

RRC STAFF OPINION

PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.

AGENCY: North Carolina Sheriffs' Education and Training Standards Commission

RULE CITATION: 12 NCAC 10B .0704

RECOMMENDED ACTION:

- Approve, but note staff's comment
- Object, based on:
 - Lack of statutory authority
 - Unclear or ambiguous
 - Unnecessary
 - Failure to comply with the APA
- Extend the period of review

COMMENT:

I.

Pursuant to G.S. 17E-4, the agency has the authority to “establish minimum standards for the certification of training schools and programs or courses of instruction”. The agency also has authority to “certify, pursuant to the standards that it has established for the purpose, training schools and programs or courses of instruction”.

As written, this Rule prescribes the employment responsibilities of a specific employee of each educational institution, the “School Director”¹. The Rule states, “In planning, developing, coordinating, and delivering each commission certified Detention Officer Certification Course, **the School Director shall: ...” (emphasis added).**

¹ PURSUANT TO 12 NCAC 10B .0703, THE EXECUTIVE OFFICERS OF THE INSTITUTION SPONSORING THE TRAINING COURSE HAVE PRIMARY RESPONSIBILITY FOR THE ADMINISTRATION OF THE OF THE SCHOOL AND COMPLIANCE WITH THE RULES OF SECTION .600 OF 12 NCAC 10B. THE EXECUTIVE OFFICERS ARE ALSO PRESCRIBED WITH APPOINTING A “SCHOOL DIRECTOR”.

William W. Peaslee
Commission Counsel

Pursuant to the Rule, the agency prescribes the job duties of an institutional employee. The agency is not directing one of its own staff but rather an employee of another entity. The undersigned requested the agency explain its authority in this regard in the "Request for Changes". The agency did not respond to that inquiry.

The Rule attempts to go beyond the mere establishment of standards for and certification of the educational institutions. Rather than directing the institution to accomplish certain tasks and ensure institutional compliances, the Rule directs a specific employee of the institution to so do.

For example, 12 NCAC 10B .0704(a)(2)(b) directs the "School Director" to provide each instructor with materials and information. Here the responsibility is not on the institution, but rather upon one of its employees. What if the materials were provided to the instructors but it was not by the hand, plan, or direction of the School Director? By the plain language of the Rule, this would be a violation. It is one thing to prescribe that the institution must provide materials and information to instructors. Prescribing which of the institution's employees is used to accomplish this task is very different.

The statute is intended to empower the agency with the authority to set standards for the educational institutions, not manage them. While the standards imposed upon the institution would impact the institution's employees and their assignments, it would be the managerial prerogative of the institution to determine how the standards are attained. Here the agency attempts to inject itself into the internal management of the institution's employees. There is no authority for the agency so do.

In short, the agency has authority to establish standards for certification, but it lacks authority to prescribe the institution's allocation of non-instructional human resources used to attain those standards.

This issue can be easily resolved by prescribing compliance to the standards upon the institutions directly.

II.

Pursuant to G.S. 150B-2(8a) d., a form does not fall under the definition of a "Rule" if the contents and substantive requirements of the form are prescribed by rule or statute.

William W. Peaslee
Commission Counsel

As written, 12 NCAC 10B .0704 requires the submission of Form F-7A (Pre-Delivery Report of Training Course Presentation).² 12 NCAC 10B .0704 does not prescribe the contents or substantive requirements of Form F-7A. A review of Subchapter 10A fails to reveal the contents or substantive requirements of Form F-7A. 12 NCAC 10B .0704 does not reference any other subchapter or statute which prescribes the contents or substantive requirements of Form F-7A.

As written, 12 NCAC 10B .0704 requires the submission of Form 7-B (Post-Delivery Report of Training Course Presentation).³ 12 NCAC 10B .0704 does not prescribe the contents or substantive requirements of Form 7-B. A review of Subchapter 10A fails to reveal the contents or substantive requirements of Form 7-B. 12 NCAC 10B .0704 does not reference any other subchapter or statute which prescribes the contents or substantive requirements of Form 7-B.

Accordingly, the agency has failed to comply with the Administrative Procures Act by requiring the regulated public to use forms without adopting the forms or adopting a rule prescribing the contents or substantive requirements thereof.

III.

G.S. 17E-4(4), which the agency cites as its authority in this instance, authorizes the agency to, “Establish minimum standards for the certification of training schools and programs or courses of instruction that are required by this Chapter.”

12 NCAC 10B .0704(a)(7) requires the “School Director” to “if appropriate, recommend housing and dining facilities”. Notwithstanding the objection raised in section (I.) of this staff opinion, this subparagraph exceeds the agency’s authority pursuant to G.S. 150B-21.9(a)(1) as housing and dining do not fall within “schools, programs and courses of instruction”. Assuming *arguendo* that it is within the agency’s authority, the requirement is unclear and ambiguous pursuant to G.S. 150B-21.9(a)(2).

12 NCAC 10B .0704(a)(14) requires the “School Director” to make available to the agency facilities “for the administration of a written examination to those trainees who have satisfactorily completed

² SEE 12 NCAC 10B .0704, PAGE 2, LINE 13.

³ SEE 12 NCAC 10B .0704, PAGE 3, LINE 35.

all course work.” Notwithstanding the objection raised in section (l.) of this staff opinion, this subparagraph exceeds the agency’s authority pursuant to G.S. 150B-21.9(a)(1) as providing facilities for the agency does not fall under establishing minimum “standards” for schools, programs and courses of instruction. It is a usurpation by the agency of property owned or controlled by the educational institution for a government purpose, to wit: the administration of the agency’s certification exam.

Accordingly, staff recommends that the Rules Review Commission object to 12 NCAC 10B .0704.

William W. Peaslee
Commission Counsel

§ 150B-18. Scope and effect.

This Article applies to an agency's exercise of its authority to adopt a rule. A rule is not valid unless it is adopted in substantial compliance with this Article. An agency shall not seek to implement or enforce against any person a policy, guideline, or other interpretive statement that meets the definition of a rule contained in G.S. 150B-2(8a) if the policy, guideline, or other interpretive statement has not been adopted as a rule in accordance with this Article. (1991, c. 418, s. 1; 2011-398, s. 1; 2012-187, s. 2.)

§ 150B-21.9. Standards and timetable for review by Commission.

(a) Standards. - The Commission must determine whether a rule meets all of the following criteria:

- (1) It is within the authority delegated to the agency by the General Assembly.
- (2) It is clear and unambiguous.
- (3) It is reasonably necessary to implement or interpret an enactment of the General Assembly, or of Congress, or a regulation of a federal agency. The Commission shall consider the cumulative effect of all rules adopted by the agency related to the specific purpose for which the rule is proposed.
- (4) It was adopted in accordance with Part 2 of this Article.

The Commission shall not consider questions relating to the quality or efficacy of the rule but shall restrict its review to determination of the standards set forth in this subsection.

The Commission may ask the Office of State Budget and Management to determine if a rule has a substantial economic impact and is therefore required to have a fiscal note. The Commission must ask the Office of State Budget and Management to make this determination if a fiscal note was not prepared for a rule and the Commission receives a written request for a determination of whether the rule has a substantial economic impact.

(a1) Entry of a rule in the North Carolina Administrative Code after review by the Commission creates a rebuttable presumption that the rule was adopted in accordance with Part 2 of this Article.

(b) Timetable. - The Commission must review a permanent rule submitted to it on or before the twentieth of a month by the last day of the next month. The Commission must review a rule submitted to it after the twentieth of a month by the last day of the second subsequent month. The Commission must review a temporary rule in accordance with the timetable and procedure set forth in G.S. 150B-21.1. (1991, c. 418, s. 1; 1995, c. 507, s. 27.8(f); 2000-140, s. 93.1(a); 2001-424, s. 12.2(b); 2003-229, s. 9.)

§ 150B-2. Definitions.

As used in this Chapter, the following definitions apply:

- ...
- (8a) Rule. - Any agency regulation, standard, or statement of general applicability that implements or interprets an enactment of the General Assembly or Congress or a regulation adopted by a federal agency or that describes the procedure or practice requirements of an agency. The term includes the establishment of a fee and the amendment or repeal of a prior rule. The term does not include the following:
 - ...
 - d. A form, the contents or substantive requirements of which are prescribed by rule or statute.

§ 17E-4. Powers and duties of the Commission.

(a) The Commission shall have the following powers, duties, and responsibilities, which are enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17E-8 and G.S. 17E-9:

- (1) Promulgate rules and regulations for the administration of this Chapter, which rules may require (i) the submission by any agency of information with respect to the employment, education, and training of its justice officers, and (ii) the submission by any training school of information with respect to its programs that are required by this Chapter;
- (2) Establish minimum educational and training standards that may be met in order to qualify for entry level employment as an officer in temporary or probationary status or in a permanent position. The standards for entry level employment of officers shall include all of the following:
 - a. Training in response to, and investigation of, domestic violence cases, as well as training in investigation for evidence-based prosecutions. For purposes of the domestic violence training requirement, the term "officers" shall include justice officers as defined in G.S. 17E-2(3)a., except that the term shall not include "special deputy sheriffs" as defined in G.S. 17E-2(3)a.
 - b. Training on juvenile justice issues, including (i) the handling and processing of juvenile matters for referrals, diversion, arrests, and detention; (ii) best practices for handling incidents involving juveniles; (iii) adolescent development and psychology; and (iv) promoting relationship building with youth as a key to delinquency prevention.
 - c. Education and training to develop knowledge and increase awareness of effective mental health and wellness strategies for justice officers.
- (3) Certify, pursuant to the standards that it may establish for the purpose, persons as qualified under the provisions of this Chapter who may be employed at entry level as officers;
- (4) Establish minimum standards for the certification of training schools and programs or courses of instruction that are required by this Chapter;
- (5) Certify, pursuant to the standards that it has established for the purpose, training schools and programs or courses of instruction that are required by this Chapter;
- (6) Establish standards and levels of education or equivalent experience for teachers who participate in programs or courses of instruction that are required by this Chapter;
- (7) Certify, pursuant to the standards that it has established for the purpose, teachers who participate in programs or courses of instruction that are required by this Chapter;
- (8) Investigate and make such evaluations as may be necessary to determine if agencies are complying with the provision[s] of this Chapter;
- (9) Adopt and amend bylaws, consistent with law, for its internal management and control;
- (10) Enter into contracts incident to the administration of its authority pursuant to this Chapter;
- (11) Establish minimum standards for in-service training for justice officers. In-service training standards for sworn law enforcement officers shall include all of the following training topics:

William W. Peaslee
Commission Counsel

- a. Response to, and investigation of, domestic violence cases, as well as training in investigation for evidence-based prosecutions. For purposes of the domestic violence training requirement, the term "justice officer" shall include those defined in G.S. 17E-2(3)a., except that the term shall not include "special deputy sheriffs" as defined in G.S. 17E-2(3)a.
 - b. Juvenile justice issues, including (i) the handling and processing of juvenile matters for referrals, diversion, arrests, and detention; (ii) best practices for handling incidents involving juveniles; (iii) adolescent development and psychology; and (iv) promoting relationship building with youth as a key to delinquency prevention.
 - c. Training to develop knowledge and increase awareness of effective mental health and wellness strategies for justice officers. The standards established shall include two hours of training on this issue every three years.
 - d. Ethics.
 - e. Mental health for justice officers.
 - f. Community policing.
 - g. Minority sensitivity.
 - h. Use of force.
 - i. The duty to intervene and report.
- (12) Establish minimum standards and levels of training for certification of instructors for the domestic violence training and juvenile justice training required by subdivisions (2) and (11) of this subsection.
- (13) Establish minimum educational and training standards for employment and continuing education for officers concerning:
- a. Recognizing and appropriately interacting with persons who are deaf or hard of hearing.
 - b. Drivers license and vehicle registration identifiers of persons who are deaf or hard of hearing, as authorized by G.S. 20-7(q2), including that those identifiers are optional.
- (14) Monitor compliance with G.S. 20-185.1(d).
- (15) Establish minimum standards and levels of training for certification of diversion investigators and diversion supervisors, as defined in G.S. 90-113.74(i). As part of these minimum standards, the Commission shall require that certified diversion investigators receive training in the following:
- a. Definition of drug diversion.
 - b. Categories of drugs most subject to diversion and misuse.
 - c. Methods used to divert drugs.
 - d. Proper investigation of drug diversion cases.
 - e. Appropriate use of the controlled substances reporting system to investigate drug diversion cases.
 - f. Requests of prescriptions and records related to prescriptions pursuant to G.S. 90-107.1, including best practices for working with pharmacies in a manner that minimizes disruption of customer service and pharmacy operations.
 - g. Data privacy and security provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and other pertinent federal and State laws governing privacy and security of confidential data and records.
 - h. Proper handling of confidential data and records from any source.

- i. Criminal and civil penalties under federal and State law for improperly accessing, handling, or disclosing confidential prescription data or other confidential data or records.
- (16) Certify and recertify at least once every three years, suspend, revoke, or deny, pursuant to the standards that it has established for the purpose, persons as qualified to be employed at entry level and retained as diversion investigators and diversion supervisors, as defined in G.S. 90-113.74(i).
- (17) Search the National Decertification Index (NDI) maintained by the International Association of Directors of Law Enforcement Standards and Training (IADLEST) using the name of every applicant for certification or applicant for lateral transfer, and any other personal identifying information necessary to complete the search, and shall utilize any record of conviction of a criminal offense received as a result of the search during the application and lateral transfer process to determine if the applicant has any record that would disqualify the applicant for certification.

The Commission may certify, and no additional certification shall be required from it, programs, courses and teachers certified by the North Carolina Criminal Justice Education and Training Standards Commission. Where the Commission determines that a program, course, instructor or teacher is required for an area which is unique to the office of sheriff, the Commission may certify such program, course, instructor, or teacher under such standards and procedures as it may establish.

(b) [Recodified as G.S. 17E-4.1.] (1983, c. 558, s. 1; 1991, c. 265, s. 2; 1995, c. 103, ss. 4, 5; 2004-186, ss. 2.7, 2.9, 2.10, 2.12; 2017-57, s. 16D.4(cc); 2017-191, s. 3; 2018-5, s. 35.25(e); 2018-44, s. 14(b); 2018-142, s. 23(b); 2021-107, s. 3(a), (c); 2021-136, s. 1(b); 2021-137, s. 2(b); 2021-138, ss. 7(b), 11(b), 15(b).)

12 NCAC 10B .0703 ADMINISTRATION OF DETENTION OFFICER CERTIFICATION COURSE

(a) The executive officer or officers of the institution or agency sponsoring a Detention Officer Certification Course shall have primary responsibility for implementation of the rules in this Section and for administration of the school.

(b) The executive officers shall designate a compensated staff member who may apply to the Commission to be the school director. No more than two school directors shall be designated at each certified institution/agency to deliver a Detention Officer Certification Course. The school director shall have administrative responsibility for planning scheduling, presenting, coordinating, reporting, and generally managing each sponsored detention officer certification course and shall be readily available at all times during course delivery as specified in 12 NCAC 10B .0704(b). The School Director may designate a Qualified Assistant to assist in the administration of the Detention Officer Certification Course, where the School Director has provided justification for the need including overlapping or simultaneous Commission-mandated courses, satellite delivery locations, or responsibility for multiple courses. This person must be selected by the School Director, who will forward identifying and contact information to the Division. Division staff will conduct a course orientation with the designated person. In order to retain the designation as a qualified assistant, the person must attend the Annual School Directors' Conference.

(c) The executive officers of the institution or agency sponsoring the Detention Officer Certification Course shall:

(1) acquire and allocate sufficient financial resources to provide commission-certified instructors and to meet other necessary program expenses;

(2) provide adequate secretarial, clerical, and other supportive staff assistance as required by the school director;

(3) provide or make available suitable facilities, equipment, materials, and supplies for comprehensive and qualitative course delivery, as required in the "Detention Officer Certification Course Management Guide" and specifically including the following:

(A) a comfortable, well-lighted and ventilated classroom with a seating capacity sufficient to accommodate all attending trainees;

(B) audio-visual equipment and other instructional devices and aids necessary and beneficial to the delivery of effective training;

(C) a library for trainees' use covering the subject matter areas relevant to the training course, maintained in current status and having sufficient copies for convenient trainee access; and

(D) an area designated for instruction of subject control techniques which enables the safe execution of the basic detention officer subject control techniques topic area, with the following specifications:

(i) 30 square feet of floor space per student during the practical exercise portion of this topic area and while testing trainees' proficiency in performing the required maneuvers;

(ii) one instructor for every 10 students during the practical exercise portion of this topic area and while testing trainees' proficiency in performing the required maneuvers;

(iii) restrooms and drinking water within 100 yards of the training site; and

(iv) telephone or radio communication immediately available on site.

(E) an area designated for use as a jail cell for performing the practical exercises in the topic area entitled "Contraband Searches". If a county jail cell is unavailable, a simulated jail cell

is acceptable provided it is built to the same specifications required by the Department of Human Resources with regards to size;

(F) an area designated for fire emergencies instruction which enables the safe execution of the lesson plan as follows:

(i) a well-ventilated, open area which allows for the setting and putting out of a fire;

(ii) restrooms and drinking water within 100 yards of the training site; and

(iii) telephone or radio communication immediately available on site.

(G) an area designated for physical fitness for detention officer trainees to include:

(i) an area for running, weight lifting and other exercises performed during the physical fitness topic area which provides a minimum of 20 square feet per trainee during the performance of the exercises required in the physical fitness topic area;

(ii) restrooms and drinking water within 100 yards of the training site;

(iii) telephone or radio communication immediately available on site;

(iv) shower facilities, if physical fitness is performed prior to classroom training;

(v) one instructor for every 10 students during the physical assessment portion of this block of instruction; and

(vi) sufficient instructors as needed to maintain visual contact with students while performing any physical exercise.

(H) an area designated for instruction in first aid and CPR techniques which provides a minimum of 20 square feet per trainee during the practical exercise portion and testing for proficiency in administering CPR. There must also be one instructor for every 10 students during the practical exercise portion and proficiency testing in administering CPR.

(d) If an institution or agency does not own a facility as required in this Section, written agreements with other entities must be made to assure use of and timely access to the facilities. A copy of the agreement must accompany the originating institution or agency "Pre-Delivery Report" (Form F7-A) when submitted to the Division. History Note: Authority G.S. 17E-4; Eff. January 1, 1989; Amended Eff. February 1, 2009; January 1, 2006; January 1, 2005; August 1, 2000; August 1, 1998; January 1, 1996; January 1, 1992; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

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:**

3
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.

34
35 *History Note: Authority G.S. 17E-4;*
36 *Eff. January 1, 1989;*

1
2
3
4
5
6
7
8
9

*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