



NOTICE OF REVISIONS TO PENDING AMENDMENTS

On January 17, 2024, Rules Committee Chair Stephen Horton directed revisions to correct errors in grammar and consistency in the pending amendments of ICJ Rule 4-104 and 7-106. The pending amendments were adopted on September 27, 2023, and will take effect on April 1, 2024. This action is authorized by ICJ Rule 2-103(11), which states:

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 web site 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.

These revisions were reviewed and endorsed by the ICJ Rules Committee on January 17, 2024 and the sponsors of the pending amendments. Any challenge to these revisions must be submitted via email to MLUnderwood@juvenilecompact.org by 5:00 p.m. EST on February 17, 2024.

Pending Amendment to ICJ Rule 4-104 approved September 27, 2023

Rule 4-104: Authority to Accept/Deny Supervision

1. Only the receiving state's authorized Compact Office staff shall accept or deny supervision of a juvenile by that state after considering a recommendation by the investigating officer.
2. The receiving state's authorized Compact Office staff's signature is required on or with the Form VIII Home Evaluation Report that accepts or denies supervision of a juvenile by that state.
3. Supervision cannot be denied based solely on the juvenile's age or the offense.
4. Supervision shall be accepted unless ~~may be denied when~~ the home evaluation reveals that the proposed residence is unsuitable or that the juvenile is not in substantial compliance with the terms and conditions of supervision required by the sending or receiving state, except as provided in Rule 4-104(5). ~~when a juvenile has no legal guardian remaining in the sending state and the juvenile does have a legal guardian residing in the receiving state.~~ When supervision is not recommended, the Form VIII Home Evaluation Report shall include a detailed justification to include why the proposed residence is not safe and/or suitable.



5. Supervision shall be accepted when a juvenile has no legal guardian remaining in the sending state and the juvenile does have a legal guardian residing in the receiving state.
6. Upon receipt of acceptance of supervision from the receiving state, and prior to the juvenile's departure if the youth is not already residing in the receiving state, the sending state shall provide reporting instructions to the juvenile, and provide a Form V: Notification of Sending State Upon Parolee or Probationer Proceeding to the Receiving State ~~written notification of the juvenile's departure~~ to the receiving state.
7. If the transfer of supervision is denied by the receiving state and the juvenile is already residing in the receiving state, the sending state shall, within five (5) business days, secure alternative living arrangements and submit an updated referral or return the juvenile to the sending state. This time period may be extended up to an additional five (5) business days with approval from both ICJ offices.

Correction to Pending Amendment of ICJ Rule 4-104 (4)

Corrections are highlighted in yellow below:

4. Supervision shall be accepted unless ~~may be denied when~~ the home evaluation reveals that the proposed residence is unsuitable or that the juvenile is not in substantial compliance with the terms and conditions of supervision required by the sending or receiving state, ~~except~~ Supervision shall also be accepted as provided in Rule 4-104(5). When supervision is not recommended, the Form VIII, Home Evaluation Report, shall include a detailed justification to include why the proposed residence is not safe and/or suitable.

Correction: Replace “, except” with “. Supervision shall also be accepted . . .” and amend punctuation related to use of form name in sentence.

Reasoning: The pending amendment is intended to clarify the “mandatory acceptance rule” (acceptance is mandatory “...when a juvenile has no legal guardian remaining in the sending state and the juvenile does have a legal guardian residing in the receiving state”); and to highlight that supervision must be accepted in most other cases, unless specific conditions are met.

Due to technical rules of grammatical construction, there appears to be a correctible error that could lead to disputes between the states if not addressed. The following analysis is based, in part on information from prowritingaid.com/comma-before-except.

In the current Rule 4-104(4), the “mandatory acceptance” rule is established by a dependent clause (beginning with “except when”) at the end of a complex sentence. It states:

Supervision may be denied when the home evaluation reveals that the proposed residence is unsuitable or that the juvenile is not in substantial compliance with the terms and conditions of supervision required by the sending or receiving state, except when a juvenile has no legal guardian remaining in the sending state and the juvenile does have a legal guardian residing in the receiving state.



The dependent “except when” clause functions like an adverb, modifying the verb phrase “may be denied.”

In the pending amendment to Rule 4-104(4), the main verb phrase is reframed in a positive construction, as illustrated below.

Supervision shall be accepted unless ~~may be denied when~~ the home evaluation reveals that the proposed residence is unsuitable or that the juvenile is not in substantial compliance with the terms and conditions of supervision required by the sending or receiving state, except as provided in Rule 4-104(5). ~~when a juvenile has no legal guardian remaining in the sending state and the juvenile does have a legal guardian residing in the receiving state.~~

If the same rules of grammatical construction are applied, the revised “except as” clause would modify the revised verb phrase “shall be accepted” and create an exception to when cases should be accepted (rather than denied). This is not consistent with the purpose of the amendment and would constitute a grammatical error. One may also reasonably assert that the “except as” clause modifies the adverbial phrase beginning with “unless the home evaluation reveals...” Consequently, one can reasonably predict states would interpret the pending amendment differently when determining whether mandatory acceptance applies when the proposed residence is unsuitable or the juvenile is not in substantial compliance.

To reduce the likelihood of disputes between States, a grammatical correction should be made to ensure the rule is interpreted in a manner consistent with the purpose of the amendment. This can be accomplished by replacing “, except” with “. Supervision shall also be accepted”. This correction both eliminates potential disputes and echo the positive reframing applied to the verb phrase (i.e. the amendment of “may be denied when” to “shall be accepted unless”).

Correction to Amendment of ICJ Rule 4-104 (6)

Corrections are highlighted in yellow below:

6. Upon receipt of acceptance of supervision from the receiving state, and prior to the juvenile's departure if the youth is not already residing in the receiving state, the sending state shall provide reporting instructions to the juvenile, and provide a Form V; Notification of from Sending State Upon of Parolee or Probationer Proceeding to the Receiving State, ~~written notification of the juvenile's departure~~ to the receiving state.

Reasoning: The pending amendment was intended to specify that Form V should be used to provide the required notification. However, the title of Form V included in the pending amendment was outdated.

Correction: The title of Form V title was updated and amend punctuation related to use of form name in sentence.



Pending Amendment to ICJ Rule 7-106 approved September 27, 2023

RULE 7-106: Transportation

1. Holding/receiving states are responsible for transporting juveniles to local airports or other means of public transportation as arranged by the home/demanding/sending state and maintaining security of the juveniles until departure.
 2. Home/demanding/sending states shall make every effort to accommodate the airport preferences of the holding/receiving state. Additionally, travel plans shall be made with consideration of normal business hours and exceptions shall be approved by the holding/ receiving state.
 3. In collaboration with the holding/receiving state, demanding/sending state, and the lay-over state, discretion shall be used when determining which personal items may accompany the juvenile on their return. ~~Holding/receiving states shall not return to juveniles any personal belongings which could.~~ Items that may jeopardize the health, safety, or security of the juvenile or others shall be confiscated. *(examples: weapon, cigarettes, medication, lighters, change of clothes, or cell phone)*
 4. ~~Holding/receiving states shall confiscate all questionable~~ Confiscated personal belongings and ~~return those belongings~~ shall be returned to the legal guardians by checked luggage, approved carrier, COD or at the expense of the home/demanding/sending state. ~~(e.g., United States Postal Service, United Parcel Service, or Federal Express).~~
 5. In cases where a juvenile is being transported by a commercial airline carrier, the holding/receiving state shall ensure the juvenile has a picture identification card, if available, and/or a copy of the applicable ICJ paperwork or appropriate due process documentation in his/her possession before entering the airport.
 6. The home/demanding/sending state shall not use commercial ground transportation unless all other options have been considered or the juvenile is accompanied by an adult.
 7. The duly accredited officers of any compacting state, upon the establishment of their authority and the identity of the juvenile being returned, shall be permitted to transport such juvenile through any and all states party to this Compact, without interference.
 8. In the event of an emergency situation including but not limited to weather, accident, mechanical issue, delayed flight, or missed flight, that interrupts or changes established travel plans during a return transport, the ICJ member states may provide necessary services and assistance, including temporary detention or appropriate shelter arrangements for the juvenile until the transport is rearranged and/or completed.
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Correction to Pending Amendment of ICJ Rule 7-106 (3)

Corrections are highlighted in yellow below:

3. In collaboration with the holding/receiving state, demanding/sending state, and the **lay-over intermediate airport** state, discretion shall be used when determining which personal items may accompany the juvenile on their return. ~~Holding/receiving states shall not return to juveniles any personal belongings which could.~~ Items that may jeopardize the health, safety, or security of the juvenile or others shall be confiscated. ~~(examples: weapon, cigarettes, medication, lighters, change of clothes, or cell phone)~~

Correction: Replace “lay-over” with “intermediate airport”.

Reasoning: For consistency with Rule 7-107, the phrase “lay-over state” should be replaced with “intermediate airport state” in the pending amendment of Rule 7-106(3).