

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

AGENCY: North Carolina Sheriffs' Education and Training Standards Commission

RULE CITATION: 12 NCAC 10B .0704 Responsibilities: School Directors, Detention
Course Officers

DEADLINE FOR RECEIPT:

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. 12 NCAC 10B .0704 (a)(3),(4),(5),(6) and particularly (7) appear to cross the line between setting a standard or the basis for certification, and managing the employee of the school.

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

Generally, to the Rule: The agency has the authority to establish standards and certification for schools, programs, courses, and teachers pursuant to G.S. 17E-4. As written, this Rule directs the "school director" to accomplish certain tasks. Explain the agency's authority to so do.

(a) Page 1, Line 6: Consider capitalizing "school director" as the agency has done in some, but not all, rules, and make a reference to Rule .0703(b) as this is an undefined term.

(a) (1), (A), Page 1, Line 11: The Rule states "regularly schedule holidays". By whom are these holidays scheduled? The School Director? Or does the agency intend State Holidays pursuant to G.S. 103-4?

(a) (1), (A), Page 1, Line 14: Change "may" to "shall".

(a) (1), (A), Page 1, Line 16: "State of Emergency" is capitalized but this is an undefined term. Does the agency intend "pursuant to Chapter 166A of the North Carolina General Statutes"?

(a)(2), Page 1, Line 17: Strike "properly" and consider adding "pursuant to 12 NCAC 10B .0903."

(a) (2)(A), Page 1, Line 19 and 20: Consider striking "single" as it appears to be unnecessary. Also consider changing "individual" to "instructor". What does the agency mean by "one delivery"? This is vague.

(a) (2)(B), Page 1 Line 21-24: Consider capitalizing "school director" as the agency has done in some, but not all, rules. To whom and how must the school director "show"

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Date submitted to agency: June 2, 2022

“exceptional or emergency circumstance”? What criteria will be used to determine whether an “exceptional or emergency circumstance” exists? How does an instructor become “certified to instruct more than 35 percent of the total hours of the curriculum”? Consider replacing “individual” with “35-percent-instructional”.

(a) (3), Page 1, Line 27: Consider citing the rule by which the Commission approved the course outline. What is the “necessary additional information”?

(a) (4), Page 1, Line 29: Does a rule exist requiring the instructor submit a lesson plan and other instructional materials? If so, consider citing it here.

(a) (5), Page 1, Line 31: What does the agency intend by “appropriate” aids, materials, etc.? Does the Detention Offices Certification Course Management Guide require certain “topic areas” or aids, materials, etc.? Consider striking “as” if it does not change the intention of the agency.

Page 2, Lines 5-7, and (8), Page 2, Line 10: What is a Form F-7A? What information is required on a Form F-7A? Any information which is required to be submitted must be pursuant to an administrative rule. Please see G.S. 150B-2(8a).

(a) (7), Page 2, Line 8: Please explain why this requirement is reasonably necessary pursuant G.S. 150B-21.9(3) and the agency’s authority to require the school director to so do.

(a) (8), Page 2, Line 9-11: How should the school director submit the documents? By mail to the address in 12 NCAC 10B .0101?

(a) (8)(B), Page 2, Line 18: Consider adding “any” between “of” and “deficiency”.

(a) (9), Page 2, Line 21: What criteria will be used in determining whether “the training offered is as effective as possible” and who will make the judgement? If this cannot be defined, consider removing this from the Rule.

(a) (10), Page 2, Line 22-24: Consider a comma after “monitor” and “monitor”. “Probationary instructor” does not appear to be a defined term and is vague. Consider referencing a rule. What criteria will be used to evaluate the probationary instructors’ suitability?

(a) (10), Page 2, Line 28: This is unclear. The instructor must hold a certification equivalent to who? The School Director?

(a) (10), Page 2, Line 29: If the Commission is requiring the use of one of its forms, the contents or substantive requirements of which must be prescribed by rule or statute. Please see G.S. 150B-2(8a)(d).

(a) (10), Page 2, Line 30: What criteria shall be considered in determining the school director’s recommendation?

(a) (10), Page 2, Line 32: “Sufficient” is a vague and ambiguous.

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(a) (10), Page 2, Lines 32 and 33: “Instructional Development Model” is an undefined term and does not appear in 12 NCAC 09B .0209.

(a) (10), Page 2, Line 34: Is “delivery” the instruction provided? What does the agency mean by “objective based”? What does the agency mean by “documented by” the lesson plan? Does it mean that the instruction/delivery shall be as set forth in the lesson plan?

(a) (10), Page 2, Line 37: Are student evaluations required? If so, by what rule? Do the evaluations have criteria?

(a) (11), Page 3, Line 1: Consider placing a comma after each “monitor”. Is the word “other” necessary?

(a) (11), Page 3, Lines 2-3: What criteria will be used in the evaluations of the instructors? Add an “a” between “holding” and “General”.

(a) (11), Page 3, Line 7: “...holding the equivalent type of certification” to whom? The school director or the limited lecturer.

(a) (11), Page 3, Line 8: If the Commission is requiring the use of one of its forms, the contents or substantive requirements of which must be prescribed by rule or statute. Please see G.S. 150B-2(8a)(d).

(a) (11), Page 3, Line 10-15: “Sufficient” is a vague and ambiguous term. “Instructional Development Model” is an undefined term and does not appear in 12 NCAC 09B .0209.

(a) (11), Page 3, Line 12: Is “delivery” the instruction provided? What does the agency mean by “objective based”? What does the agency mean by “documented by” the lesson plan? Does it mean that the instruction/delivery shall be as set forth in the lesson plan?

(a) (11), Page 3, Line 15: Are student evaluations required? If so, by what rule? Do the evaluations have criteria?

(a)(13), Page 3, Line 19: “Tests” of whom or what? What do the terms “appropriate”, “necessary”, and “various intervals” mean? In other words, these are subjective terms. Is there an objective standard understandable by the regulated public? Is this not part of the lesson plan?

(a)(15), Page 3, Lines 23-26: What is the agency’s authority to require a school to make its facilities available for the administration of the Commission’s certification test?

(a) (16), Page 3, Lines 27-29: Consider: “Submit to the Commission a Post-Delivery Report of Training Course Presentation (Form 7-B) within ten days of receiving the Commission’s Report of Examination Scores.” If the Commission is requiring the use of one of its forms, the contents or substantive requirements of which must be prescribed by rule or statute. Please see G.S. 150B-2(8a)(d).

(b), Page 3, Lines 30-33: As written, the school director should be available at all times. Please explain why this is necessary pursuant to G.S. 150B-21.9(a)(3).

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

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Commission Counsel
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Permanent Amendment for Publication in the NCAC

1 **12 NCAC 10b .0704 Is Amended As Published In Volume 36, Issue 15, Pages 1292-1296 of the North Carolina**
2 **Public Register as follows:**

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4 **12 NCAC 10B .0704 RESPONSIBILITIES: SCHOOL DIRECTORS, DETENTION OFFICER COURSE**

5 (a) In planning, developing, coordinating, and delivering each commission-certified Detention Officer Certification
6 Course, the school director shall:

7 (1) Formalize and schedule the course curriculum in accordance with the curriculum standards
8 established by the rules in this Chapter.

9 (A) The Detention Officer Certification Course shall be presented with a minimum of 40 hours
10 of instruction each week during consecutive calendar weeks until course requirements are
11 completed, with the exception of weeks in which there are regularly scheduled holidays.

12 (B) In the event of exceptional or emergency circumstances, the Director shall, upon written
13 finding of justification, grant a waiver of the minimum hours requirement.

14 (C) the Director may allow additional breaks in a specific course delivery when the Director
15 determines that doing so is necessary based on circumstances related to a lawfully declared
16 State of Emergency.

17 (2) Select and schedule instructors who are properly certified by the Commission. The selecting and
18 scheduling of instructors is subject to special requirements as follows:

19 (A) No single individual may be scheduled to instruct more than 35 percent of the total hours
20 of the curriculum during any one delivery except as set forth in Part (a)(2)(B) of this Rule.

21 (B) Where the school director shows exceptional or emergency circumstances and the school
22 director documents that an instructor is properly certified to instruct more than 35 percent
23 of the total hours of the curriculum, the Director of the Division shall grant written approval
24 for the expansion of the individual instructional limitation.

25 (C) The appropriate number of instructors for specific topic areas shall be scheduled as required
26 in 12 NCAC 10B .0703.

27 (3) Provide each instructor with a commission-approved course outline and all necessary additional
28 information concerning the instructor's duties and responsibilities.

29 (4) Review each instructor's lesson plans and other instructional materials for conformance to the rules
30 in this Chapter and to minimize repetition and duplication of subject matter.

31 (5) Arrange for the timely availability of appropriate audiovisual aids and materials, publications,
32 facilities and equipment for training in all topic areas as required in the "Detention Officer
33 Certification Course Management Guide".

34 (6) Develop, adopt, reproduce, and distribute any supplemental rules, regulations, and requirements
35 determined by the school to be necessary or appropriate for:

36 (A) Effective course delivery;

- 1 (B) Establishing responsibilities and obligations of agencies or departments employing course
- 2 trainees; and
- 3 (C) Regulating trainee participation and demeanor and ensuring trainee attendance and
- 4 maintaining performance records.

5 A copy of such rules, regulations and requirements shall be submitted to the Director as an attachment to the
6 Pre-Delivery Report of Training Course Presentation, Form F-7A. A copy of such rules shall also be given to each
7 trainee and to the sheriff of each trainee's employing agency at the time the trainee enrolls in the course.

- 8 (7) If appropriate, recommend housing and dining facilities for trainees.
- 9 (8) Not less than 30 days before commencing delivery of the course, submit to the Commission a
- 10 Pre-Delivery Report of Training Course Presentation (Form F-7A) along with the following
- 11 attachments:
- 12 (A) A comprehensive course schedule showing arrangement of topical presentations and
- 13 proposed instructional assignments;
- 14 (B) A copy of any rules, regulations, and requirements for the school and, when appropriate,
- 15 completed applications for certification of instructors. The Director shall review the
- 16 submitted Pre-Delivery Report together with all attachments to ensure that the school is in
- 17 compliance with all commission rules; if school's rules are found to be in violation, the
- 18 Director shall notify the school director of deficiency, and approval shall be withheld until
- 19 all matters are in compliance with the Commissions' rules.
- 20 (9) Administer the course delivery in accordance with the rules in this Chapter and ensure that the
- 21 training offered is as effective as possible.
- 22 (10) Monitor or designate a certified instructor to monitor the presentations of all probationary instructors
- 23 during course delivery and prepare written evaluations on their performance and suitability for
- 24 subsequent instructional assignments. A person holding General Instructor Certification under the
- 25 Criminal Justice Education and Training Standards Commission may evaluate instructors teaching
- 26 any lecture portion of the course. However, if a Limited Lecturer is evaluated during the practical
- 27 portion of a block of instruction, he/she must be evaluated by either the School Director or another
- 28 instructor holding the equivalent type of certification. These evaluations shall be prepared on
- 29 commission forms and forwarded to the Division at the conclusion of each delivery. Based on this
- 30 evaluation the school director shall recommend approval or denial of requests for Detention Officer
- 31 Instructor Certification, Limited Lecturer Certification or Professional Lecturer Certification. The
- 32 observations shall be of sufficient duration to ensure the instructor is using the Instructional System
- 33 Development model, as taught in Criminal Justice Instructor Training set out in 12 NCAC 09B
- 34 .0209, and that the delivery is objective based, documented by and consistent with a Commission-
- 35 approved lesson plan. For each topic area, the school director's or designee's evaluation shall be
- 36 based on the course delivery observations, the instructor's use of the approved lesson plan, and the
- 37 results of the students evaluations of the instructor.

- 1 (11) Monitor or designate a certified instructor to monitor the presentations of all other instructors during
2 course delivery and prepare written evaluations on their performance and suitability for subsequent
3 instructional assignments. A person holding General Instructor Certification under the Criminal
4 Justice Education and Training Standards Commission may evaluate instructors teaching any lecture
5 portion of the course. However, if a Limited Lecturer is evaluated during the practical portion of a
6 block of instruction, he/she must be evaluated by either the School Director or another instructor
7 holding the equivalent type of certification. Instructor evaluations shall be prepared on commission
8 forms in accordance with the rules in this Chapter. These evaluations shall be kept on file by the
9 school for a period of three years and shall be made available for inspection by a representative of
10 the Commission upon request. The observations shall be of sufficient duration to ensure the
11 instructor is using the Instructional System Development model, as taught in Criminal Justice
12 Instructor Training set out in 12 NCAC 09B .0209, and that the delivery is objective based,
13 documented by and consistent with a Commission-approved lesson plan. For each topic area, the
14 school director's or designee's evaluation shall be based on the course delivery observations, the
15 instructor's use of the approved lesson plan, and the results of the students evaluations of the
16 instructor.
- 17 (12) Ensure that any designated certified instructor who is evaluating the instructional presentation of
18 another holds certification in the same instructional topic area as that being taught.
- 19 (13) Administer or designate a person to administer appropriate tests as determined necessary at various
20 intervals during course delivery.
- 21 (14) Maintain direct supervision, direction, and control over the performance of all persons to whom any
22 portion of the planning, development, presentation, or administration of a course has been delegated.
- 23 (15) During a delivery of the Detention Officer Certification Course, make available to authorized
24 representatives of the Commission three hours of scheduled class time and classroom facilities for
25 the administration of a written examination to those trainees who have satisfactorily completed all
26 course work.
- 27 (16) Not more than ten days after receiving from the Commission's representative the Report of
28 Examination Scores, submit to the Commission a Post-Delivery Report of Training Course
29 Presentation (Form 7-B).

30 (b) In addition to the requirements in 12 NCAC 10B .0704(a), the school director shall be readily available to students
31 and Division staff at all times during course delivery by telephone, pager, or other means. The means, and applicable
32 numbers, shall be filed with the commission-certified training delivery site and the Division prior to the beginning of
33 a scheduled course delivery.

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35 *History Note: Authority G.S. 17E-4;*
36 *Eff. January 1, 1989;*

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*Amended Eff. January 1, 2009; January 1, 2006; January 1, 2005; August 1, 1998; January 1, 1996;
January 1, 1994; January 1, 1992;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,
2018.*

Amended Eff. August 1, 2022