discussed how the 10-day time frame could play out and reviewed minutes of their meeting on March 1, 2023, including their decision not to recommend adoption.
- J. Hawkins (MO) recalled similar language was in the rule years ago. M. Farmer (CA) added that West Region intended for the requirement to be reinstated.
- H. Wykes (AZ) added that the West Region discussed modifying the proposals to insert “when requesting revocation.” However, the Region decided to wait to review all comments before making a decision on how to move forward.
- No further action was taken. The original recommendation not to support adoption of the proposal stands.

Proposed Amendment to Rule 7-106: Transportation by Rules Committee

- The rule amendment proposal adds a new paragraph 8 to address emergency situations.
- Three (3) comments were received.
 - One (1) comment was in support.
 - One (1) comment expressed concerns about the difficulty of returning a juvenile back to an adult facility when the age of majority is an issue. J. Hawkins (MO) noted the proposal includes a “may” rather than a “shall.”
 - One (1) comment noted that a return to detention or shelter due to an emergency should comply with Section 223 of the Juvenile Justice and Delinquency Prevention Act (JJDP Act).
- No further action was taken. The original recommendation for adoption of the proposal stands.

Proposed Amendment to Rule 7-106: Transportation by Designee J. Miller (AR) and J. Hawkins (MO)

- The rule amendment proposal addresses how to handle the return of juveniles’ belongings when juveniles are returned via air travel.
- One comment was received in support of the proposal.

- The Rules Committee discussed potential scenarios and agreed that the proposal provides guidance; however, each case would require collaboration between the states to make the best decision.
- No further action was taken. The original recommendation for adoption of the proposal stands.

Proposed Amendment to Rule 7-107: Airport Supervision by the South Region

- The proposed amendment would require the home/demanding state to “request” airport supervision from the layover state rather than “notify” the layover state.
- The Rules Committee previously voted not to support the proposal for adoption and provided recommendations for consideration by the South Region. The South Region agreed and revised its proposal accordingly.
- One comment was received in support of the proposal.
- J. Miller (AR) commented that she always checks first with ICJ staff in Georgia to determine availability of surveillance at the Atlanta airport before ticketing travel.
- M. Tymkew (MI) shared for future discussion that Delta requires the unaccompanied minor fee for certain ages. With the additional service, Delta provides a pin code to Delta and airport staff. In these instances, Delta supervises the juvenile and has pushed back when ICJ surveillance staff are involved. T. Hudrlik (MN) shared that Minnesota experienced similar push back and had to convince Delta of the Compact’s responsibility and authority.
- T. Hudrlik (MN) asked if purchasing unaccompanied minor airfare was required. M. Tymkew (MI) explained that the age limits are set and left to the discretion of the airlines. The question for future discussion is whether it is necessary for Compact offices to provide surveillance when the unaccompanied minor protocol is engaged. Chair Horton asserted that notification always be provided to the surveillance state.
- No further action was taken. The recommendation for adoption of the proposal in April stands.

Proposed Amendment to Rule 8-101: Travel Permits by the Rules Committee

- The Rules Committee proposes to delete the word “relocate” from the ICJ Rules. The deletion directly impacted three rules which the Rules Committee bundled (Rule 1-101: Relocate, Rule 4-101, and Rule 4-103).
- The term “relocating” is also used in Rule 8-101(1). However, the Rules Committee agreed not to include their proposed amendment to Rule 8-101 in the bundle, as it can stand independently of the others.
- One (1) comment was received that did not support the proposal.
- J. Hawkins (MO) questioned the original motion by the Rules Committee to recommend the proposal for adoption during the June 1, 2022 meeting. She proclaimed that the intent of the Rules Committee was that the proposal should be voted up or down by the Commission, without a recommendation of support or no support from the Rules Committee. A review of the recording of the meeting confirmed that the approved minutes accurately reflected the motion.
- **J. Hawkins (MO) made a motion to reconsider the Rules Committee’s motion to recommend for adoption the proposed amendment to Rule 8-101(1)(b)(ii) made during the June 1, 2022 meeting. J. Miller (AR) seconded. The motion passed by a 10-0-0 vote.**
- The Rules Committee discussed how best to convey the intent for passage of the bundle and to leave the Rule 8-101 proposal to the discretion of the Commission.
- **J. Hawkins (MO) made a motion that the Rules Committee not take a**

position on the proposed amendment to Rule 8-101: Travel Permits; and to recommend that the full Commission decide by an up or down vote whether juveniles residing in the receiving state at the time of adjudication should be subject to the travel permit requirement. J. Miller (AR) seconded. The motion passed by a 10-0-0 vote.

Proposed Amendment to Rule 8-101: Travel Permits by the East Region

- The amendment proposes that the term “deferred adjudication” be added in paragraph 1(a). The amendment would align to the eligibility rule (Rule 4-101) which includes “deferred adjudication.”
- One (1) comment was received in support.
- No further action was taken. The original recommendation for adoption of the proposal stands.

Provide Feedback to Standing Committees and Regions

- Chair Horton (NC) agreed to provide feedback to the regions and commissioners on the actions taken by the Rules Committee related to their proposed rule amendments.

Presentation of the Proposals at the 2023 Annual Business Meeting (ABM)

- The Rules Committee discussed the 2023 Annual Business Meeting (ABM) Rule Amendment Proposals Training Session on September 26, 2023.
- M. Tymkew (MI) suggested proposals should be presented by the authors of the proposed amendments. E. Lee, Jr. (NJ) explained that the rules training session presents the work that has been done during the rules cycle. T. Hudrlik (MN) added that the session provides opportunity for questions and consideration of the proposals by all voting delegates attending the ABM to ensure they are prepared for the vote during the General Session.
- The members agreed that the Rules Committee members would present each of the proposals. Each rule proposal was assigned to one or two presenters. Additionally, authors of proposals outside of the Rules Committee will be asked to designate a representative to be prepared to answer questions related to their proposals should it be necessary.

Old Business

There was no old business.

New Business

Rule Proposal Guide

- Chair Horton (NC) shared concerns expressed about how proposals are received and handled when submitted by non-Rules Committee members.
- T. Hudrlik (MN) suggested the Rules Committee’s first response should be to review the proposal and suggest applicable edits, but not to vote on whether to recommend adoption. A second review and vote would be conducted later.
- Director Underwood commented on the crucial role of the Rules Committee. The Commission relies on the Rules Committee’s deep analysis of the proposals and processes from their expertise of the ICJ Rules.
- Chair Horton (NC) and Vice Chair Bickford (NH) presented suggested edits to page 2 of the “ICJ Rule Proposal Guide”. The addition would be to invite authors of proposals to attend the Rules Committee meetings when their proposals are

discussed. The Rules Committee agreed this would be a good first step to address the concerns.

- **D. Bailey (WA) made a motion to edit page 2 of the “ICJ Rule Proposal Guide” under the Rules Committee Review section to add:**
“Representatives of the Rule Proposal will be invited to attend the Rules Committee meeting when their respective rule is being presented in order to answer questions or provide clarity on the justification.” E. Lee, Jr. (NJ) seconded. The motion passed by a 10-0-0 vote.

New Proposal for the 2024-2025 Rules Cycle

- The Rules Committee’s discussion related to the proposed amendment to Rule 4-104 submitted by the Maryland and Delaware Commissioners revealed that a potential rule amendment should be developed in the next rules cycle to provide a process for appealing denials in transfer of supervision cases.
- **J. Hawkins (MO) made a motion that during the 2024-2025 ICJ rules cycle, the Rules Committee consider a proposal to create an ICJ appeals process to address the denial of home evaluations. T. Casanova (VT) seconded. The motion passed by a 10-0-0 vote.**

New Recommendation to the Technology Committee

- M. Farmer (CA) commented that the ICJ Form IX currently has three versions for three separate reports: Quarterly Progress Reports (QPR), Absconder Report, and Violation Report; and noted that a Failed Placement Report may be added if the proposed amendment passes. He suggested each report have its own unique number to avoid confusion.
- **H. Wykes (AZ) made a motion that the Technology Committee consider numbering the Form IX independently for each version of the report. C. Bickford (NH) seconded. The motion passed by a 10-0-0 vote.**

2023 UNITY Enhancements Rollout

- Director Underwood shared that the 2023 UNITY Enhancement Rollout is underway. A special newsletter was issued May 16, providing an update on the release dates and descriptions of the enhancements to be released in June, July, and August. A special live training session will be conducted via Zoom related to the enhancements will occur on May 31.

New Method for Travel Reimbursement

- Jenny Adkins, National Office, demonstrated a new method for ICJ travelers to submit travel reimbursement requests. Following the meeting, members will request reimbursement for expenses via the new online form.
- The new method allows participants to capture all receipts first, then submit their expense reports using an easy-to-complete online electronic form. This option reduces the number emails and delays in seeking and receiving reimbursements.

Adjournment

- **Chair Horton adjourned the meeting by acclamation without objection at 3:36 p.m. ET.**