

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Sheriffs' Education and Training Standards Commission

RULE CITATION: 12 NCAC 10B .0305

DEADLINE FOR RECEIPT: January 10, 2025

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Page 1, Lines 4-9: There are two standards present; good moral character and "Character traits and habits relevant to performance." Only good moral character is defined. What are "character traits and habits relevant to performance?" What standard will be used in determining whether an applicant has these?

Page 1, Line 13: "Prior to submission to the Division" is unclear. Has the applicant not already submitted the F-3? If not, how did the agency determine the F-3 and the background investigation were inconsistent?

Page 1, Line 22: "Statewide" should not be capitalized.

Page 1, Lines 25-30: What does the Commission mean by "acceptable?" Is it required or not? Is it an alternative to (c)(5)(B)? If so,

Page 1, Lines 32-34 Paragraph (D): Shouldn't this be its own paragraph?

Page 1, Lines 35-36 and Page 2, Lines 1-2, Paragraph (E): Shouldn't this be its own paragraph?

Page 2, Line 7: What is a "military records check"?

Page 2, Line 9: How does the investigator "document the results" (Page 1, Line 15) of "finger prints?"

Page 2, Line 27: In which rule is the substantive requirements of the "Release Authorization Form" set forth? Rule .0409 states its is a "commission-approved" form. Using what criteria?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

William W. Peaslee
Commission Counsel

Date submitted to agency: December 23, 2024

1 12 NCAC 10B .0305 is amended as published in 39:08 NCR 484-486 as follows:

2
3 **12 NCAC 10B .0305 BACKGROUND INVESTIGATION**

4 (a) Prior to employment, an agency shall complete a background investigation on all applicants for certification. The
5 investigation shall examine the applicant's character traits and habits relevant to performance as a justice officer and
6 shall determine whether the applicant is of good moral character pursuant to ~~12 NCAC 10B .0301(a)(12)~~, Rule
7 .0301(12) of this Subchapter. This examination includes completion of the Commission's Personal History Statement
8 Form (F-3) and Mandated Background Investigation Form (F-8), ensuring the proper certification and criminal history
9 record check required by each.

10 (b) Prior to the investigation, the applicant shall complete the Commission's Personal History Statement Form (F-3)
11 to provide a basis for the investigation. The agency shall certify that the results of the background investigation are
12 consistent with the information provided by the applicant on the Personal History Statement Form (F-3) and give the
13 applicant the opportunity to update the Personal History Statement Form (F-3) prior to submission to the Division.

14 (c) The agency shall utilize an investigator with ~~prior~~ experience or training in conducting background investigations.
15 The investigator shall document the results of the investigation on the Mandated Background Investigation Form (F-
16 8) ~~and shall include in the report of investigation; which shall include information concerning the following:~~

17 (1) ~~biographical data;~~ information;

18 (2) ~~family data;~~ family;

19 (3) ~~scholastic data;~~ education;

20 (4) ~~employment data;~~ employment;

21 (5) ~~criminal history data;~~ including:

22 (A) a Statewide search of the Administrative Office of the Courts (AOC) computerized system;

23 (B) a search of the national criminal record database accessible through the Division of
24 Criminal Information (DCI) network;

25 (C) where the applicant resided in a state other than North Carolina, a records check through
26 the Division of Criminal Information (DCI) using the Out-of-State Computer Name Query
27 (IQ) shall be acceptable provided the state will respond to an Out-of-State Computer Name
28 Query. If not, then either a records check response from both the municipality, city, or
29 town, where the applicant resided and the county-wide Sheriff's Office or Police
30 Department obtained by mail, facsimile, or electronic mail, or a records check from the
31 county-wide or state-wide record holding agency shall be acceptable.

32 (D) if a criminal record is found, criminal records shall be obtained from the Clerk of Court, a
33 law enforcement agency within the jurisdiction, or other governmental entity that maintains
34 or has access to criminal records for the jurisdiction;

35 (E) records checks shall be performed on each name by which the applicant for certification
36 has been known since obtaining the age of majority. If the applicant has had an official

name change that occurred after the applicant reached the age of majority, then a copy of the legal document effecting the name change shall be obtained by the employing agency;

(6) military service history. If the applicant had prior military service, the background investigation shall include a copy of the applicant's DD214, Certificate of Release from Active Duty, that shows the characterization of discharge for each discharge that occurred and military discipline received, if any. If the DD214 indicates a discharge characterization of any type other than Honorable, then a military records check shall also be required;

(7) credit history;

(8) fingerprints;

(9) driving history including a search of:

(A) the North Carolina Division of Motor Vehicles, if the applicant has ever possessed a driver's license in North Carolina; and

(B) an out-of-state- motor vehicles check obtained through the Division of Criminal Information (DCI) or obtained through another state's division of motor vehicles agency for any state in which the applicant held a license;

(10) prior applications to law enforcement agencies;

(11) civil court history;

(12) applicant interview;

~~(6)~~(13) interviews with the applicant's references; and

~~(7)~~(14) a summary of the investigator's findings and conclusions regarding the applicant's moral character known to the agency or listed on the applicant's Personal History Statement (F-3). This documentation shall be included with all other documentation required in 12 NCAC 10B .0408.

(d) The Mandated Background Investigation Form (F-8) shall be completed within 120 days of employment. If the investigator signs the form more than 120 days prior to the applicant's date of employment, then the investigator will certify with a notarized statement on their agency letterhead that all information on the form has been updated or a new F-8 shall be completed.

~~(d)~~(e) The employing agency shall include a Release Authorization Form signed and notarized by the applicant that authorizes the Division staff to obtain documents and records pertaining to the applicant for certification that may be required in order to determine whether certification may be granted.

~~(e)~~(f) The employing agency shall provide to the Division staff the results of a completed and processed form AOC-CR-280, Law Enforcement Application for Verification of Expunction under G.S. 15A-145.4, 15A-145.5, 15A-145.6, 15A-145.8A or 15A-146, for each applicant presented for certification. The AOC-CR-280 form is available on the Commission's website at no cost <https://ncdoj.gov/law-enforcement-training/sheriffs/all-commision-forms-publications/>.

(g) The applicant's notarized Personal History Statement (F-3) shall be completed within 120 days of employment. If the form is completed more than 120 days prior to the applicant's date of employment, the Personal History

1 Statement (F-3) shall be updated by the applicant, who shall initial and date all changes no more than 120 days prior
2 to employment or a new Personal History Statement (F-3) shall be completed.

3
4 *History Note: Authority G.S. 17E-7;*
5 *Eff. January 1, 1989;*
6 *Amended Eff. January 1, 2010; January 1, 2009; January 1, 2007; August 1, 2002; January 1, 1994;*
7 *January 1, 1993; January 1, 1992; January 1, 1990;*
8 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
9 *2018;*
10 *Amended Eff. February 1, 2025; April 1, 2023; January 1, 2023; June 1, 2021.*
11
12

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Sheriffs' Education and Training Standards Commission

RULE CITATION: 12 NCAC 10B .0408

DEADLINE FOR RECEIPT: January 10, 2025

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Page 1, Line 19: What sort of "documentation" is being required?

Page 1, Line 32: It is unclear what "details" the Commission seeks.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

William W. Peaslee
Commission Counsel

Date submitted to agency: December 23, 2024

12 NCAC 10B .0408 is amended as published in 39:08 NCR 486-488 as follows:

12 NCAC 10B .0408 VERIFICATION OF RECORDS TO DIVISION

(a) ~~Prior to issuing certification of each justice officer, for the purpose of verifying compliance with these Rules, Before the Division will issue certification of a justice officer, the employing agency shall submit to the Division, along with the Report of Appointment (F-4), Division~~ the following documents:

- ~~(1) documentation consisting of diplomas, school transcripts, or certificates from the educational institution attended by the applicant confirming the applicant's compliance with the educational requirement pursuant to Rule .0302(a) of this Subchapter; the Report of Appointment (F-4);~~
- ~~(2) certified a copy of the applicant's Oath of Office, if applying for certification as a deputy sheriff;~~
- ~~(3) the applicant's Medical History Statement (F-1);~~
- ~~(4) the applicant's Medical Examination Report (F-2);~~
- ~~(5) the applicant's unredacted Psychological Screening Examination form (F-2C);~~
- ~~(6) the applicant's notarized Personal History Statement (F-3);~~
- ~~(7) the Commission mandated Background Investigation Form (F-8) with all accompanying documentation set out in Rule .0305 of this Subchapter;~~
- ~~(8) documentation of negative results on a drug screen pursuant to Rule .0301(6) of this Subchapter;~~
- ~~and~~
- ~~(9)(3)~~ documentation of the applicant's compliance with the probationary certification requirements pursuant to ~~Rule .0403(b)~~ Rule .0403(f) of this Section, if the applicant is a deputy sheriff or a detention officer and is authorized by the ~~agency~~ sheriff to carry a ~~firearm~~. firearm;
- ~~(4)~~ the results of the fingerprint criminal history records check of the applicant pursuant to Rule .0303 of this Subchapter;
- ~~(5)~~ the applicant's processed Administrative Office of the Courts' AOC-CR-280 form as set forth in Rule .0305 of this Subchapter;
- ~~(6)~~ the applicant's Release Authorization as set forth in Rule .0305 of this Subchapter;
- ~~(7)~~ copies of court documentation and final disposition from the Clerk of Court in the county of adjudication of all criminal offenses for which the applicant was charged, arrested, pleads no contest, pleads guilty, or of which the applicant was found guilty. This shall include traffic offenses identified as a class B misdemeanor as defined in Rule .0103(17)(b) of this Subchapter and offenses of driving under the influence (DUI) or driving while impaired (DWI);
- ~~(8)~~ a notarized written statement from the applicant providing details of all criminal offenses identified pursuant to Subparagraph (7) of this Paragraph; and
- ~~(9)~~ the applicant's Personal History Statement (F-3) if the applicant reports any charges as referenced in Subparagraph (a)(7) of this Rule or any expunged charges pursuant to Subparagraph (a)(5) of this Rule.

(b) Compliance with this Rule is waived, with the exception of the requirements of ~~Subparagraph (a)(9)~~
Subparagraphs (a)(1), (2), and (3) of this Rule for officers applying for dual certification as defined in Rule .0103(9)
of this Subchapter provided that:

(1) the officer holds a valid certification issued by this Commission as either a deputy sheriff, detention
officer, or telecommunicator, with the employing agency requesting dual certification; and

(2) the officer has continuously been employed as a justice officer with the agency.

~~(c) Where the Division has previously received a complete Background Investigation Form (F 8) with all
accompanying documentation set out in Rule .0305 of this Subchapter in connection with another application for
certification to this Commission, the Background Investigation need only be updated from the date of the last
background investigation on file in the Division with documentation of compliance with Subparagraphs (f)(1), (2),
and (3) of this Rule, and a certified criminal record check from each jurisdiction in which the person has resided in
and for each name the applicant has used since the initial Background Investigation (Form F 8) was completed. The
criminal record check shall be from the Clerk of Court, a law enforcement agency within the jurisdiction, or other
governmental entity that maintains or has access to criminal records for the jurisdiction. The criminal record check
shall be certified by the entity providing the record with either a raised seal or other visible verification that the
document is an authentic copy. In addition:~~

~~(1) if the applicant has been issued an out of state driver's license by a state other than North Carolina
since obtaining certification, then compliance with Subparagraph (f)(4) of this Rule, is required; and~~

~~(2) if the applicant has resided in a state other than North Carolina since obtaining certification, a
certified criminal record check from each jurisdiction shall be provided, if available. The criminal
record check shall be from the Clerk of Court, a law enforcement agency within the jurisdiction, or
other governmental entity that maintains or has access to criminal records for the jurisdiction. The
criminal record check shall be certified by the entity providing the record with either a raised seal
or other visible verification that the document is an authentic copy.~~

~~(d) If the Personal History Statement (F 3) required in Subparagraph (a)(6) of this Rule was completed more than 120
days prior to the applicant's date of appointment, the Personal History Statement (F 3) shall be updated by the
applicant, who shall initial and date all changes, or a new Personal History Statement (F 3) shall be completed.~~

~~(e) If the Mandated Background Investigation Form (F 8) required in Subparagraph (a)(7) of this Rule was completed
more than 120 days prior to the applicant's date of appointment, the Mandated Background Investigation Form (F 8)
shall be updated by the background investigator who shall initial and date all changes or a new Mandated Background
Investigation Form (F 8), must be completed.~~

~~(f) The Background Investigation Form (F 8) shall have the following records checks attached to it when submitted:~~

~~(1) a Statewide search of the Administrative Office of the Courts (AOC) computerized system;~~

~~(2) the national criminal record database accessible through the Division of Criminal Information (DCI)
network;~~

~~(3) the North Carolina Division of Motor Vehicles, if the applicant has ever possessed a driver's license
issued in North Carolina;~~

1 (4) ~~an out of state motor vehicles check obtained through the Division of Criminal Information or~~
2 ~~obtained through another state's division of motor vehicles agency for any state in which the~~
3 ~~applicant held a license within the 10 year period prior to the date of appointment; and~~

4 (5) ~~the applicant's Administrative Office of the Courts' AOC CR 280 form as set forth in Rule .0305 of~~
5 ~~this Subchapter.~~

6 (g) ~~The Background Investigation shall include records checks from jurisdictions where the applicant resided within~~
7 ~~the 10 year period prior to the date of appointment and where the applicant attended high school, as follows:~~

8 (1) ~~where the applicant resided in jurisdictions in North Carolina, Clerk of Court records checks shall~~
9 ~~be acceptable;~~

10 (2) ~~where the applicant resided in another country:~~

11 (A) ~~an Interpol records check shall be acceptable provided the country is a member of Interpol;~~

12 (B) ~~if the applicant was in the United States military, a military records check shall be~~
13 ~~acceptable; or~~

14 (C) ~~if neither an Interpol or United States military record check are available, subject to the~~
15 ~~limits of United States and North Carolina law, the employing agency shall make a good~~
16 ~~faith effort to obtain a records check from the national law enforcement authority, judicial~~
17 ~~authority, or other governmental entity charged with maintaining criminal records for the~~
18 ~~country where the applicant resided and submit the record check if available. If the~~
19 ~~employing agency cannot obtain the records check it shall submit documentation consisting~~
20 ~~of the correspondence with the foreign governmental entity and a written report from the~~
21 ~~assigned background investigator explaining the employing agency's efforts to obtain the~~
22 ~~record and why the record could not be obtained. The following steps are required to show~~
23 ~~a good faith effort to obtain the record check:~~

24 (i) ~~contacting and requesting the record from the foreign governmental entity or~~
25 ~~entities the employing agency believes are likely to possess the records by mail,~~
26 ~~telegram, telephone, facsimile or electronic mail;~~

27 (ii) ~~if referred to another foreign governmental entity, contacting and requesting the~~
28 ~~record from that foreign governmental entity; and~~

29 (iii) ~~if requested, providing and submitting any formal requests, forms, or~~
30 ~~documentation required by the foreign governmental entity before it will provide~~
31 ~~the record check;~~

32 (3) ~~where the applicant resided in a state other than North Carolina, a records check through the Division~~
33 ~~of Criminal Information using the Out of State Computer Name Query (IQ) shall be acceptable~~
34 ~~provided the state will respond to an Out of State Computer Name Query. If not, then either a~~
35 ~~records check response from both the municipality, city, or town where the applicant resided and~~
36 ~~the county wide Sheriff's Office or Police Department obtained by mail, telegram, facsimile, or~~

1 electronic mail, or a records check from the county wide or state wide record holding agency shall
2 be acceptable.

3 (h) If the applicant had prior military service, the Background Investigation shall also include a copy of the applicant's
4 DD214, Certificate of Release from Active Duty, that shows the characterization of discharge for each discharge that
5 occurred and military discipline received, if any. If the DD214 indicates a discharge characterization of any type other
6 than Honorable, then a military records check shall also be required.

7 (i) All records checks shall be performed on each name by which the applicant for certification has ever been known
8 since the age of 12. If the applicant has had an official name change that occurred after the applicant had reached the
9 age of 12 years of age, then a copy of the legal document effecting the name change with either a raised seal or other
10 visible verification that the document is an authentic copy from the governmental entity that issued the document or
11 is charged with maintaining the record of the document shall be submitted by the employing agency.

12 (j) The employing agency shall forward to the Division certified copies of any criminal charges and dispositions
13 known to the agency or listed on the applicant's Personal History Statement (F 3). The employing agency shall identify
14 any charges or other violations on the records checks required in Paragraph (f) of this Rule that are for individuals
15 other than the applicant for certification and explain why the employing agency believes another individual is
16 responsible for the charge or violation.

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18 History Note: Authority G.S. 17E-4; 17E-7;
19 Eff. January 1, 1989;
20 Recodified from 12 NCAC 10B .0407 Eff. January 1, 1991;
21 Amended Eff. January 1, 1996; January 1, 1994; January 1, 1993; January 1, 1992;
22 Temporary Amendment Eff. March 1, 1998;
23 Amended Eff. August 1, 2002; August 1, 1998;
24 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,
25 2018;
26 Amended Eff. February 1, 2025; September 1, 2024; February 1, 2024; December 1, 2023; April 1,
27 2023; February 1, 2023; January 1, 2023.

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Sheriffs' Education and Training Standards Commission

RULE CITATION: 12 NCAC 10B .0409

DEADLINE FOR RECEIPT: January 10, 2025

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Page 1, Line 15: "Psychological Screening Examination" should not be capitalized.

Page 1, Line 18: Consider: Would "Rule .0410 of this Subchapter" not be more direct?

Page 1, Lines 33 and 35: "Certification records" is not a defined term. Either reference the term in (a) or reference (a) in (b) and (c).

Page 1, Lines 35-36: Explain why this paragraph is necessary.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

William W. Peaslee
Commission Counsel

Date submitted to agency: December 23, 2024

12 NCAC 10B .0409 is amended as published in 39:08 NCR 488 as follows:

12 NCAC 10B .0409 EMPLOYING AGENCY RETENTION OF CERTIFICATION RECORDS

(a) ~~Each~~ In addition to the records required to be submitted to the Division pursuant to Rule .0408 of this Section, the employing agency shall maintain original documentation of the following certification records: place in the appropriate justice officer's personnel file the official notification of either probationary or general certification. Such files shall be available for examination at any reasonable time by representatives of the Commission for the purpose of verifying compliance with these Rules. Each personnel file shall also contain copies of the original documentation submitted to the Division in accordance with 12 NCAC 10B .0408.

(1) documentation consisting of diplomas, school transcripts, or certificates from the educational institution attended by the applicant confirming the applicant's compliance with the educational requirement pursuant to Rule .0302 of this Subchapter;

(2) the applicant's Medical History Statement (F-1) pursuant to Rule .0304 of this Subchapter;

(3) the applicant's Medical Examination Report (F-2) pursuant to Rule .0304 of this Subchapter;

(4) the applicant's unredacted Psychological Screening Examination as required by G.S. 17E-7;

(5) the applicant's notarized Personal History Statement (F-3) pursuant to Rule .0305 of this Subchapter;

(6) documentation of the applicant's negative results on a drug screen pursuant to Rule .0301(6) of this Subchapter; and

(7) the Mandated Background Investigation Form (F-8) with all accompanying documentation as set out in Rule .0305 of this Subchapter.

~~(b) Compliance with this Rule is waived, with the exception of the requirements of 12 NCAC 10B .0408(a)(8), for officers applying for dual certification as defined in 12 NCAC 10B .0103(9) provided that:~~

~~(1) the officer holds a valid certification as a deputy sheriff, detention officer, or telecommunicator with the employing agency requesting dual certification; and~~

~~(2) the officer has not had a break in service since initial certification with the employing agency requesting dual certification.~~

~~(c) Where the Division has previously received a complete Background Investigation Form (F-8) with all accompanying documentation set out in 12 NCAC 10B .0305 in connection with another application for certification to this Commission, and a subsequent hiring agency requests a copy of such documentation, the Division shall comply with that request upon submission of a commission approved Release Authorization Form for Law Enforcement Agencies.~~

(b) The certification records shall be available for examination at any time by representatives of the Division for the purpose of verifying compliance with the rules of this Subchapter.

~~(d)(c)~~ All information certification records maintained pursuant to the requirements of this Rule shall be subject to all state and federal laws governing confidentiality.

1 *History Note:* *Authority G.S. 17E-4;*
2 *Eff. January 1, 1989;*
3 *Recodified from 12 NCAC 10B .0408 Eff. January 1, 1991;*
4 *Amended Eff. January 1, 1996; January 1, 1994; January 1, 1993; January 1, 1991;*
5 *Temporary Amendment Eff. March 1, 1998;*
6 *Amended Eff. August 1, 2002; August 1, 1998;*
7 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
8 *2018;*
9 *Amended Eff. February 1, 2025; December 1, 2023.*