

 Interstate Commission for Juveniles	Policy Number: 01-2009	Page Number: 1
ICJ Compliance Policy Response to Allegations of Default	Dated: December 1, 2009 Revised: May 23, 2019	

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.

II. Policy

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.

III. Responsibility

- A. The Executive Committee shall review all allegations of default submitted in writing and determine whether further action is warranted.
- B. The Compliance Committee is charged with addressing substantial or persistent violations of the Compact, its rules, and by-laws. The Compliance Committee is authorized to assist in determining whether a state has defaulted and recommending appropriate actions and/or penalties.

IV. Procedures

A. Investigation

- 1. If an allegation of default is referred to the Compliance Committee, an investigation shall be conducted. The purpose of the investigation is to gather evidence relevant to whether the allegation of default is substantiated or not. Relevant evidence may include, but is not limited to: statements and/or testimony of witnesses, documents, emails, and all other information which may lead to the discovery of relevant evidence.

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2. During the investigation, information may emerge which justifies broadening the scope of the investigation beyond the initial allegations. The Commissioner of the State alleged to be in default will be informed in writing if new and different allegations are discovered during the course of the investigation.

3. The investigation shall be conducted by a neutral investigator. The investigator may be employed by ICJ or, at the discretion of the Compliance Committee, may be otherwise contracted by ICJ. Current ICJ Commissioners are disqualified from acting as investigators, as it may be perceived as a conflict of interest.

4. Contract consultants may be utilized to conduct investigations, audits, mediations, and other services on behalf of the ICJ for the purpose of establishing states' compliance.
 - a. A contract consultant may be a:
 - i. Former Commissioner of ICJ, or
 - ii. Retired Commissioner of ICJ, or
 - iii. Individual with Compact knowledge and/or experience who are no longer involved in the day-to-day business

 - b. Contract consultants may not be;
 - i. Former or retired ICJ Commissioners of the State alleged to be in default, or any State that has filed an allegation of default or is otherwise involved in the matter (if applicable).
 - ii. Individuals with Compact knowledge and/or experience, who are deemed by the Chair of the Compliance Committee to have direct ties to the State against which the default is alleged of non-compliance or the State which has alleged default (if applicable).

 - c. Cost for utilizing contract consultants:
 - i. The ICJ will pay a daily rate of \$400.00 not to exceed eight hours.
 - ii. The Commission will pay \$50.00 per hour when less than a full eight-hour day is needed.
 - iii. The ICJ will pay for travel, lodging and meal per diems, not to exceed the Federal reimbursement rates, when travel is needed.

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5. The investigator, at the direction of the Executive Director, shall use any and all previously gathered materials and reports, and request any and all documents that would further assist the investigation. The investigator may interview any person(s) who may have information relevant to the allegation(s) of default and may obtain, through appropriate subpoena or other process, if necessary, all documents and other information relevant to such allegation(s). Pursuant to the provisions of the Compact, all such investigatory information and investigative file(s) shall be confidential and not subject to public disclosure.

6. The State alleged to be in default will be given an opportunity to submit written documents and appear before the investigator, at the State's own expense. At the conclusion of the investigation, the investigator will prepare a written report to the Executive Director, which shall include a summary of the conclusions. This investigative report shall be confidential and not subject to public disclosure.

B. Review and Recommendations

1. The Executive Director shall forward the report and recommendations to the Chair of the Compliance Committee within 15 calendar days of the conclusion of the investigation, unless a time extension has been granted by the Chairperson or designee. The Chair of the Compliance Committee shall forward the report to the full Committee, the State alleged to be in default and the complaining State, if applicable.

2. The State alleged to be in default shall be given the opportunity to appear before the Compliance Committee at the State's own expense, or reply in writing at a date and time to be determined by the Compliance Committee.

3. The Compliance Committee will base its finding on the investigator's report, and any verbal or written submissions. The Compliance Committee will present their findings and make a recommendation to the Executive Committee at their next scheduled meeting. Recommendations shall include whether the allegation of default is substantiated and what, if any, potential sanctions should be imposed.

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C. Determination of default

1. At their next meeting, the Executive Committee shall review the investigator's report and the Compliance Committee's findings and recommendations. The Executive Committee shall determine whether the state has defaulted and what, if any, sanctions should be imposed.
2. The National Office shall immediately notify the defaulting state in writing of the default and the time period in which the defaulting state must cure said default.
3. If the State in question is found in default, that State shall reimburse the Commission for all costs associated with the investigation and curing the default, including but not limited to technical assistance and legal costs.

D. Corrective Action

1. Any state that is determined to be in default shall submit a Corrective Action Plan (CAP) within 30 days of the finding of default. The Compliance Committee is authorized to review and approve the Corrective Action Plan.
2. Corrective action strategies may include, but are not limited to, training provided through the State Compact Office or National Office. The written Corrective Action Plan shall include:
 - a. A problem statement, with reference to the relevant standard(s);
 - b. A description of the desired outcome;
 - c. The implementation start date;
 - d. For each task, the plan must identify the person responsible, the stakeholders, resources, constraints, due date and the metrics used to measure success; and
 - e. Signature of the Commissioner.
3. A State shall submit written quarterly reports on a Corrective Action Plan until a final progress report is submitted.

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4. Upon completion of a Corrective Action Plan, the State Compact Office shall submit a final progress report. The Compliance Committee shall review final reports and determine next steps.

5. The Compliance Committee shall review periodic reports related to the CAP. Upon review of the final report, the Compliance Committee shall make a recommendation to the Executive Committee whether the default has been cured and whether sanctions should be abated.

6. The Executive Committee shall consider recommendations from the Compliance Committee regarding whether the default has been cured and whether sanctions should be abated. The Executive Committee may defer decisions regarding abatement up to one year following the determination that a default has been cured.