

VIRGINIA'S GUIDE TO THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN

The ICPC (Interstate Compact on the Placement of Children) is the best means we have to ensure protection and services to children who are placed across state lines for foster care, residential treatment, or adoption. The ICPC, a uniform law that has been enacted by all fifty states, the District of Columbia and the Virgin Islands, establishes orderly procedures for the interstate placement of children and fixes responsibilities for those involved in placing the child.

WHY IS A COMPACT NEEDED?

Children placed out of the state need to be assured of the same protections and services that would be provided if they had remained in their home states. They must also be assured of a return to their original jurisdictions should placements prove not to be in their best interests or should the need for out-of-state services cease.

Both the great variety of circumstances which makes interstate placement of children necessary and the types of protections needed offer compelling reasons for a mechanism which regulates those placements. An interstate compact- a contract among the states that enact it- is one such mechanism. Under a compact, the jurisdictional, administrative, and human rights obligations of all the parties in an interstate placement can be protected.

HOW THE ICPC CAME ABOUT

The need for a compact to regulate the interstate movement of children was recognized in the 1950's. At that time, a group of East Coast social service administrators joined informally to study the problems of children moved out of state for foster care, residential treatment, and adoption. Among the problems they identified was the failure of importation and exportation statutes enacted by individual states to provide protection for children. They recognized that a state's jurisdiction ends at its borders and that a state can only compel an out-of-state agency or individual to discharge its obligations toward a child through a compact. The administrators were also concerned that a state to which a child was sent did not have to provide supportive services even though it might agree to do so as a courtesy. Without a compact, the reality was that all too frequently children were placed in unstudied, unlicensed, at risk environments and that no services were provided to protect these children or to promote permanency for them.

In response to these and other problems, the Interstate Compact on the Placement of Children (ICPC) was drafted, and in 1960 New York was the first state to enact it.

WHAT THE ICPC DOES

The ICPC law contains ten articles. They define the types of placements and placers subject to the law; the procedures to be followed in making an interstate placement; and

the specific protections, services, and requirements brought by enactment of the law. In Virginia, the text of the ICPC is found in the **Code of Virginia, 63.2-1000**. The implementation of the ICPC is found in the **Code of Virginia, 63.2-1100 through 63.2-1105**. (Web site link for ICPC law is at www.dss.state.va.us/family/interstate. Click on "ICPC External Link." See "Code of Virginia, Title 63.2, Chapters 10 and 11.")

The major provisions of the law are highlighted below.

Types of Placements Covered

The ICPC applies to four types of situations in which children may be sent to other states:

- Placements preliminary to an adoption.
- Placements into foster care, including foster homes, group homes, residential treatment facilities, and institutions.
- Placements with parents and relatives when a parent or relative is not making the placement.
- Placements of adjudicated delinquents in institutions in other states.

Who Must Use the ICPC?

The ICPC clearly spells out who must use the Compact when they "send, bring, or cause a child to be sent or brought" to another party state. These persons and agencies, called "sending agencies," are the following:

- A state party to the ICPC, or any officer or employee of the party state.
- A subdivision, such as a county or a city, or any officer or employee of the subdivision.
- A court of the party state.
- Any person (including parents and relatives in some instances), corporation, association, or charitable agency of a party state.

There are some placements of children into other states that are not subject to the ICPC. These exemptions are specified in the ICPC law. The ICPC does not include placements made into medical and mental facilities or in boarding schools or "any institution primarily educational in character" (see ICPC Article II (d) and ICPC Regulation No.4). (ICPC regulations are at the end of this guide.) ICPC Article VIII (a) also specifically excludes from Compact coverage the placement of a child made by a parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or the child's non-agency guardian. This exclusion *only* applies when one of these close relatives places the child with another close relative enumerated in Article VIII. Because there are risks and penalties associated with making a placement in violation of the ICPC, the Virginia Interstate Placement Office is available to provide assistance in determining whether or not a child's proposed placement will need to be made through the Compact.

Safeguards Offered by the ICPC

In order to safeguard both the child and the parties involved in the child's placement, the ICPC:

- Provides the "sending agency" the opportunity to obtain home studies, licensing verification, or an evaluation of the proposed placement.
- Allows the prospective receiving state to obtain information sufficient to ensure that the placement is not "contrary to the interests of the child" and that its applicable laws and policies have been followed before it approves the placement.
- Guarantees the child legal and financial protection by fixing these responsibilities with the sending agency or individual.
- Ensures that the sending agency or individual does not lose jurisdiction over the child once the child moves to the receiving state.
- Provides the sending agency the opportunity to obtain supervision and regular reports on the child's adjustment and progress in placement.

These basic safeguards are routinely available when the child, the person, or responsible agency and the placement are all in a single state or jurisdiction. When the placement involves two states or jurisdictions, however, these safeguards are available only through the ICPC.

PROCEDURES FOR MAKING ICPC PLACEMENTS

When a state enacts the ICPC, it becomes law, just as any other legislation passed by a state legislature. When Virginia enacted the ICPC it agreed to follow uniform procedures when it makes or accepts interstate placements of children. As of 1990, every state, the District of Columbia and the Virgin Islands have all statutorily committed to the same requirements and procedures. Since the ICPC is also a contract among the party states as well as a statute in each of them, it must be interpreted and implemented uniformly by all of them.

Administering the ICPC

Each state appoints a Compact Administrator and one or more Deputy Compact Administrators who oversee or perform the day-to-day tasks associated with the administration of the ICPC. In every state, the Interstate Placement office and personnel are located in an office that is part of the department of public welfare or the state's equivalent agency. In Virginia, the ICPC is administered by the **Department of Social Services, 7 N. Eighth Street, Richmond, VA, 23219, Telephone: (800) 552-3431**. (See web site link for VA ICPC general information, Code, forms, publications at www.dss.state.va.us/family/interstate.) The Compact Administrator is designated to serve as the central clearing point for all referrals for interstate placements. The Administrator and his/her deputies are authorized to conduct the necessary investigation of the proposed placement and to determine whether or not the placement is contrary to the child's interests.

After the placement is approved and the child is moved into the state, the Compact Administrator is responsible for overseeing the placement as long as it continues.

[NOTE: The term "Compact Administrator" is used to designate both the person appointed pursuant to Article VII of the ICPC and those persons to whom the responsibility for day-to-day operation of the ICPC has been administratively designated.]

Recognizing a Placement Covered by the ICPC

Although the ICPC law is short, it may be confusing to persons unfamiliar with it. If you are considering placing a child into another state, the placement may be subject to the ICPC in the following general circumstances:

- If the state in which you (or your agency) reside and the state to which the child is to be sent (or from which the child is to be brought) are both party to the ICPC; and
- If you are not related to the child (or are not the child's non-agency guardian) or, if you are related, and you are sending the child to live with someone other than a close relative or non-agency guardian named in ICPC Article VIII(a) of the Compact; and
- If you are sending, bringing, or causing the child to be brought or sent into a party state, whether or not you have custody of the child, and without regard to the present location of the child (the child could even be in a foreign country); and
- If you are placing the child with someone or some agency other than a medical facility, a boarding school, or a mental health or mental retardation facility.

If the circumstances of the proposed placement fit into those described above, you should proceed according to the requirements of the ICPC. If you have any questions about whether or not the ICPC applies to your proposed placement plans or about how to comply, you may contact the ICPC office for advice.

Processing Referrals for Interstate Placements

When an interstate placement is being considered, the ICPC requires that the sending agency or individual provide written notice of the proposed placement to the Compact Administrator in the receiving state and request the receiving state's written permission to proceed prior to making the placement. This notice and supporting documents must first be submitted to the Interstate Compact office in the sending state to review for compliance with placement laws in the sending state.

This written notice is made on a standardized form ICPC-100A, "Interstate Compact Placement Request," available from all party states. This form serves as the formal contract between the sending agency and the receiving state. In Virginia, ICPC forms are available from the Virginia Interstate Compact office or your local social services agency. Forms are available at www.dss.state.va.us/family/interstate_form or at

www.dss.state.va.us/form/index. Scroll to "Foster Care." Scroll to Interstate Compact Form 100A and Form 100B.)

The precise documents required to complete an interstate placement request are dictated by the specific circumstances of the placement and the placement laws in the sending and receiving states. At a minimum, the request packet should include the child's social history; supplementary medical, psychological and educational information that will give a complete picture of the child's placement needs; court order(s) regarding the child's legal status; and a description of the placement plan for the child. In Virginia, an evaluation or home study of the proposed placement must be current- within one year- and conducted by a local social service agency or private child-placing agency licensed in Virginia.

The sending state's Interstate Compact Administrator then forwards the completed form ICPC-100A and supportive documentation to the prospective receiving state's Interstate Compact Administrator.

Upon receiving notice of the proposed placement from the Interstate Compact office in the sending state, the Interstate Compact Administrator in the receiving state will review the packet for compliance with the placement laws of the receiving state. The receiving state's Interstate Compact Administrator forwards the supportive documents to an appropriate party in the receiving state for further action. The "appropriate party" will usually be a local public agency, a private child placing agency, or the residential facility that is being asked to accept the child. The "action" needed on any particular request will vary depending upon the nature of the proposed placement, but may include a study of the prospective adoptive or foster family, confirmation of licensure, or a review by the facility to determine whether or not its program will meet the child's needs.

After the local agency has completed the necessary work, it prepares a report that includes a recommendation on whether or not the placement should be made. This report is returned to the Interstate Compact Administrator in the receiving state for review. If the local agency's recommendation is favorable and the Interstate Compact Administrator determines that all requirements of the receiving state's laws have been met, the placement will be approved. If, however, the local agency recommends against the placement or the Interstate Compact Administrator determines that the placement cannot lawfully be completed, the placement will be denied unless the problems can be remedied. In either case, the Interstate Compact Administrator notifies the sending state's Interstate Compact office and forwards copies for the sending agency.

Recommended Time Needed to Process Requests

Six weeks- 30 working days- is the recommended processing time from the date the receiving state's Interstate Compact Office receives the notice of the proposed placement until the date that the placement is approved or denied. However, referrals may take longer to process because of incomplete information or other work demands placed upon

the local agency in the receiving state or upon the Interstate Compact office. The Virginia Interstate Compact Office takes administrative action on cases in the order in which they are received. The office's goal is to respond to correspondence same day to within three business days of receipt. In the event of a child-related emergency, however, the Virginia Interstate Office will reassign priority to the case, and respond by the fastest means of communication.

Experience, especially in recent years, has shown that delays in the completion of home studies by the receiving state's local agencies are a significant problem across the nation. Sometimes the receiving state does not complete the home studies for many months. As a result, ICPC Regulation No.7, Priority Placement, was enacted in 1996 with the aim of achieving parity of treatment in fact for interstate and intrastate cases. It is also the objective to assure priority handling for hardship cases and for cases that have already suffered delay. (See Regulation 7 at the end of this guide or, see ICPC regulations at the VA ICPC web site link at www.dss.state.va.us/family/interstate_pub).

Making Arrangements for Child Placement

When the request to place a child has been approved by the receiving state, the sending agency and receiving parties work together to arrange the details of the actual placement. Final agreements (discussed at the time of referral) are entered into regarding payment for the child's care, the type of monitoring of the placement, and the frequency of supervisory reports to be provided to the sending agency.

After all plans and agreements have been completed, the child is moved to the receiving state. The sending agency notifies the receiving state of the placement by using form ICPC-100B. "Interstate Compact Report: Child Placement Status." (See web site link for VA ICPC forms at www.dss.state.va.us/family/interstate_form or at www.dss.state.va.us/form/index. Scroll to "Foster Care." See Interstate Form 100A or 100B)

The Sending Agency's Responsibilities

While the child remains in the out-of-state placement, the sending agency retains legal and financial responsibility for the child. This means that the sending agency has both the authority and the responsibility to determine all matters in relation to the "custody, supervision, care, treatment, and disposition of the child", just as the sending agency would have "if the child had remained in the home state." (See ICPC law, Article V(a) at www.dss.state.va.us/family/icpclinks. Click on "ICPC External Link." See "Code of Virginia, Title 63.2, Chapter 10, Interstate Compact on the Placement of Children.")

The sending agency's responsibilities for the child continue until it legally terminates the interstate placement. Legal termination of an interstate placement may only occur when the child is returned to the home state, the child is legally adopted, the child reaches the

age of majority or becomes self-supporting, or for other reasons with the prior concurrence of the receiving state's Compact Administrator. (ICPC law, Article V (a)).

The sending agency must notify the receiving state's Compact Administrator of any change in the child's status, again using the ICPC-100B. Changes of status may include a termination of the interstate placement, a change in the placement of the child in the receiving state, or the completion of an approved transfer of legal custody.

PENALTIES FOR ILLEGAL PLACEMENTS

Interstate placements made in violation of the law constitute a violation of the "laws respecting the placement of children of both the state in which the sending agency is located or from which it sends or brings the child and of the receiving state" (ICPC law, Article IV). Violators are subject to punishment or penalties in both jurisdictions in accordance with their laws. Legal imposition of penalties has been rare, but since 1980 there have been several court decisions in which children placed illegally were ordered returned to the sending state. Some of these cases have involved the dissolution of adoptive placements. Since Virginia agencies are required to inform the Court as to whether or not an interstate placement for the purpose of adoption has been made in compliance with the ICPC and since the requirements of the ICPC can be met in most cases, the wisest course of action is compliance.

RELATED COMPACTS

Three other compacts regulate certain types of interstate placements of children:

The **ICAMA Interstate Compact on Adoption and Medical Assistance**) ensures that adoptive parents of children with special needs receive the services and benefits provided for in their adoption assistance agreement, particularly medical assistance in interstate cases. It facilitates the delivery of benefits and services when families move during the continuance of the adoption assistance agreement or in cases when the child is initially placed for adoption across state lines. The Compact was developed in response to the mandate of the Adoption Assistance and Child Welfare Act of 1980 that directs states to protect the interstate interests of adopted children with special needs. ICAMA has been enacted by most states. Virginia is a member state. In Virginia, the text of the ICAMA is found in the ***Code of Virginia, 63.2-1401 through 63.2-1405***. **The Department of Social Services administers the ICAMA in Virginia. For more information on the Virginia ICAMA, call (804) 692-1274 or 692-1279.**

The **ICJ (Interstate Compact on Juveniles)** permits interstate supervision of adjudicated delinquents on probation or parole and provides for the placement of certain juvenile delinquents in out-of-state public institutions. This Compact also authorizes the return of juvenile escapees and absconders to their home states, and is used to arrange the return of non-delinquent runaways to their homes. All 50 states and other jurisdictions, except

for Puerto Rico and the Virgin Islands, have enacted this Compact. In Virginia, the text of the Compact is found in the ***Code of Virginia, 16.1-323 to 16.1-330***. **The Virginia ICJ is administered by the Department of Juvenile Justice. For more information on the Virginia ICJ, call (804) 692-0167.**

The **ICMH (Interstate Compact on Mental Health)** permits the transfer of mentally ill and mentally retarded children and adults from a public institution in one state to a public institution in another state. It may also be used to secure publicly provided aftercare services in another state. A patient transferred through this Compact becomes the full responsibility of the receiving state. The ICMH has been enacted by most states and jurisdictions. While Virginia is not formally a member of the ICMH, we participate in the transfer of patients into and out of the Commonwealth. In Virginia, the related Code of Virginia section is 37.1-91, Disposition of nonresidents. For additional information, contact the **Virginia Department of Mental Health, Mental Retardation & Substance Abuse Services at (804) 786-0040.**

ADDITIONAL INFORMATION:

For more information on the ICPC contact:

ICPC Secretariat
Interstate Compact on the Placement of Children
American Public Human Services Association
810 First Street, NE, Suite 500
Washington, DC 20002
Telephone: (202) 682-0100 Fax: (202) 289-6555
<http://icpc.aphsa.org>

This document has been adapted from the "Guide to the Interstate Compact on the Placement of Children 2002," prepared by the Secretariat to the AAICPC (Association of Administrators of the Interstate Compact on the Placement of Children).

Regulation No. 0.01

Forms

1. To promote efficiency in processing placements pursuant to the Interstate Compact on the Placement of Children (ICPC) and to facilitate communication among sending agencies, states and other concerned persons, the forms promulgated by the compact administrators, acting jointly, shall be used by all sending agencies, sending and receiving states, and others participating in the arranging, making, processing and supervision of placements.

2. ICPC forms shall be uniform as to format and substance, and each state shall make available a reference to where its forms may be obtained by the public.

3. The mandatory forms currently in effect are described below. These forms shall be reproduced in sufficient supply by each of the states to meet its needs and the needs of persons and agencies required to use them. Forms referenced in the preceding sentence, above, currently in effect are the following:

ICPC-100A "Interstate Compact Placement Request;"

ICPC-100B "Interstate Compact Report on Child's Placement Status;"

ICPC-100C "Quarterly Statistical Report: Placements Into An ICPC State;"

ICPC-100D "Quarterly Statistical Report: Placements Out Of An ICPC State;" and

ICPC-101 "Sending State's Priority Home Study Request."

4. Form ICPC-102 "Receiving State's Priority Home Study Request" is an optional form that is available for use.

5. Words and phrases used in this regulation have the same meanings as in the Compact, unless the context clearly requires another meaning.

6. This regulation is adopted pursuant to Article VII of the Interstate Compact on the Placement of Children by action of the Association of Administrators of the Interstate Compact on the Placement of Children at its annual meeting of April 29 through May 2, 2001; the regulation, as amended, was approved May 2, 2001 and is effective as of July 2, 2001.

(See web site link for VA ICPC Form 100A and Form 100B at www.dss.state.va.us/family/interstate_form and at www.dss.state.va.us/form/index. Scroll to "Foster Care." See Interstate Forms.)

Regulation No. 1

Conversion of Intrastate Placement into Interstate Placement;

Relocation of Family Units

1. Regulation No. 1 as first effective May 1, 1973, is repealed and is replaced by the following:

2. A placement initially intrastate in character becomes an interstate placement subject to the Interstate Compact on the Placement of Children (ICPC) if the child's principal place of abode is moved to another state.

3. If the child is to be sent or brought to the receiving state more than forty-five (45) days in the future, the normal procedures of ICPC for an interstate placement shall be initiated. However, the ICPC-100A and the information accompanying it shall make it specific and clear that the relocation of a family unit is involved and that the family home is not yet in the receiving state. As much information as reasonably possible shall be given to the receiving state concerning the location and character of the intended family home in the receiving state.

4. (a) In any instance where the decision to relocate into another state is not made until forty-five (45) days or less before the date on which it is intended to send or bring the child to the receiving state, an ICPC-100A and its supporting documentation shall be prepared immediately upon the making of the decision, processed promptly by the sending agency's state compact administrator and transmitted to the receiving state compact administrator. The sending agency's state compact administrator shall request that the receiving state provide prompt handling of the case with due regard for the desired time for the child to be sent or brought to the receiving state.

(b) The documentation provided with a request for prompt handling shall include:

(1) A form ICPC-100A fully completed.

(2) A copy of the court order pursuant to which the sending agency has authority to place the child or, if authority does not derive from a court order, a statement of the basis on which the sending agency has authority to place the child.

(3) A case history for the child.

(4) In any instance where the sending state has required licensure, certification or approval, a copy of the most recent license, certificate or approval of the qualification of the custodian(s) and/or their home showing the status of the custodian(s), as qualified custodian(s).

(5) A copy of the most recent home study of the custodian(s) and any updates thereof.

(6) A copy of the child's permanency plan and any supplements to that plan.

(7) An explanation of the current status of the child's Title IV-E eligibility under the Federal Social Security Act.

(c) Requests for prompt handling shall be as provided in paragraph 4 (a) hereof. Some or all documents may be communicated by express mail or any other recognized method for expedited communication. The receiving state shall recognize and give effect to any such expedited transmission of an ICPC-100A and/or supporting documentation, provided that it is legible and appears to be a complete representation of the original. However, the receiving state may request and shall be entitled to receive originals or duly certified copies if it considers them necessary for a legally sufficient record under its laws.

(d) In an instance where a custodian(s) holds a current license, certificate or approval from the sending state evidencing qualification as a foster parent or other custodian, the receiving state shall give effect to such license, certificate or approval as sufficient to support a determination of qualification pursuant to Article III (d) of ICPC, unless the receiving state compact administrator has substantial evidence to the contrary. This provision applies to a case which meets the description set forth in paragraph 4 (b) of this regulation.

(e) The receiving state may decline to provide a favorable determination pursuant to Article III (d) of ICPC if its compact administrator finds that the child's needs cannot be met under the circumstances of the proposed relocation, or until it has the documentation identified in subparagraph (b) hereof.

(f) If necessary or helpful to meet time requirements, the receiving state may communicate its determination pursuant to Article III (d) to the sending agency and the sending agency's state compact administrator by "FAX" or other means of facsimile transmission. However, this may not be done before the receiving state compact administrator has actually recorded the determination on the ICPC-100A. The written notice (the completed ICPC-100A) shall be mailed or otherwise sent promptly to meet Article III (d) written notice requirements.

5. If submitted by a custodian(s), a receiving state shall recognize and give effect to evidence that the custodian(s) have satisfactorily completed required training for foster parents or other parent training. Such recognition and effect shall be given if:

(a) the training program is shown to be substantially equivalent to training offered for the same purpose in the receiving state; and

(b) the evidence submitted is in the form of an official certificate or other document identifying the training.

6. Nothing in this regulation shall be construed to alter the obligation of a receiving state to supervise and report on the placement; nor to alter the requirement that the custodian(s) comply with the licensing and other applicable laws of the receiving state after arrival therein.

7. A favorable determination made by a receiving state pursuant to Article 3 d) of the ICPC and this regulation means that the receiving state is making such determination on the basis of the best evidence available to it in accordance with the requirements of paragraph 4 b) of this regulation and does not relieve any custodian or other entity of the obligation to comply with the laws of the receiving state as promptly after arrival in the receiving state of the child as possible. If it is subsequently determined that the placement in the receiving state appears to be contrary to the interest of the child, the sending agency shall return the child or make an alternative placement as provided in Article 5(a) of the ICPC.

8. Within thirty (30) days of being notified by the sending state or by the custodian(s) that the custodian(s) and the child have arrived in the receiving state, the appropriate personnel of the receiving state shall make an initial contact with the custodian(s) to ascertain conditions and progress toward compliance with applicable laws and requirements of the receiving state.

9. Words and phrases used in this regulation have the same meanings as in the Compact, unless the context clearly requires another meaning.

10. This regulation is adopted pursuant to Article VII of the Interstate Compact on the Placement of Children by action of the Association of Administrators of the Interstate Compact on the Placement of Children at its annual meeting of April 1999.

Regulation No. 2 Repealed

This regulation, adopted May 25, 1977, relating to certain programs in which children could be placed in family homes to permit their attendance at local public schools was repealed by action taken at the annual meeting of the Association of Administrators of the Interstate Compact on the Placement of Children, April 1999.

Regulation No. 3

Placements with Parents, Relatives, Non-agency Guardians, and Non-family Settings

The following regulation, adopted by the Association of Administrators of the Interstate Compact on the Placement of Children, is declared to be in effect on and after July 2, 2001.

1. "Placement" as defined in Article II(d) includes the arrangement for the care of a child in the home of his parent, other relative, or non-agency guardian in a receiving state when the sending agency is any entity other than a parent, relative, guardian or non-agency guardian making the arrangement for care as a plan exempt under Article VIII (a) of the Compact.

2. "Conditions for Placement" as established by Article III apply to any placement as defined in Article II (d) and Regulations adopted by action of the Association of Administrators of the Interstate Compact on the Placement of Children.

3. The terms "guardian" and "non-agency guardian" have the same meanings as set forth in Regulation No. 10 of the Regulations for the Interstate Compact on the Placement of Children (ICPC).

4. The term "family free or boarding home" as used in Article II (d) of ICPC means the home of a relative or unrelated individual whether or not the placement recipient receives compensation for care or maintenance of the child, foster care payments, or any other payments or reimbursements on account of the child's being in the home of the placement recipient.

5. The term "foster care" as used in Article III of ICPC, except as modified in this paragraph, means care of a child on a 24-hour a day basis away from the home of the child's parent(s). Such care may be by a relative of the child, by a non-related individual, by a group home, or by a residential facility or any other entity. In addition, if 24-hour a day care is provided by the child's parent(s) by reason of a court-ordered placement (and not by virtue of the parent-child relationship), the care is foster care.

6. (a) Pursuant to Article VIII (a), this Compact does not apply to the sending or bringing of a child into a receiving state by the child's parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or the child's guardian and leaving the child with any such relative or non-agency guardian in the receiving state, provided that such person who brings, sends, or causes a child to be sent or brought to a receiving state is a person whose full legal right to plan for the child: (1) has been established by law at a time

prior to initiation of the placement arrangement, and (2) has not been voluntarily terminated, or diminished or severed by the action or order of any court.

(b) The Compact does not apply whenever a court transfers the child to a non-custodial parent with respect to whom the court does not have evidence before it that such parent is unfit, does not seek such evidence, and does not retain jurisdiction over the child after the court transfers the child.

7. Placement of a child requires compliance with the Compact if such placement is with either of the following:

(a) any relative, person, or entity not identified in Article VIII of the Compact;
or

(b) any entity not included in the definition of placement as specified in Article II (d) of the Compact.

8. If a court or other competent authority invokes the Compact, the court or other competent authority is obligated to comply with Article V (Retention of Jurisdiction) of the Compact.

9. Words and phrases used in this regulation have the same meanings as in the Compact, unless the context clearly requires another meaning.

10. This regulation is adopted pursuant to Article VII of the Interstate Compact on the Placement of Children by action of the Association of Administrators of the Interstate Compact on the Placement of Children at its annual meeting of April 29 through May 2, 2001; the regulation, as amended, was approved on May 2, 2001 and is effective as of July 2, 2001.

Regulation No. 4

Residential Placement

The following regulation was adopted by the Association of Administrators of the Interstate Compact on the Placement of Children on April 20, 1983, was readopted in 1999, was amended in 2001, and is declared to be effective, as amended, as of July 2, 2001.

1. In determining whether the sending or bringing of a child to another state is exempt from the provisions of the Interstate Compact on the Placement of Children by reason of the exemption for various classes of institutions in Article II (d), the following concepts and terms shall have the following meanings:

(a) "Primarily educational institution" means an institution which operates one or more programs that can be offered in satisfaction of compulsory school attendance laws, in which the primary purpose of accepting children is to meet their educational needs; and which does not do one or more of the following:

(1) accept responsibility for children during the entire year;

(2) provide or hold itself out as providing child care constituting nurture sufficient to substitute for parental supervision and control or foster care;

(3) provide any other services to children, except for those customarily regarded as extracurricular or cocurricular school activities, pupil support services, and those services necessary to make it possible for the children to be maintained on a residential basis in the aforementioned school program or programs.

(b) "Hospital or other medical facility" means an institution for the acutely ill which discharges its patients when they are no longer acutely ill, which does not provide or hold itself out as providing child care in substitution for parental care or foster care, and in which a child is placed for the primary purpose of treating an acute medical problem.

(c) "Institution for the mentally ill or mentally defective" minors means a facility which is responsible for treatment of acute conditions, both psychiatric and medical, as well as such custodial care as is necessary for the treatment of such acute conditions of the minors who are either voluntarily committed or involuntarily committed by a court of competent jurisdiction to reside in it. Developmentally disabled has the same meaning as the phrase "mentally defective."

(d) Treatment for a chronic mental or behavioral condition, as described in this regulation, that is 24-hour care away from the child's parental home is foster care as such term is used in Article III of ICPC.

2. (a) Admission for treatment of an acute condition includes the treatment and care of minors who are mentally ill or developmentally disabled and who require stabilization of such condition for short-term treatment. Such short term treatment is exempt from the Interstate Compact on the Placement of Children.

(b) Placement for treatment of a chronic condition includes the treatment and care of minors who may be mentally ill, emotionally ill, or developmentally disabled and require treatment beyond what was required for stabilization of the underlying acute condition. Treatment modalities for chronic conditions may include psychotherapy and psychopharmacology.

(c) Any placement of a minor for treatment of that minor's chronic mental or behavioral condition into a facility having treatment programs for acute and chronic conditions must be made pursuant to the Interstate Compact on the Placement of Children. The Interstate Compact on the Placement of Children becomes applicable once

the minor is placed for treatment of a chronic condition regardless of whether that child was originally placed in the same facility for treatment of an acute condition.

(d) A minor may be accepted into a residential treatment center without first having been in that facility for the treatment of an acute condition. An interstate placement of a minor into such a facility must be made pursuant to the Interstate Compact on the Placement of Children.

3. An institution for the mentally ill or developmentally disabled may accept a child for treatment and care without complying with ICPC, if the treatment and care and other services are entirely out-patient in character.

4. The type of funding source or sources used to defray the costs of treatment or other services does not determine whether the Interstate Compact on the Placement of Children applies. Such determination is made on a case-by-case basis.

5. The type of license, if any, held by an institution is evidence of its character, but does not determine the need for compliance with ICPC. Whether an institution is either generally exempt from the need to comply with the Interstate Compact on the Placement of Children or exempt in a particular instance is to be determined by the services it actually provides or offers to provide. In making any such determinations, the criteria set forth in this regulation shall be applied.

6. Words and phrases used in this regulation have the same meanings as in the Compact, unless the context clearly requires another meaning.

7. This regulation was amended pursuant to Article VII of the Interstate Compact on the Placement of Children by action of the Association of Administrators of the Interstate Compact on the Placement of Children at its annual meeting of April 29 through May 2, 2001; such amendment was approved on May 2, 2001 and is effective as of July 2, 2001.

Regulation No. 5

Central State Compact Office

Regulation No. 5 ("Central State Compact Office"), as first effective April 1982, is amended to read as follows:

1. It shall be the responsibility of each state party to the Interstate Compact on the Placement of Children to establish a procedure by which all Compact referrals from and to the state shall be made through a central state compact office. The Compact Office shall also be a resource for inquiries into requirements for placements into the state for children who come under the purview of this Compact.

2. The Association of Administrators of the Interstate Compact on the Placement of Children deems certain appointments of officers who are general coordinators of activities under the Compact in the party states to have been made by the executive heads of states in each instance wherein such an appointment is made by a state official who has authority delegated by the executive head of the state to make such an appointment. Delegated authority to make the appointments described above in this paragraph will be sufficient if it is either: specifically described in the applicable state's documents that establish or control the appointment or employment of the state's officers or employees; a responsibility of the official who has the delegated authority that is customary and accepted in the applicable state; or consistent with the personnel policies or practices of the applicable state. Any general coordinator of activities under the Compact who is or was appointed in compliance with this paragraph is deemed to be appointed by the executive head of the applicable jurisdiction regardless of whether the appointment preceded or followed the adoption of this paragraph.

3. Words and phrases used in this regulation have the same meanings as in the Compact, unless the context clearly requires another meaning.

4. This regulation was first effective on April 20, 1982; was amended as of April 1999; and is amended by the Compact Administrators, acting jointly and pursuant to Article VII of the Interstate Compact on the Placement of Children, at their annual meeting of April 2002, with such amendments effective after June 27, 2002.

Regulation No. 6

Permission to Place Child: Time Limitations, Reapplication

The following regulation, originally adopted in 1991 by the Association of Administrators of the Interstate Compact on the Placement of Children, is amended in 2001 and declared to be in effect, as amended, on and after July 2, 2001.

1. Permission to place a child given pursuant to Article III (d) of the Interstate Compact on the Placement of Children shall be valid and sufficient to authorize the making of the placement identified in the written document ICPC-100A, by which the permission is given for a period of six (6) months commencing on the date when the receiving state compact administrator or his duly authorized representative signs the aforesaid ICPC-100A.

2. If the placement authorized to be made as described in Paragraph 1. of this Regulation is not made within the six (6) months allowed therein, the sending agency may reapply. Upon such reapplication, the receiving state may require the updating of documents submitted on the previous application, but shall not require a new home study unless the laws of the receiving state provide that the previously submitted home study is too old to be currently valid.

3. If a foster care license, institutional license or other license, permit or certificate held by the proposed placement recipient is still valid and in force, or if the proposed placement recipient continues to hold an appropriate license, permit or certificate, the receiving state shall not require that a new license, permit or certificate be obtained in order to qualify the proposed placement recipient to receive the child in placement.

4. Upon a reapplication by the sending agency, the receiving state shall determine whether the needs or condition of the child have changed since it initially authorized the placement to be made. The receiving state may deny the placement if it finds that the proposed placement is contrary to the interests of the child.

5. Words and phrases used in this regulation have the same meanings as in the Compact, unless the context clearly requires another meaning.

6. This regulation was readopted pursuant to Article VII of the Interstate Compact on the Placement of Children by action of the Association of Administrators of the Interstate Compact on the Placement of Children at its annual meeting of April 1999; it is amended pursuant to Article VII of the Interstate Compact on the Placement of Children by action of the Association of Administrators of the Interstate Compact on the Placement of Children at its annual meeting of April 29 through May 2, 2001, was approved May 2, 2001, and is effective in such amended form as of July 2, 2001.

Regulation No. 7 **Priority Placement**

The following regulation adopted by the Association of Administrators of the Interstate Compact on the Placement of Children is declared to be in effect on and after July 2, 2001.

1. Words and phrases used in this regulation shall have the same meanings as those ascribed to them in the Interstate Compact on the Placement of Children (ICPC). A word or phrase not appearing in ICPC shall have the meaning ascribed to it by special definition in this regulation or, where not so defined, the meaning properly ascribed to it in common usage.

2. This regulation shall not apply to any case in the sending state wherein:

(a) the request for placement of the child is for licensed or approved foster family care or adoption; or

(b) the child is already in the receiving state in violation of ICPC.

3. Whenever a court, upon request, or on its own motion, or where court approval is required, determines that a proposed priority placement of a child from one state into

another state is necessary, the court shall make and sign an order embodying that finding. The court shall send its order to the Sending Agency within two (2) business days. The order shall include the name, address, telephone number, and if available, the FAX number, of the judge and the court. The court shall have the sending agency transmit, within three (3) business days, the signed court order, a completed Form 100A ("Request for Placement") and supporting documentation pursuant to ICPC Article III, to the sending state Compact Administrator. Within a time not to exceed two (2) business days after receipt of the ICPC priority placement request, the sending state Compact Administrator shall transmit the priority request and its accompanying documentation to the receiving state Compact Administrator together with a notice that the request for placement is entitled to priority processing.

4. The court order, ICPC-100A, and supporting documentation referred to in Paragraph Three (3) hereof shall be transmitted to the receiving state Compact Administrator by overnight mail together with a cover notice calling attention to the priority status of the request for placement. The receiving state Compact Administrator shall make his or her determination pursuant to Article III (d) of ICPC as soon as practicable but no later than twenty (20) business days from the date the overnight mailing was received and forthwith shall send the completed 100-A by FAX to the sending state Compact Administrator.

5. (a) If the receiving state Compact Administrator fails to complete action as the receiving state prescribed in Paragraph Four (4) hereof within the time period allowed, the receiving state shall be deemed to be out of compliance with ICPC. If there appears to be a lack of compliance, the court, which made the priority order, may so inform an appropriate court in the receiving state, provide that court with copies of relevant documentation in the case, and request assistance. Within its jurisdiction and authority, the requested court may render such assistance, including the making of appropriate orders, for the purpose of obtaining compliance with this Regulation and ICPC.

(b) The foregoing shall not apply if:

(1) within two (2) business days of receipt of the ICPC priority placement request, the sending state Compact Administrator determines that the ICPC request documentation is substantially insufficient, specifies that additional information is needed, and requests the additional documentation from the sending agency. The request shall be made by FAX, or by telephone if FAX is not available, or

(2) within two (2) business days of receipt of the ICPC priority placement request, the receiving state Compact Administrator notifies the sending state Compact Administrator that further information is necessary. Such notice shall specifically detail the information needed. For a case in which this subparagraph applies, the twenty (20) business day period for the receiving state Compact Administrator to complete action shall be calculated from the date of the receipt by the receiving state Compact Administrator of the information requested.

(c) Where the sending state court is not itself the sending agency, it is the responsibility of the sending agency to keep the court, which issued the priority order, informed of the status of the priority request.

6. A court order finding entitlement to a priority placement shall not be valid unless it contains an express finding that one or more of the following circumstances applies to the particular case and sets forth the facts on which the court bases its finding:

(a) the proposed placement recipient is a relative belonging to a class of persons who, under Article VIII (a) of ICPC could receive a child from another person belonging to such a class, without complying with ICPC and; (1) the child is under two (2) years of age; or (2) the child is in an emergency shelter; or (3) the court finds that the child has spent a substantial amount of time in the home of the proposed placement recipient.

(b) the receiving state Compact Administrator has a properly completed ICPC-100A and supporting documentation for over thirty (30) business days, but the sending agency has not received a notice pursuant to Article III (d) of ICPC determining whether the child may or may not be placed.

7. Time periods in this regulation may be modified with a written agreement between the court which made the priority order, the sending agency, the receiving state Compact Administrator, and the sending state Compact Administrator. Any such modification shall apply only to the single case to which it is addressed.

8. To fulfill its obligations under ICPC, a state and its local agencies must process interstate cases no less quickly than intrastate cases and give no less attention to interstate hardship cases than to intrastate hardship cases. If in doing so, a receiving state Compact Administrator finds that extraordinary circumstances make it impossible for it and its local agencies to comply with the time requirements set forth in this regulation, it may be excused from strict compliance therewith. However, the receiving state Compact Administrator shall, within two (2) business days of ascertaining inability to comply, notify the sending state Compact Administrator via FAX of the inability to comply and shall set forth the date on or before which it will complete action. The notice shall contain a full identification and explanation of the extraordinary circumstances which are delaying compliance.

9. Unless otherwise required or allowed by this regulation, all transmittals of documents or other written materials shall be by overnight express mail carrier service.

10. This regulation as first effective October 1, 1996, and readopted pursuant to Article VII of the Interstate Compact on the Placement of Children by action of the Association of Administrators of the Interstate Compact on the Placement of Children at its annual meeting of April 1999, is amended pursuant to Article VII of the Interstate Compact on the Placement of Children by action of the Association of Administrators of the Interstate Compact on the Placement of Children at its annual meeting of April 29 through May 2,

2001; the regulation, as amended, was approved on May 2, 2001 and is effective as of July 2, 2001.

Regulation No. 8

Change of Placement Purpose

1. An ICPC-100B should be prepared and sent in accordance with its accompanying instructions whenever there is a change of purpose in an existing placement, e.g., from foster care to preadoption even though the placement recipient remains the same. However, when a receiving state requests a new ICPC-100A in such a case, it should be provided by the sending agency and transmitted in accordance with usual procedures for processing of ICPC-100As.

2. Words and phrases used in this regulation have the same meanings as in the Compact, unless the context clearly requires another meaning.

3. This regulation as first effective April 30, 1997, is readopted pursuant to Article VII of the Interstate Compact on the Placement of Children by action of the Association of Administrators of the Interstate Compact on the Placement of Children at its annual meeting in April 1999.

Regulation No. 9

Definition of a Visit

Regulation No. 9 (“Definition of a Visit”), as first adopted in 1999, is amended to read as follows:

1. A visit is not a placement within the meaning of the Interstate Compact on the Placement of Children (ICPC). Visits and placements are distinguished on the basis of purpose, duration, and the intention of the person or agency with responsibility for planning for the child as to the child’s place of abode.
2. The purpose of a visit is to provide the child with a social or cultural experience of short duration, such as a stay in a camp or with a friend or relative who has not assumed legal responsibility for providing child care services.
3. It is understood that a visit for twenty-four (24) hours or longer will necessarily involve the provision of some services in the nature of child care by the person or persons with whom the child is staying. The provision of these services will not, of itself, alter the character of the stay as a visit.

4. If the child's stay is intended to be for no longer than thirty (30) days and if the purpose is as described in Paragraph 2, it will be presumed that the circumstances constitute a visit rather than a placement.

5. A stay or proposed stay of longer than thirty (30) days is a placement or proposed placement, except that a stay of longer duration may be considered a visit if it begins and ends within the period of a child's vacation from school as ascertained from the academic calendar of the school. A visit may not be extended or renewed in a manner which causes or will cause it to exceed thirty (30) days or the school vacation period, as the case may be. If a stay does not from the outset have an express terminal date, or if its duration is not clear from the circumstances, it shall be considered a placement or proposed placement and not a visit.

6. A request for a home study or supervision made by the person or agency which sends or proposes to send a child on a visit and that is pending at the time that the visit is proposed will establish a rebuttable presumption that the intent of the stay or proposed stay is not a visit.

7. A visit as defined in this regulation is not subject to the Interstate Compact on the Placement of Children.

8. Words and phrases used in this regulation have the same meanings as in the Compact, unless the context clearly requires another meaning.

9. This regulation was first adopted as a resolution effective April 26, 1983; was promulgated as a regulation as of April 1999; and is amended by the Compact Administrators, acting jointly and pursuant to Article VII of the Interstate Compact on the Placement of Children, at their annual meeting of April 2002, with such amendments effective after June 27, 2002.

Regulation No. 10

Guardians

Regulation No. 10 ("Guardians"), as first adopted in 1999, is amended to read as follows:

1. Guardian Defined.

As used in the Interstate Compact on the Placement of Children (ICPC) and in this Regulation:

(a) “Guardian” means a public or private agency, organization or institution which holds a valid and effective permanent appointment from a court of competent jurisdiction to have custody and control of a child, to plan for the child, and to do all other things for or on behalf of a child which a parent would have authority and responsibility for doing by virtue of an unrestricted parent-child relationship. An appointment is permanent for the purposes of this paragraph if the appointment would allow the guardianship to endure until the child’s age of majority without any court review, subsequent to the appointment, of the care that the guardian provides or the status of other permanency planning which the guardian has a professional obligation to carry out. Guardian also means an individual who is a non-agency guardian as defined in subparagraph (b) hereof.

(b) “Nonagency guardian” means an individual holding a currently valid appointment from a court of competent jurisdiction to have all of the authority and responsibility of a guardian as defined in subparagraph (a) hereof.

2. Prospective Adoptive Parents Not Guardians.

An individual with whom a child is placed as a preliminary to a possible adoption cannot be considered a non-agency guardian of the child, for the purpose of determining applicability of ICPC to the placement, unless the individual would qualify as a lawful recipient of a placement of the child without having to comply with ICPC as provided in Article VIII (a) thereof.

3. Effect of Guardianship on ICPC Placements.

(a) An interstate placement of a child with a nonagency guardian, whose appointment to the guardianship existed prior to consideration of the making of the placement, is not subject to ICPC if the sending agency is the child’s parent, stepparent, grandparent, adult brother or sister, or adult uncle or aunt.

(b) An appropriate court of the sending agency’s state must continue its jurisdiction over a non-exempt placement until applicability of ICPC to the placement is terminated in accordance with Article V (a) of ICPC.

4. Permanency Status of Guardianship.

(a) A state agency may pursue a guardianship to achieve a permanent placement for a child in the child welfare system, as required by federal or state law. In the case of a child who is already placed in a receiving state in compliance with ICPC, appointment of the placement recipient as guardian by the sending state court is grounds to terminate the applicability of the ICPC when the sending and receiving state compact administrators concur on the termination pursuant to Article V (a). In such an instance, the court which appointed the guardian may continue its jurisdiction if it is maintainable under another applicable law.

(b) If, subsequent to the making of an interstate placement pursuant to ICPC, a court of the receiving state appoints a non-agency guardian for the child, such

appointment shall be construed as a request that the sending agency and the receiving state concur in the discontinuance of the application of ICPC to the placement. Upon concurrence of the sending and receiving states, the sending agency and an appropriate court of the sending state shall close the ICPC aspects of the case and the jurisdiction of the sending agency pursuant to Article V (a) of ICPC shall be dismissed.

5. Guardian Appointed by Parent.

If the statutes of a jurisdiction so provide, a parent who is chronically ill or near death may appoint a guardian for his or her children, which guardianship shall take effect on the death or mental incapacitation of the parent. A nonagency guardian so appointed shall be deemed a nonagency guardian as that term is used in Article VIII (a) of ICPC, provided that such nonagency guardian has all of the powers and responsibilities that a parent would have by virtue of an unrestricted parent-child relationship. A placement with a nonagency guardian as described in this paragraph shall be effective for the purposes of ICPC without court appointment or confirmation unless the statute pursuant to which it is made otherwise provides and if there is compliance with procedures required by the statute. However, the parent must be physically present in the jurisdiction having the statute at the time that he or she makes the appointment or expressly submits to the jurisdiction of the appointing court.

6. Other Definitions of Guardianship Unaffected.

The definitions of "guardian" and "nonagency guardian" contained in this regulation shall not be construed to affect the meaning or applicability of any other definitions of "guardian" or "nonagency guardian" when employed for purposes or to circumstances not having a bearing on placements proposed to be made or made pursuant to ICPC.

7. Words and phrases used in this regulation have the same meanings as in the Compact, unless the context clearly requires another meaning.

8. This regulation was first promulgated in April 1999; it is amended by the Compact Administrators, acting jointly and pursuant to Article VII of the Interstate Compact on the Placement of Children, at their annual meeting of April 2002, with such amendments effective after June 27, 2002.

