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February 05, 2014

ALL COUNTY LETTER NO. (ACL) 14-06

REASON FOR THIS TRANSMITTAL

- State Law Change
- Federal Law or Regulation Change
- Court Order
- Clarification Requested by One or More Counties
- Initiated by CDSS

TO: ALL COUNTY WELFARE DIRECTORS
 ALL COUNTY CHIEF PROBATION OFFICERS
 ALL CHILD WELFARE SERVICES PROGRAM MANAGERS
 ALL TITLE IV-E AGREEMENT TRIBES
 ALL CDSS ADOPTION DISTRICT OFFICES
 ALL PUBLIC AND PRIVATE ADOPTION AGENCIES
 ALL INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN (ICPC) COUNTY LIAISONS
 ALL CALIFORNIA GROUP HOME PROVIDERS

SUBJECT: ICPC REGULATION 4, RESIDENTIAL PLACEMENT, AMENDED AND ADOPTED BY THE ASSOCIATION OF ADMINISTRATORS OF THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN (AAICPC), EFFECTIVE OCTOBER 1, 2012

REFERENCE: ICPC - FAMILY CODE ([Fam. Code](#)) SECTIONS 7900-7913; MANUAL OF POLICIES AND PROCEDURES ([MPP](#)) SECTIONS 31-320 AND 31-510

This ACL provides a copy and summary of the amended ICPC Regulation 4, which governs residential placement of children across state lines. Additional instructions are also provided to ensure counties meet the new regulatory requirements. The amended regulation must be read in conjunction with this ACL.

The amended regulation, effective October 1, 2012, was adopted pursuant to ICPC Article VII, at the annual business meeting of the AAICPC.

Intent

The regulation provides for the protection and safety of children placed in a residential facility in another state and applies to all sending agencies including parents, guardians, courts or agencies ultimately responsible for the child's planning, financing, and placement. It requires a receiving state to approve requests prior to placement, to monitor the facility, to keep a record of children while placed and if necessary, to notify a sending state of changes of status at the facility that may be contrary to the child's interests. Compliance by both states prevents financial or physical abandonment of children in receiving states. All sending and receiving agencies are required to adhere to the amended regulation for residential placements entering and leaving California via the ICPC.

The regulation details the process and time lines for residential placements, clarifies supervision responsibilities of both sending and receiving agencies and sets forth conditions for the child's return to a sending state. It obligates compliance with ICPC Article V, which requires the sending agency to retain jurisdiction and responsibility for a child until the child becomes independent, self-supporting, is adopted or both sending and receiving agencies concur to close the placement.

Placements that occur before the receiving state has approved the proposed placement pursuant to Article III(d) **are a violation of the ICPC. When the child is placed prior to ICPC approval, the sending agency and residential facility are liable and responsible for the child's safety.** The receiving state may, but is not required to, proceed with the request **and** may require immediate removal of the child until it has made a placement decision, in addition to other Article IV remedies.

Categories of Children

The regulation applies to *all* children who are being placed into a residential facility in another state by a sending agency, whether under court jurisdiction or not. When a child placed via the ICPC moves to a different residential facility in the same receiving state or moves to a facility in another state other than the sending state of origin, a new 100A and required documents must be submitted for action for the new placement.

The ICPC regulations recognize that states, at their discretion, "may permit the extension of juvenile court jurisdiction and foster care maintenance payments to eligible youth up to age 21" and that "such youth should be served under the ICPC if requested by the sending agency and with concurrence of the receiving state." The California Department of Social Services (CDSS) will be issuing an ACL in the future addressing

the ICPC and placement requirements for California non-minor dependents into residential facilities in other states.

Residential Facilities Covered by this Regulation

Regulation 4 defines a “residential facility” as one providing a level of 24-hour, supervised care beyond that needed for assessment or treatment of acute conditions. Residential facilities may be called by other names including group home care, residential treatment center, child care institution, etc. Neither the type of license held by a facility nor the type of funding being used to cover the cost of services or treatment determines whether a sending agency should comply with ICPC. Rather, sending agencies must apply the criteria in the regulation to determine whether a facility is exempt from ICPC compliance based on the services it actually provides or offers to provide.

Residential Facilities Not Covered by Regulation 4

For purposes of the compact and Regulation 4, residential facilities do not include:

- Institutions primarily educational in character when the primary purpose of accepting children is to meet their educational needs and the educational institution does **not** do one or more of the following:
 - Accept responsibility of the children during the entire year;
 - Provide or hold itself out as providing child care constituting nurture sufficient to substitute for parental supervision and control or foster care;
 - Provide any other services to the child, except for those customarily regarded as extra-curricular or co-curricular activities, pupil support services, and those services needed to make it possible for children to be maintained on a 24-hour residential basis in the school program;
- Hospitals or other medical facilities; and
- Institutions for mentally ill or developmentally disabled minors that treat acute psychiatric and medical conditions or that provide treatment that is entirely out-patient in character.

Documentation Required from Sending State for Residential Placements of Dependents/Wards in the Custody of Child Welfare or Probation

The regulation outlines the documentation that must be included in a residential facility placement request. As California is a decentralized state, the placement request is to be prepared by the California county child welfare or probation office with care and custody of the child. That county will act as the ICPC sending agency.

The documentation to be included with the ICPC residential facility placement request is as follows:

- A signed and dated ICPC 100A request form;
- The ICPC 100B status form (only in those very *limited* circumstances where the child has been placed without prior approval in the receiving state);
- Verification of court or other authority to place the child as follows:
 - Public agency/delinquent child ([Welfare and Institutions Code](#); W&IC section 601 or 602) – Current or prior court orders which contain the required findings as set forth in [Fam. Code](#) section 7901, Article 6 (VI), and W&IC section 727.1(b).
 - Public agency/dependent child (Welf. &Inst. Code section 300) –Placement court orders which contain the required findings set forth in Welf. &Inst. Code section 361.21 or 362.2, as applicable.
Please note: California juvenile courts must apply Rule 5.616 when placing wards and dependents in another state. Rule 5.616 has been changed recently. Further information regarding the changes to Rule 5.616 can be reviewed at the following website: [Rule 5.616](#)
- Letter of acceptance from the residential facility;
- A current case history for the child including social and custodial history, court involvement, social dynamics, and any special needs the child may have (assessment);
- Case plan/permanency plan;
- Financial and medical plan;
- Federal Title IV-E eligibility verification; and
- Placement disruption agreement pursuant to Article V to ensure the placing agency agrees to transfer the child to another location or return the child when required by receiving state.

The placement request for a California child must also contain the following items to ensure that all California statutory and regulatory requirements have been met for these children:

- The case plan must contain information indicating the sending agency will see the child face-to-face on a monthly basis (W&IC section 16516.5 and MPP section 31-320.613);
- Transitional Independent Living Plan if the minor is 15.5 years of age or older (MPP section 31-236(a));
- Multi-Disciplinary Team Report (Fam. Code section 7911.1(d) and (f)(1));
- Facility's rate sheet;
- Facility's current certification (Fam. Code section 7911.1(a), (c), (g)(1), and (h)); and

- Facility's program statement.

When a seriously emotionally disturbed (SED) child is also a dependent or ward as a result of court adjudication and is placed by the court into an out-of-state group home or facility upon the recommendation of a Multidisciplinary Team (MDT) and not pursuant to an Individualized Education Program plan (IEP), the out-of-state placement must comply with the ICPC. The facility must be certified by the CDSS Community Care Licensing (CCL) Division. For a current list of CDSS CCL certified residential out-of-state treatment centers or group homes that may be used by California placing agencies, please visit the [CCL web site](#). A copy of the current certification letter may also be obtained at this site for inclusion in the placement request package.

Some SED children under court dependency or delinquency jurisdiction are placed into out-of-state group homes pursuant to IEP plans. In this type of placement, the IEP replaces the MDT assessment and recommendation, and the IEP team is responsible for ensuring that all IEP-related educational and mental health services, including placement services, are provided. This type of placement must also comply with the ICPC, and is acceptable for a facility that has not been certified by the CCL Division, as long as the placement is not funded with federal or state foster care funds. These placement requests must also be submitted to the CDSS ICPC office to be processed.

Process for Approval or Denial of Residential Placement Requests for Dependents/Wards in the Custody of County Child Welfare or Probation Agencies

The regulation outlines the process and time lines that must be followed in processing and approving a residential facility placement request under Regulation 4. As CDSS is responsible for processing all out-of-state *residential facility* placement requests, the following processes must be followed to ensure compliance with Regulation 4.

100A Request Form

- The originating county office acting as the ICPC sending agency shall transmit the ICPC 100A request form and associated required documents to the CDSS ICPC office for signature and processing.
- The CDSS ICPC office reviews the placement request. If any of the required documents are missing from the placement request, CDSS will contact the California sending county to obtain the required documentation.
- Once the CDSS ICPC office receives a complete placement request, it is forwarded to the ICPC office in the receiving state for processing and written approval.

- The receiving state ICPC office will determine whether the placement may or shall not be made, note such on the 100A form in section IV, (Action by the Receiving State), sign and date and return it back to the CDSS ICPC office.
- When the receiving state determines the placement may be made as evidenced on the 100A form, the CDSS ICPC office will contact and transmit the approved 100A form to the local sending agency informing them the child is approved for placement so the agency can make placement and travel arrangements. If the receiving state determines the placement shall not be made as evidenced on the 100A form, the CDSS ICPC office will return the 100A form to the local sending agency. The local sending agency should then make arrangements for an alternate placement and prepare another request packet if necessary.

100B Status Form

The 100B form is an important tool for ensuring that compact offices and local agency staff are aware of current information regarding a child's movement into, out of, and, if pertinent, within the receiving state. The 100B form is to be used for residential placements to (1) confirm that an approved placement has been made in accordance with the compact, (2) withdraw a request prior to the actual placement, (3) indicate that an approved placement resource will not be used, (4) report a change in the placement resource and/or type of care, (5) report a change of address, (6) indicate acknowledgement that a denial was received as evidenced on the 100A, and 7) close an ICPC case.

Please note that the 100B form documents a change in the child's ICPC placement or closure of the child's ICPC case; it does not close out the child's existing foster care case. (For specific instructions on completing the 100B form, please visit the American Public Human Services Association, [AAICPC Website.](#))

For California children being placed into an out-of-state residential facility, when the receiving state has determined the placement may be made, the local sending agency must submit a signed and dated 100B form to the CDSS ICPC office for processing *within three days* of when the child is placed in the facility. The 100B form will be forwarded by the CDSS ICPC office to the receiving state's ICPC office. In the event the placement may not be made as evidenced on the 100A, the California sending agency will then prepare a 100B form indicating on the line labeled Other (Specify), in Section III – Compact Placement Termination, that the placement was denied and forward it to the CDSS ICPC office. This will inform the CDSS ICPC office that the placement resource was not used, and confirm the county has received the denial. In addition, this will close out the placement request.

Note: Some receiving states *require* the receipt of the 100B form to expedite and initiate financial and medical benefits. The local sending agency must *also* submit a signed and dated 100B form to the CDSS ICPC office *upon removal* of the child from the facility.

Private Residential Documentation Requirements for Children Leaving California

In placements where the parent, relative or legal guardian is the placing/sending agency (referred to as private placements), an out-of-state residential placement facility may be selected which will meet the child's needs. The facility chosen for the out-of-state placement does not have to be certified by CDSS CCL Division. However, the parent, relative or legal guardian will be solely responsible for resolving any program and financial requirements and/or issues directly with the facility.

The parent, relative or legal guardian must submit to the CDSS ICPC office the following documents prior to placement in an out-of-state residential facility:

- A signed and dated ICPC 100A request form;
- An ICPC 100B form is required, at this point, *only* if the child is already placed in the receiving state without prior approval as evidenced on a signed 100A;
- Verification of Legal Authority to Place Child:
 - Child in Custody of a Relative or Legal Guardian (no court involvement) – A current court order or legal document is required indicating the relative/legal guardian has the authority to place the child.
 - Child in Custody of Parent (no court involvement) – The 100A form is required and must be signed by the parent with the box checked under Section II legal status indicating that the parent has custody or guardianship and any additional documents which may be required by the sending or receiving state.
- Financial and medical plan – A written description of the responsibility for payment of the cost of placement of the child in the facility, including the name and address of the person or entity that will be make the payment and the person or entity that will be otherwise financially responsible for the child. It is expected that the medical coverage will be arranged and confirmed between the parent, relative or legal guardian and the residential facility prior to the placement;
- Some receiving states may also require a letter of acceptance from the residential facility. It provides the receiving state ICPC office with indication that the residential facility has screened the child as an appropriate placement for their facility and is able to accept the child at the time needed;
- Some states may require a placement disruption agreement; and
- Provision of a current case history or service plan is optional for placements made by parents, relatives and guardians.

The parent, relative or legal guardian must send the completed, signed and dated 100A form and other required documents to the CDSS ICPC office for processing. Once the CDSS ICPC office signs the ICPC 100A request form, it will forward the request to the receiving state ICPC office.

The receiving state ICPC office will determine whether the placement may or shall not be made, sign and date the 100A form in Section IV of the 100A form (Action by the Receiving State) and return it to the CDSS ICPC office. The CDSS ICPC office will forward the 100A form to the parent, relative or guardian as the sending agency to notify them that the receiving state has determined whether the placement may or shall not be made.

Upon placement the parent, relative or legal guardian must submit a signed and dated 100B form to the CDSS ICPC office for processing *within three days* of when the child is placed in the residential facility. The 100B form is then forwarded to the receiving state ICPC office by the CDSS ICPC office.

Reminder: The parent, relative or legal guardian must submit to the CDSS ICPC office a signed and dated 100B form upon placement, placement change or removal of the child from the facility. The CDSS ICPC office will work with parents and facilities as necessary to ensure the form is completed.

Transmission of Documents

Methods of transmitting documents between states may vary, and documents can be communicated by any recognized method, including express mail, facsimile and/or electronic transmission, if acceptable by both states. Transmissions should be sent in a secure method in compliance with applicable state and federal laws and/or regulations related to the protection of personal identifiable and confidential information. The receiving agency may request and *is entitled to receive* originals or duly certified copies of documents for a legally sufficient record under its laws.

Decision by Receiving State to Approve or Deny Placement Resource (100A)

In accordance with Regulation 4, the *receiving* state's final decision-making authority is limited to determining whether the placement facility is a usable placement resource based on a determination that the "proposed placement does not appear to be contrary to the interests of the child." This determination is to be based on the receiving state's review of the child-specific information and the current status of the residential facility. The receiving state may verify that the residential facility is properly licensed and not under an investigation by law enforcement, child protection or licensing staff. The

receiving state may also check that the residential facility is an appropriate match for the child and intends to admit the child. As previously indicated, for placements from other states into California group homes, this review and approval will be conducted by the CDSS ICPC office.

Upon receiving the determination that the placement may be made into the proposed resource by the receiving state as evidenced on the 100A form, the *sending agency* has the final authority to determine whether or not to use the placement resource.

Time Frame for Final Decision

Final approval or denial of the placement resource request must be made by a receiving state in the form of a signed and dated 100A form as soon as practical, but no later than three business days from receipt of the complete request by the receiving state's ICPC office. Additional clearances may be required by some states before determining the placement may be made for a residential facility placement. The receiving state determination that placement may be made **expires 30 calendar days** from the date the receiving state signed the 100A form and can be extended only by mutual agreement. Therefore, to avoid seeking approval again, it is important that sending agencies place within that 30-day period to avoid delays in placing the child.

Emergency Residential Facility Placement Temporary Decision

The regulation recognizes that occasionally residential placements need to be made on an emergency basis. However, the regulation provides that such cases *should be limited* and requests for emergency placement approval must be based on a mutual agreement between both states' ICPC offices. Emergency placement decisions must be made within one business day, or within a mutually agreed upon timeframe, and must include the ICPC 100A request form and any required documents. If temporary approval is granted, the formal ICPC placement approval will not be final until there is full compliance with ICPC Regulation 4 requirements.

Supervision Expectations of Residential Placements

The regulation outlines the supervision expectations for residential facilities and the sending and receiving agencies as follows:

- **Residential Facility** - The residential facility is responsible for the 24-hour care, daily supervision, protection, safety and well-being of the child. The facility enters into an agreement with the sending agency for the program plan, supervision, treatment and frequency and nature of any written progress or treatment reports.

- **Receiving state local child welfare workers and probation staff** – The receiving state child welfare agency or probation staff is *not* expected to provide monitoring or supervision of children placed in their residential facilities. The only exception is those children who may become involved with law enforcement, probation, child protection or the receiving state court.
- **Sending agency** - The sending agency determines the frequency and nature of its monitoring visits in accordance with its applicable state laws.

When California is the sending state, W&IC section 16516.5(a) applies:

“Notwithstanding any other provision of law or regulation, all foster children placed in group homes by county welfare departments or county probation departments shall be visited at least monthly by a county social worker or probation officer.” (See also, MPP section 31-320.613.)

Return of the Child to Sending State at the Request of the Receiving State

Regulation 4 requires that when a child must be returned to the sending state, the following shall take place:

- **Request to return child to sending state at *time of ICPC denial of placement*:** If a child is *already placed* and the placement is denied by the receiving state, the receiving state may request the sending state ICPC office to work with the sending agency to facilitate the child’s return or propose an alternate placement. The alternate placement resource in the receiving state must be approved by the receiving state prior to placement. The return of the child must occur *within five business days* from the date of the notice of the request for removal, unless otherwise agreed.
- **Request to return child to sending state after receiving state ICPC office had *previously approved placement*:** If the receiving state compact administrator finds the placement appears to be contrary to the interests of a child already placed pursuant to the ICPC, it may request return of the child by the sending state as soon as possible or propose an alternate placement in the receiving state. If an alternate placement in the receiving state is requested, it must be approved by the receiving state prior to placement. The child’s return must be made *within five business days* of the date of the notice of the request for removal by the receiving state or as agreed by both states. The request for removal may be withdrawn if the sending agency arranges services to resolve the reason/s for the requested removal, and both states mutually agree to the plan.

Procedures for Children Entering California for Residential Placement

As CDSS is responsible for the processing and approval of all out-of-state residential facility placement requests, the CDSS ICPC office will determine whether or not placement may or shall not be made for incoming residential facility requests. All such placements will need to be made in accordance with Regulation 4 and comply with ICPC articles, regulations and applicable California requirements; e.g., California Fam. Code sections 7900 – 7913, applicable MPP Division 31 sections, and other related federal and state regulations.

The documentation and procedural requirements are the same pursuant to this regulation regardless of whether you are a sending or receiving state. A complete residential facility placement request must be submitted to the CDSS ICPC office prior to a child from another state being placed in a group home in California.

The placement request must be sent directly to the CDSS ICPC office. Once the CDSS office receives a complete request and determines whether the placement may or shall not be made, the signed 100A form will be forwarded by the CDSS ICPC office State Compact Administrator to the sending agency within three business days of the receipt of the complete request by the receiving State ICPC Office. Upon a determination by the sending agency to use the proposed group home facility, the sending agency is responsible for filing a 100B form with the sending agency ICPC office within three business days of the actual placement. The sending agency ICPC office will forward the 100B to the CDSS ICPC office who will forward it to the facility within five business days of receipt.

Should a facility or state sending agency contact a county regarding placement of a child into a California residential facility, they must be referred to the CDSS ICPC office.

Note to California Group Home Providers: No California group home should accept a placement of a child from another state, via a parent, relative/legal guardian who is the placing agency or a public placing agency, without first ensuring that the ICPC process is being followed, and there is an approved 100A form signed by the CDSS ICPC office saying placement may or shall not be made. In the event the sending state's placing agency (private or public) has not yet received such approval, *the group home should refer them to the CDSS ICPC office* to ensure the placement meets compact requirements prior to placement.

The amended Regulation No. 4 language is attached for your reference.

For questions regarding this ACL, please contact the CDSS ICPC office by phone at (916) 651-8100 or via email at icpc@dss.ca.gov. In addition, all documents in this letter that are to be included in an ICPC packet are required to be sent to the CDSS ICPC office at 744 P Street, MS 8-12-90, Sacramento, CA 95814.

Sincerely,

Original Document Signed By:

GREGORY E. ROSE
Deputy Director
Children and Family Services Division

Attachment

Regulation No. 4

Residential Placement

Regulation No. 4, as adopted by the Association of Administrators of the Interstate Compact on the Placement of Children on April 20, 1983, was readopted in 1999 and amended in 2001, and is replaced by the following:

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 October 1, 2012. Words and phrases used in this regulation have the same meaning as in the Compact, unless the context clearly requires another meaning. 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.

1. **Intent of this Regulation:** It is the intent of Regulation No. 4 to **provide for the protection and safety of children** being placed in a residential facility in another state. Residential facility is further defined in Section 3 below.

(a) **Approval by receiving state prior to placement:** Approval prior to placement is required for the protection of the child and the sending agency making the placement. **Sending agency includes** the parent, guardian, court, or agency ultimately responsible for the planning, financing, and placement of the child as designated in section I of the form 100A. (See Article II(b) or Regulation 3, Section 4. (62) for full definition of sending agency.)

(b) **Monitoring residential facility while child is placed:** While children are placed in the receiving state, the receiving state ICPC office shall keep a record of all children currently placed at the residential facility through the ICPC process. The receiving state ICPC office shall notify the sending state ICPC office of any significant change of status at the residential facility that may be “contrary to the interests of the child” (Article III(d) or may place the safety of the child at risk of which the receiving state ICPC office becomes aware.

(c) **Prevent children from being abandoned in receiving state:** Once the sending agency makes a residential facility placement, the sending agency remains obligated under Article V to retain jurisdiction and responsibility for the child while the child remains in the receiving state until the child becomes independent, self-supporting, or the case is closed in concurrence with both the receiving and sending state ICPC offices. The role of the sending and receiving state ICPC offices is to promote compliance with Article V that children are not physically or financially abandoned in a receiving state.

2. **Categories of children:** This regulation applies to cases involving children who are being placed in a residential facility by the sending agency, regardless of whether the child is under the jurisdiction of a court for delinquency, abuse, neglect, or dependency, or as a result of action taken by a child welfare agency.

Age restrictions: (Regulation No. 3 Section 1(b)) The ICPC articles and regulations do not specify an age restriction at time of placement, but rather use the broad definition of “child.” The sending state law may permit the extension of juvenile court jurisdiction and foster care maintenance payments to eligible youth up to age 21. Consistent with

Article V, such youth should be served under ICPC if requested by the sending agency and with concurrence of the receiving state.

(a) **Delinquent Child:** Placement by a sending agency involving a delinquent child must comply with Article VI, Institutional Care of Delinquent Children, which reads as follows: “A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this compact but no such placement shall be made unless the child is given a court hearing on notice to the parent or guardian with the opportunity to be heard prior to his being sent to such other party jurisdiction for institutional care and the court finds that:

(1) Equivalent facilities for the child are not available in the sending agency’s jurisdiction; and

(2) Institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship.” (Hardship may apply to the child and his/her family.)

(b) **A child not yet placed in a residential facility in another state:** The primary application of this regulation is to request approval to place prior to placement at the residential facility.

(c) **Change of status for a child:** A new ICPC 100A and documents listed in Section 5 are required for a child who has been placed with prior ICPC approval, but now needs to move to a residential facility in this or another state, other than the child's state of origin.

(d) **Child already placed without ICPC approval:** For the safety and protection of all involved, placement in a residential facility should not occur until after the receiving state has approved the placement pursuant to Article III (d). When a child has been placed in a receiving state prior to ICPC approval, the case is considered a violation of ICPC, and the placement is made with the sending agency and residential facility remaining liable and responsible for the safety of the child. The receiving state may request immediate removal of the child until the receiving state has made a decision per ICPC, in addition to any other remedies available under Article IV. The receiving state is permitted to proceed with the residential facility request for approval, but is not required to proceed as long as the child is placed in violation of ICPC.

3. **Definition of “Residential Facility” covered by this regulation:**

(a) **Definition in ICPC Regulation No. 3** Section 4.(60) **Residential facility or residential treatment center or group home:** a facility providing a level of 24-hour, supervised care that is beyond what is needed for assessment or treatment of an acute condition. For purposes of the compact, residential facilities do not include institutions primarily educational in character, hospitals, or other medical facilities **(as used in Regulation 4, they are defined by the receiving state).** Residential facilities may also be called by other names in the receiving state, such as those listed under “Type of Care Requested on the ICPC 100A: Group Home Care, Residential Treatment Center, Child Caring Institution, and Institutional Care (Article VI), Adjudicated Delinquent.”

(b) **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.

(c) **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.

4. **Definition of institutional facilities not covered by this regulation:** 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 that 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 the educational institution *does not* do one or more of the following. (Conditions below would require compliance with this Regulation.)

(1) accepts 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 co-curricular school activities, pupil support services, and those services necessary to make it possible for the children to be maintained on a 24-hour residential basis in the aforementioned school program or programs.

(b) **“Hospital or other medical facility”** means an institution for the acutely ill that 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 that 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) **Outpatient Services:** If the treatment and care and other services are entirely out-patient in character, an institution for the mentally ill or developmentally disabled may accept a child for treatment and care without complying with ICPC.

5. **Sending state case documentation for Residential Facility Request:** The documentation provided with a request for prompt handling shall be current and shall include:

(a) **Form ICPC-100A** fully completed (required for all residential facility requests).

(b) **Form ICPC-100B** required for all residential facility requests, if the child is already placed without prior approval in the receiving state.

(c) **Court or other authority to place the child:**

(1) **Delinquent child**—a copy of the court order indicating the child has been adjudicated delinquent stating that equivalent facilities are not available in the sending agency’s jurisdiction and that institutional care in the receiving state is in the best interest of the child and will not produce undue hardship. (See Article VI or Section 2.A above.)

(2) **Public agency child**—For public court jurisdiction cases, the current court order is required indicating the sending agency has authority to place the child or, if authority does not derive from a court order, a written legal document executed in accordance with the laws of the sending state that provides the basis for which the sending agency has authority to place the child and documentation that supervision is on-going or a copy of the voluntary placement agreement, as defined in Section 472(f)(2) of the Social Security Act executed by the sending agency and the child’s parent or guardian.

(3) **Child in the custody of a relative or legal guardian**—a current court order or legal document is required indicating the sending agency has the authority to place the child.

(4) **Parent placement (no court involvement)**—The 100A is required and must be signed by the sending agency with the box checked under legal status indicating the parent has custody or guardianship and any additional documents required by the sending or receiving state.

(d) **Letter of acceptance from the residential facility:** For some receiving states this is a mandatory document for all placement requests, including those submitted by a parent or guardian. It provides the receiving state ICPC office with indication that the residential facility has screened the child as an appropriate placement for their facility.

(e) **A current case history for the child:** (optional for placements requested under 5. (c) (3) and (4)), including custodial and social history, chronology of court involvement, social dynamics and a description of any special needs of the child.

(f) **Service (case) plan:** (optional for placements requested under 5.C(3) and (4))—A copy of the child’s case or service or permanency plan and any supplements to that plan, if the child has been in care long enough for a permanency plan to be required.

(g) **Financial and medical plan:** A written description of the responsibility for payment of the cost of placement of the child in the facility, including the name and address of the person or entity that will be making the payment and the person or entity who will be otherwise financially responsible for the child. It is expected that the medical coverage will be arranged and confirmed between the sending agency and the residential facility prior to the placement.

(h) **Title IV-E eligibility verification:** (not required for parent placements)—An explanation of the current status of the child’s Title IV-E eligibility under the Federal Social Security Act and Title IV-E documentation, if available. Documentation must be provided before placement is approved.

(i) **Placement Disruption Agreement:** Some states may require a signed Placement Disruption Agreement indicating who will be responsible for the return of the child to the sending state if the child disrupts or a request is made for the child’s removal and return to the sending state.

6. **Methods for transmission of documents:** Some or all documents may be communicated by express mail or any other recognized method for expedited communication, including FAX and electronic transmission, if acceptable by both the sending and the receiving state. The receiving state shall recognize and give effect to any such expedited transmission of an ICPC-100A and 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 of any legal documents if it considers them necessary for a legally sufficient record under its laws. All such transmissions must be sent in compliance with state laws and regulations related to the protection of confidentiality.

7. **Decision by receiving state to approve or deny placement resource (100A).**

(a) **Receiving state decision process:** The receiving state ICPC office reviews the child specific information and the current status of the residential facility. The receiving state ICPC office approves or denies the placement based on a determination that “the proposed placement does not appear to be contrary to the interests of the child” (ICPC Article III(d)). The ICPC office may as part of its review process verify that the residential facility is properly licensed and not under an investigation by law enforcement, child protection, or licensing staff for unfit conditions or illegal activities that might place the child at risk of harm.

(1) Receiving state ICPC office may check to make sure the child is an appropriate match for the category of residential facility program.

(2) Receiving state ICPC office may check with the residential facility program to ensure that the request to place the child has been fully reviewed and officially accepted before ICPC approval is granted.

(b) **Time frame for final decision:** Final approval or denial of the placement resource request shall be provided by the receiving state compact administrator in the form of a signed ICPC 100A as soon as practical, but no later than three (3) business days from receipt of the complete request by the receiving state ICPC office. It is recognized that some state ICPC offices must obtain clearances from child protection, residential facility licensing and law enforcement before giving approval for a residential facility placement.

(c) **Expedited communication of decision:** If necessary or helpful to meet time requirements, the receiving state ICPC office may communicate its determination pursuant to Article III(d) to the sending agency’s state Compact Administrator by FAX or other means of electronic transmission, if acceptable to both receiving and sending state. 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 ICPC100A) shall be mailed, sent electronically, if acceptable, or otherwise sent promptly to meet Article III(d) written notice requirements.

(d) **Authority of receiving state to make final decision**: The authority of the receiving state is limited to the approval or denial of the placement resource. The receiving state may approve or deny the placement resource if the receiving state Compact Administrator finds based upon the review of the child specific information and on the review of the current status of the residential facility, “the proposed placement does not appear to be contrary to the interests of the child.” (ICPC Article III.(d))

(e) **Emergency Residential Facility Placement Temporary Decision**: Occasionally residential facility placements need to be made on an emergency basis. In those limited cases, sending and receiving state offices may, with mutual agreement, proceed to authorize emergency placement approval. Such emergency placement decision must be made within one business day or other mutually agreed timeframe, based upon receipt by the receiving state of the ICPC-100A request and any other document required by the receiving state to consider such emergency placement; e.g., a financial medical plan and a copy of a court order or other authority to make the placement. If emergency placement approval is temporarily granted, the formal ICPC placement approval will not be final until there has been full compliance with Sections 5 and 7 of this regulation.

8. **Authority of sending agency**: When the receiving state has approved a placement resource, the sending agency has the final authority to determine whether to use the approved placement resource in the receiving state. The receiving state ICPC-100A approval for placement in a residential facility expires thirty calendar days from the date the 100A was signed by the receiving state. The thirty (30) calendar day timeframe can be extended upon mutual agreement between the sending and receiving state ICPC offices.

9. **Submission of ICPC-100B**: Upon determination by the sending agency to use the approved resource, the sending agency is responsible for filing an ICPC-100B Notice of Placement with the Sending State ICPC office within three (3) business days of the actual placement. That notice is to be submitted to the receiving state ICPC office, who is to forward the ICPC-100B to the residential facility within five (5) business days of receipt of the ICPC-100B.

10. **Supervision Expectations**:

(a) **Residential Facility**: The residential facility is viewed as the agency responsible for the 24-hour care of a child away from the child’s parental home. In that capacity the residential facility is responsible for the supervision, protection, safety, and well-being of the child. The sending agency making the placement is expected to enter into an agreement with the residential facility as to the program plan or expected level of supervision and treatment and the frequency and nature of any written progress or treatment reports.

(b) **Receiving state local child welfare workers and probation staff are not expected to provide any monitoring or supervision** of children placed in residential facility programs. The one exception are those children who may become

involved in an incident or allegation occurring in the receiving state that may involve the receiving state law enforcement, probation, child protection or, ultimately, the receiving state court.

(c) **“Sending” agency making placement:** The frequency and nature of monitoring visits by the sending agency or individual making the placement are determined by the sending agency in accordance with applicable laws.

11. **Return of child to sending state at the request of receiving state:**

(a) **Request to return child to sending state at time of ICPC denial of placement:** If the child is already placed in the receiving state residential facility at the time of the decision, and the receiving state Compact Administrator has denied the placement, then the receiving state Compact Administrator may request the sending state ICPC office to facilitate with the sending agency for the return of the child as soon as possible or propose an alternative placement in the receiving state as provided in Article V(a) of the ICPC. The alternative placement resource must be approved by the receiving state before placement is made. Return of the child shall occur within five (5) business days from the date of notice for removal unless otherwise agreed upon between the sending and receiving state ICPC offices.

(b) **Request to return child to sending state after receiving state ICPC had previously approved placement:** Following approval and placement of the child in the residential facility, if the receiving state Compact Administrator determines that the placement “appears to be contrary to the interests of the child,” then the receiving state Compact Administrator may request that the sending state ICPC office facilitate with the sending agency for the return of the child as soon as possible or propose an alternative placement in the receiving state as provided in Article V(a) of the ICPC. That alternative placement resource must be approved by the receiving state before placement is made. Return of the child shall occur within five (5) business days from the date of notice for removal, unless otherwise agreed upon between the sending and receiving state ICPC offices.

The receiving state ICPC office’s request for removal may be withdrawn if the sending agency arranges services to resolve the reason for the requested removal and the receiving and the sending state Compact Administrators mutually agree to the plan.

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

13. 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 May 4 through 7, 2012; such amendment was approved on May 5, 2012 and is effective as of October 1, 2012.