

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

AGENCY: N.C. Criminal Justice Education and Training Standards Commission

RULE CITATION: All Forms

DEADLINE FOR RECEIPT: Tuesday, September 12, 2023.

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:

In Box 9B, the agency has provided no explanation for rulemaking. Please resubmit the forms explaining the reason for rulemaking.

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

Brian Liebman
Commission Counsel
Date submitted to agency: August 29, 2023

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

AGENCY: N.C. Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09B .0209

DEADLINE FOR RECEIPT: Tuesday, September 12, 2023.

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:

In (a), line 6, what does “of no more than 15 business days” modify? Is that the time “required to conduct practical exercises...” or is that the time that the whole course must be taught in?

In (a)(1)-(5), put the first word of each item of the list into lower case.

In (a)(3), line 12, should that read, “called into action”?

On line 16, add a colon following “website”.

In (b), line 20, what are the “functions of a criminal justice instructor”? Are these defined somewhere?

In (c)(14), p.2, lines 1-3, who determines what number of hours are “required to complete this portion of the curriculum”?

In (d), line 11, the text is centered. Please correct to align from the left margin.

In (d), line 11, what is the cost of printing and postage?

In (d), line 11, does the Academy require a certain method of payment? Check, money order, credit card, cash?

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

Brian Liebman
Commission Counsel

Date submitted to agency: August 29, 2023

1 12 NCAC 09B .0209 is amended with changes as published in 37:19 NCR 1927-1940

2

3 **12 NCAC 09B .0209 CRIMINAL JUSTICE INSTRUCTOR TRAINING**

4 (a) The Instructor Training course required for General Instructor certification shall consist of a minimum of ~~40~~ **38**
5 hours of classroom instruction, plus the time required to conduct practical exercises, student presentations, and post
6 testing presented during a period of no more than 15 business days. If the Governor declares a State of Emergency
7 pursuant to G.S. 166A-19.3(19), the Director of the Criminal Justice Standards Division shall allow additional breaks
8 in a specific course delivery when the Director determines that doing so is necessary based on consideration of the
9 following factors:

- 10 (1) Whether instruction has begun in the course or whether course initiation may be postponed;
- 11 (2) The risk of harm to students that may be caused by continuation of the course;
- 12 (3) Whether those enrolled in the course have been or will likely be called on action to help address the
13 State of Emergency;
- 14 (4) The specific need for the waiver; and
- 15 (5) The degree of benefit to the public in allowing a break in instruction.

16 Notice of waivers granted pursuant to the Section shall be posted on the CJETS website
17 <https://ncdoj.gov/law-enforcement-training/criminal-justice/>. The waivers granted pursuant to this Section
18 shall only apply to courses that began during the effective period of the State of Emergency.

19 (b) Each Instructor Training course shall be designed to provide the trainee with the skills and knowledge to perform
20 the functions of a criminal justice instructor.

21 (c) Each Instructor Training course shall include the following identified topic areas and minimum instructional hours
22 for each area:

23	(1)	Orientation and Pre-Test	4 2 Hour
24	(2)	Instructional Systems Design (ISD)	5 3 Hours
25	(3)	Law Enforcement Instructor Liabilities and Legal Responsibilities	2 Hours
26	(4)	Criminal Justice Instructional Leadership	4 Hours
27	(5)	Lesson Plan Preparation: Professional Resources	2 Hours
28	(6)	Lesson Plan Development and Formatting	3 Hours
29	(7)	Adult Learning	2 Hours
30	(8)	Instructional Styles and Platform Skills	5 Hours
31	(9)	Classroom Management	3 Hours
32	(10)	Active Learning: Demonstration and Practical Exercises	3 Hours
33	(11)	The Evaluation Process of Learning	4 3 Hours
34	(12)	Audio Visual Aids	5 Hours
35	(13)	Course Closing and Post-test	1 Hour

1 (14) Completion of tasks associated with practical exercises, student presentations, and post testing; the
2 number of hours required to complete this portion of the curriculum shall be based on the number
3 of enrolled students, available facilities, and number of instructors.

4 (d) The most current version of the "Instructor Training" manual published by the North Carolina Justice Academy
5 shall be the curriculum for instructor training courses. Copies of this publication may be inspected at the agency:

6 Criminal Justice Standards Division
7 North Carolina Department of Justice
8 1700 Tryon Park Drive
9 Post Office Drawer 149
10 Raleigh, North Carolina 27602

11 and may be purchased at the cost of printing and postage from the Academy at the following address:

12 North Carolina Justice Academy
13 Post Office Drawer 99
14 Salemburg, North Carolina 28385

15
16 *History Note:* Authority G.S. 17C-6;
17 Eff. January 1, 1981;
18 Amended Eff. July 1, 2018; April 1, 2018; January 1, 2018; January 1, 2015; December 1, 2009;
19 August 1, 2005; November 1, 1998; January 1, 1995; March 1, 1990; July 1, 1989; January 1,
20 1985;
21 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,
22 2019;
23 Amended Eff. October 1, 2023; April 1, 2022; July 1, 2021; January 1, 2021.

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

AGENCY: N.C. Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09B .0403

DEADLINE FOR RECEIPT: Tuesday, September 12, 2023.

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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:

Throughout the Rule, there is a distinction between full time and part time. Are these terms defined in your Rules?

Throughout the Rule, I believe the Commission uses several different terms to refer to the BLET. Some instances refer to the BLET by name, others by reference to Rule .0205, others by reference to .0405, and then there are references to “a Commission-accredited training course”. Please review and revise for consistency.

In (a), line 5, please define “equivalent” training? Under what standards does the staff make this determination?

In (a)(1), line 11, what does it mean to have “completed” the program?

In (a)(1), line 11, is a “Commission-accredited basic training program” the BLET? If so, why not just say that here and anywhere else across the rule, for consistency?

In (a)(1), line 16, as written it appears that an officer who intentionally delays in applying for certification is eligible for the waiver. Is that the Commission’s intention?

In (a)(1), line 19, to be clear, an officer who completes the course, but does not apply for certification—for any reason other than neglect—within 1 year may receive a 30 day extension, correct?

In (a)(3), p.2, line 4, what rules in 12 NCAC 09E are you requiring compliance with? Same question for (a)(4)(A), line 16, and (a)(19)(B)(i), p. 7, line 4.

In (a)(4), line 9, the Rule says that the officer shall not have been “convicted” of an offense listed in Rule .0111(1). Two issues here:

First, there is no Rule .0111(1). The Rule has subparagraphs (a), (b), and (c), but only (a) has an item (1). Did you mean Rule .0111(a)(1), which is “a felony”?

Brian Liebman
Commission Counsel

Date submitted to agency: August 29, 2023

Second, Rule .0111 says that a LEO “shall not have committed or been convicted” of a crime, and defines “commission” pursuant to 09A .0103. The instant rule only says that an officer shall not have been “convicted”. Is this intentional?

In (a)(4)(A), (B), and (C), is there a distinction between being a “certified law enforcement officer” and between being “issued probationary certification”?

In (a)(5), line 36, please define “out of the law enforcement profession”. Is this different than being “separated from a sworn position” as in (a)(4)?

In (a)(5) and (a)(6), are you basically requiring that these former officers retake the BLET?

In (a)(7), (8), and (9), on p.3, lines 8, 13, and 19, respectively, please add “been” between “have” and “separated”.

In (a)(7) and (8), the rule refers to “law enforcement employment” in (7) and “sworn law enforcement position” in (8). Is there a distinction here?

In (a)(8), it appears the requirement that a law enforcement officer who separated during his or her probationary period and was separated for less than a year begin a new probationary period is contrary to G.S. 17C-10(b). The statute says that upon reappointment “...an officer who has separated from an agency within the probationary period... shall be charged with the cumulative amount of time served during his initial or subsequent appointments and allowed the remainder of the probationary period to complete the Commission’s requirements.” This contrasts with the next sentence, which says that an officer who has been out of service for more than one year “shall be allowed another probationary period to satisfy the Commission’s requirements.”

Also, in (a)(8), in prescribing the time for the probationary period for law enforcement officers, the Rule refers to 09B .0401(a), which explicitly exempts law enforcement officers. Please correct your reference.

In (a)(13), p.4, lines 7-8, the term “Criminal Investigator” does not appear in 5 USC 5541(3) or anywhere else in that statute. Please correct.

In (a)(13), lines 8-9, is “G.S.-1811 series” a document? Are you incorporating it by reference? Where can your regulated public find it? I ask because I could not find it.

In (a)(13), line 12, you need to add “and” at the beginning of the line so that the sentence without the large deletion reads “...classification system, and who have not had a break...”

In (a)(13), line 12, on what basis will this evaluation be made?

Brian Liebman
Commission Counsel

Date submitted to agency: August 29, 2023

In (a)(13), line 13, what is a “federal law enforcement officer”? Where is this term defined?

In (a)(13), line 24, did the Commission omit (b)(1)(A) on purpose? It is included in the list at line 19.

In (a)(16), p.5, line 7, is the evaluation based on the standards in (A)-(D) or are there other criteria?

In (a)(16), lines 9 and 11, what is a “law enforcement function”? Is this term defined?

In (a)(16)(B)(iii), line 26, when must the applicant complete these training requirements?

In (a)(16)(C)(iii), p.6, lines 1-2, is the reference to Rule 10B .0505 correct? That rule is for training waivers, not in service requirements.

In (a)(16)(D), line 5, to confirm, the elected sheriff who returns to being a criminal justice officer goes back to probationary status? That’s how I’m interpreting the reference to Rule 09C .0303.

Are the requirements relating to military service members and veterans ((a)(19) and (a)(20)) in agreement with G.S. 17C-10.1? The statute requires the BLET and other training be waived under certain circumstances, is that taken into account here?

In (a)(19), line 22, has the Form F-9C gone through rulemaking, or are its contents or substantive requirements described in another Rule or statute?

*In (a)(19)(B)(iii), p.7, line 14, what are you requiring by saying “some of the topics”? I see on Line 16 that the “required topics **include...**” a list of classes. The language here is all open-ended, as if there are other requirements unstated here. Please be specific about what you are requiring applicants to do.*

In (a)(19)(B)(iii), line 18, what are the “appropriate” topic tests?

In (a)(20), line 25, is the “basic training course” the BLET?

In (b), line 35, what standards do you use to judge whether prior training is “equivalent” to the Commission’s standards? And what standards do you mean? Rule .0405? Rule .0105?

In (c), p. 8, line 1, what is this language doing? Unless I’m reading it wrong, it sounds redundant. Oversimplifying, I read this to say whenever the Commission requires satisfactory performance on an exam, the Commission shall require an exam. If it isn’t redundant, then it’s unclear, because I can’t figure out another way to read this.

In (d), line 3, use the active tense in the clause: “If an evaluation... determines...” An evaluation by whom?

Brian Liebman
Commission Counsel

Date submitted to agency: August 29, 2023

In (d), lines 3 and 4, under what criteria are these two determinations made?

In (e)(1), line 11, what is a “Commission-accredited training course”?

In (e)(1), line 13, and in (e)(4), line 27, I believe you mean “Subchapter” instead of “Section”.

In (e)(2), line 17, what “additional training program” are you requiring?

In your History Note, why the reference to 17C-2?

In your History Note, should there be a reference to 17C-10.1, with respect to certification of military members and veterans?

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

Brian Liebman
Commission Counsel

Date submitted to agency: August 29, 2023

1 12 NCAC 09B .0403 is amended as published in 37:19 NCR 1927-1940

2
3 **12 NCAC 09B .0403 EVALUATION FOR TRAINING WAIVER**

4 (a) The Standards Division staff shall evaluate each law enforcement officer's training and experience to determine if
5 equivalent training has been completed as specified in Rule .0402(a) of this Section. Applicants for certification with
6 prior law enforcement experience shall have been employed in a full-time, sworn law enforcement position in order
7 to be considered for training evaluation under this Rule. Applicants for certification with a combination of full-time
8 and part-time experience shall be evaluated on the basis of the full-time experience only. The following criteria shall
9 be used by Standards Division staff in evaluating a law enforcement officer's training and experience to determine
10 eligibility for a waiver of training requirements:

11 (1) Persons having completed a Commission-accredited basic training program and not having been
12 duly appointed and sworn as a law enforcement officer within one year of completion of the program
13 shall complete a subsequent Commission-accredited basic training program, as prescribed in Rule
14 .0405(a) of this Section, and shall achieve a passing score on the State Comprehensive Examination
15 prior to obtaining probationary law enforcement certification, unless the Director determines that a
16 delay in applying for certification was not due to neglect on the part of the applicant, in which case
17 the Director shall accept a Commission-accredited basic training program that is over one year old.
18 The appointing agency shall request in writing the extension of the one year period, which shall not
19 exceed 30 days from the first year anniversary of the passing of the State Comprehensive
20 Examination;

21 (2) Out-of-state transferees shall be evaluated to determine the amount and quality of their training and
22 experience. Out-of-state transferees shall not have a break in service exceeding three years. At a
23 minimum, out-of-state transferees shall have two years' full-time, sworn law enforcement
24 experience and have completed a basic law enforcement training course accredited by the
25 transferring state. An individual's attendance at his or her basic law enforcement class shall not count
26 towards the two years' full-time sworn law enforcement experience. Prior to employment as a
27 certified law enforcement officer, out-of-state transferees shall complete with a passing score the
28 employing agency's in-service firearms training and qualification program as prescribed in 12
29 NCAC 09E .0106. In addition, out-of-state transferees shall complete the Legal Unit in a
30 Commission-accredited Basic Law Enforcement Training Course as prescribed in Rule .0205(b)(1)
31 of this Subchapter and shall achieve a passing score on the State Comprehensive Examination within
32 the 12 month probationary period;

33 (3) Persons who have completed a 369-hour basic law enforcement training program accredited by the
34 Commission under guidelines administered beginning October 1, 1984, have been separated from a
35 sworn position for over one year but less than three years, and who have had a minimum of two
36 years' experience as a full-time, sworn law enforcement officer in North Carolina shall complete the
37 Legal Unit in a Commission-accredited Basic Law Enforcement Training Course as prescribed in

1 Rule .0205(b)(1) of this Subchapter and shall achieve a passing score on the State Comprehensive
2 Examination within the 12 month probationary period. Prior to employment as a certified law
3 enforcement officer, these persons shall complete with a passing score the employing agency's
4 in-service firearms training and qualification program as prescribed in 12 NCAC 09E;

5 (4) Persons who have completed a 396-hour basic law enforcement training program accredited by the
6 Commission under guidelines administered beginning October 1, 1984, have been separated from a
7 sworn position more than one year but less than five years and who have a minimum of two years'
8 experience as a full-time, sworn law enforcement officer in North Carolina, who have not been
9 convicted of a disqualifying criminal offense as listed in Rule .0111(1) of this Subchapter, and who
10 have successfully completed the mandatory in-service training requirements pursuant to 12 NCAC
11 09E .0105 or 12 NCAC 10B .2005, with the exception of Firearms Training and Requalification,
12 during each year the person was separated from a sworn position prior to employment as a certified
13 law enforcement officer shall complete the topic areas within the following time frames:

14 (A) Prior to employment as a certified law enforcement officer, the person shall complete the
15 appointing agency's in-service firearms training and qualification program as prescribed in
16 12 NCAC 09E;

17 (B) Prior to employment as a certified law enforcement officer, the person shall achieve a
18 passing score on the practical skills testing for the First Responder, Law Enforcement
19 Driver Training, and Subject Control Arrest Techniques topics set forth in Rule .0205(b)(5)
20 of this Subchapter. The person shall also successfully complete the Police Officer Physical
21 Abilities Test. The practical skills testing and the Police Officer Physical Abilities Test
22 may be completed either in a Commission-accredited Basic Law Enforcement Training
23 course or under the instruction of a Commission-certified instructor for that particular skill.
24 The person shall also meet the requirements per Rule .0101 of this Subchapter; and

25 (C) Within 12 months of being issued probationary certification, the person shall complete the
26 remaining topics in the legal unit of instruction in the Basic Law Enforcement Training
27 course as set forth in Rule .0205(b)(1) of this Subchapter. The person shall achieve a
28 passing score on the appropriate topic tests for each course. The person may undertake
29 each of these legal unit topics of instruction either in a Commission-accredited Basic Law
30 Enforcement Training course or under the instruction of a Commission-certified instructor
31 for that particular topic of instruction.

32 An individual's attendance at his or her basic law enforcement class shall not count towards the two
33 years' full-time sworn law enforcement experience. Persons who meet the criteria of this Part shall
34 be processed as a probationary certification and shall serve a one-year probationary period as
35 defined in 12 NCAC 09C .0303;

36 (5) Persons out of the law enforcement profession for over one year but less than three years who have
37 had less than two years' experience as a full-time, sworn law enforcement officer in North Carolina

1 shall complete a Commission-accredited basic training program, as prescribed in Rule .0405(a) of
2 this Section, and achieve a passing score on the State Comprehensive Examination;

3 (6) Persons out of the law enforcement profession for over three years who do not meet the criteria of
4 Subparagraph (4) of this Paragraph shall complete a Commission-accredited basic training program,
5 as prescribed in Rule .0405(a) of this Section, regardless of prior training or experience, and shall
6 achieve a passing score on the State Comprehensive Examination;

7 (7) Persons who separated from law enforcement employment during their probationary period after
8 having completed a Commission-accredited basic training program and who have separated from a
9 sworn law enforcement position for more than one year shall complete a subsequent Commission-
10 accredited basic training program and shall achieve a passing score on the State Comprehensive
11 Examination;

12 (8) Persons who separated from a sworn law enforcement position during their probationary period after
13 having completed a Commission-accredited basic training program and who have separated from a
14 sworn law enforcement position for less than one year shall serve a new 12 month probationary
15 period as prescribed in Rule .0401(a) of this Section, but shall not be required to complete an
16 additional training program;

17 (9) Persons who have completed a minimum 160-hour basic law enforcement training program
18 accredited by the North Carolina Criminal Justice Training and Standards Council under guidelines
19 administered beginning on July 1, 1973, and continuing through September 30, 1978, and who have
20 separated from a sworn law enforcement position for over one year but less than two years shall
21 complete the Legal Unit and the topical area entitled "Law Enforcement Driver Training" of a
22 Commission-accredited Basic Law Enforcement Training Course as prescribed in Rule .0205(b)(1)
23 and .0205(b)(5)(C) of this Subchapter and shall achieve a passing score on the State Comprehensive
24 Examination within the 12 month probationary period;

25 (10) Persons who have completed a minimum 160-hour basic law enforcement training program
26 accredited by the North Carolina Criminal Justice Training and Standards Council under guidelines
27 administered beginning on July 1, 1973, and continuing through September 30, 1978, and have been
28 separated from a sworn law enforcement position for two or more years shall complete a
29 Commission-accredited basic training program, as prescribed in Rule .0405 of this Section,
30 regardless of training and experience, and shall achieve a passing score on the State Comprehensive
31 Examination;

32 (11) Persons who have completed a minimum 240-hour basic law enforcement training program
33 accredited by the Commission under guidelines administered beginning October 1, 1978, and
34 continuing through September 30, 1984, and have been separated from a sworn position over one
35 year but less than three years shall complete the Legal Unit in a Commission-accredited Basic Law
36 Enforcement Training Course as prescribed in Rule .0205(b)(1) of this Subchapter and shall achieve
37 a passing score on the State Comprehensive Examination within the 12 month probationary period;

- 1 (12) Persons previously holding law enforcement certification in accordance with G.S. 17C-10(a) who
2 have been separated from a sworn law enforcement position for over one year and who have not
3 previously completed a minimum basic training program accredited by either the North Carolina
4 Criminal Justice Training and Standards Council or the Commission shall complete a Commission-
5 accredited basic training program, as prescribed in Rule .0405 of this Section, and shall achieve a
6 passing score on the State Comprehensive Examination prior to employment;
- 7 (13) Individuals seeking certification with the Commission who have been appointed as a Criminal
8 Investigator, as defined in 5 U.S.C. 5541(3) and the Office of Personnel Management GS-1811
9 series in the General Schedule classification system, ~~Special Agents with the Federal Bureau of~~
10 ~~Investigation; United States Secret Service; Bureau of Alcohol, Tobacco and Firearms; and Drug~~
11 ~~Enforcement Administration; as well as United States Marshals and Deputy United States Marshals,~~
12 who have not had a break in service exceeding three years, shall be evaluated to determine the
13 amount and quality of their training and experience. At a minimum, federal law enforcement officers
14 shall have two years' full-time, sworn law enforcement experience and have completed a basic law
15 enforcement training course as required by their appointing federal agency. Prior to employment as
16 a certified law enforcement officer, these individuals shall complete with a passing score the
17 employing agency's in-service firearms training and qualification program as prescribed in 12
18 NCAC 09E .0106. These individuals shall complete the Basic Law Enforcement Training topics
19 pursuant to 12 NCAC 09B .0205(b)(1)(A), (b)(1)(C), (b)(1)(D), (b)(1)(F), (b)(2)(A), (b)(2)(C),
20 (b)(2)(E), (b)(2)(F), (b)(2)(I), (b)(3)(B), (b)(3)(D), (b)(4)(E), (b)(5)(A), (b)(6)(A), (b)(6)(B),
21 (b)(6)(C), and shall achieve a passing score on the State Comprehensive Examination pursuant to
22 12 NCAC 09B .0406 within the 12 month probationary period. Individuals who submit to the
23 Commission documentation of completion of training equivalent to the topics set forth in 12 NCAC
24 09B .0205(b)(2)(A), (b)(2)(C), (b)(2)(E), (b)(2)(F), (b)(2)(I), (b)(3)(B), (b)(3)(D), (b)(4)(E),
25 (b)(5)(A), (b)(6)(A), (b)(6)(B), and (b)(6)(C) shall not be required to complete those topics;
- 26 (14) Federal law enforcement transferees other than those listed in Paragraph (13) of this Rule who have
27 not had a break in service exceeding three years shall be evaluated to determine the amount and
28 quality of their training and experience. At a minimum, federal law enforcement officers shall have
29 two years' full-time, sworn law enforcement experience and have completed a basic law
30 enforcement training course as required by their appointing federal agency. Prior to employment as
31 a certified law enforcement officer, transferees shall complete with a passing score the employing
32 agency's in-service firearms training and qualification program as prescribed in 12 NCAC 09E
33 .0106. At a minimum, transferees shall complete the Legal Unit in a Commission-accredited Basic
34 Law Enforcement Training Course as prescribed in Rule .0205(b)(1) of this Subchapter and shall
35 achieve a passing score on the State Comprehensive Examination within 12 month probationary
36 period;

- 1 (15) Applicants with part-time experience who have a break in service in excess of one year shall
2 complete a Commission-accredited basic training program, as prescribed in Rule .0405 of this
3 Section, and shall achieve a passing score on the State Comprehensive Examination prior to
4 employment;
- 5 (16) Applicants who hold or previously held certification issued by the North Carolina Sheriffs'
6 Education and Training Standards Commission (Sheriffs' Commission) shall be subject to
7 evaluation based on the applicant's active or inactive certification status with the Sheriffs'
8 Commission. A deputy sheriff certified with the Sheriffs' Commission shall be considered active if
9 he or she has performed any law enforcement function during the previous 12 months. A deputy
10 sheriff certified with the Sheriffs' Commission shall be considered inactive if he or she has not
11 performed a law enforcement function during the previous 12 months.
- 12 (A) The Standards Division shall issue certification to an applicant holding active general
13 certification with the Sheriffs' Commission provided that the applicant:
- 14 (i) Does not have a break in service of greater than 12 months;
- 15 (ii) Has completed the mandatory in-service training requirements pursuant to 12
16 NCAC 10B .2005 for each year certification was held; and
- 17 (iii) Held active status with the Sheriffs' Commission within 12 months of the date the
18 applicant achieved a passing score on the Basic Law Enforcement Training State
19 Comprehensive Examination.
- 20 (B) The Standards Division shall issue certification to an applicant holding inactive
21 certification with the Sheriffs' Commission provided that the applicant:
- 22 (i) Holds inactive probationary or general certification with the Sheriffs'
23 Commission;
- 24 (ii) Has served a minimum of 24 months of full time sworn service or does not have
25 a break in service of greater than 12 months;
- 26 (iii) Has completed the mandatory in-service training requirements pursuant to 12
27 NCAC 10B .2005, with the exception of Firearms Training and Requalification,
28 ~~during each year certification was held~~; and
- 29 (iv) Held active status with the Sheriffs' Commission within 12 months of the date the
30 applicant achieved a passing score on the Basic Law Enforcement Training State
31 Comprehensive Examination.
- 32 (C) An applicant awarded certification with the Sheriffs' Commission by means of the Sheriffs'
33 Standards BLET Challenge as prescribed in 12 NCAC 10B .0505(6)(b) shall meet the
34 following requirements in order to obtain probationary certification from the Commission:
- 35 (i) Have a minimum of 24 months of sworn, full-time law enforcement service;
- 36 (ii) Not have a break in service of greater than 12 months; and

1 (iii) Have completed all mandatory in-service requirements pursuant to 12 NCAC 10B
2 .0505 during the previous two years.

3 (D) An applicant who is a criminal justice officer, as defined in G.S. 17C-2(3), and who is
4 elected Sheriff shall be reinstated by the Commission upon the conclusion of the period of
5 service as Sheriff and in conformance with 12 NCAC 09C .0303;

6 (17) Alcohol law enforcement agents who received basic alcohol law enforcement training prior to
7 November 1, 1993, and transfer to another law enforcement agency in a sworn capacity shall be
8 subject to evaluation of their prior training and experience on an individual basis. The Standards
9 Division staff shall determine the amount of training required of these applicants, based upon the
10 type of certification held by the applicant and the length of any break in the applicant's sworn, full-
11 time service;

12 (18) Wildlife enforcement officers who separate from employment with the Wildlife Enforcement
13 Division and transfer to another law enforcement agency in a sworn capacity shall be subject to
14 evaluation of their prior training and experience on an individual basis. The Standards Division staff
15 shall determine the amount of training required of these applicants, based upon the type of
16 certification held by the applicant and the length of any break in the applicant's sworn, full-time
17 service;

18 (19) Active duty, guard, or reserve military members failing to complete all of the required annual in-
19 service training topics, as defined in 12 NCAC 09E .0105 of this Chapter, due to military obligations
20 are subject to the following training requirements as a condition for return to active criminal justice
21 status. The agency head shall verify the person's completion of the appropriate training by
22 submitting a statement, on Form F-9C, Return to Duty Request form. This form is located on the
23 agency's website: [https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-](https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/)
24 [publications/](https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/);

25 (A) Active duty members of the armed forces eligible for probationary certification pursuant
26 to this Paragraph and active duty, guard, or reserve military members holding probationary
27 or general certification as a criminal justice officer who fail to complete all of the required
28 annual in-service training topics due to military obligations for up to a period of three years
29 shall complete the previous year's required in-service training topics, the current year's
30 required in-service training topics, and complete with a passing score the appointing
31 agency's in-service firearms training and qualification program as prescribed in 12 NCAC
32 09E prior to their return to active criminal justice status;

33 (B) Active duty, guard, or reserve military members holding probationary or general
34 certification as a criminal justice officer who fail to complete all of the required annual in-
35 service training topics due to military obligations for a period greater than three years shall
36 complete the following topic areas within the following time frames:

- 1 (i) The person shall complete the previous year's required in-service training topics,
2 the current year's required in-service training topics, and complete the appointing
3 agency's in-service firearms training and qualification program as prescribed in
4 12 NCAC 09E prior to their return to active criminal justice status;
- 5 (ii) The person shall achieve a passing score on the practical skills testing for the First
6 Responder, Law Enforcement Driver Training, and Subject Control Arrest
7 Techniques topics enumerated in Rule .0205(b)(5) of this Subchapter prior to
8 returning to active criminal justice status. This practical skills testing may be
9 completed either in a Commission-accredited Basic Law Enforcement Training
10 course or under the instruction of a Commission-certified instructor for that
11 particular skill. The person shall complete one physical fitness assessment in lieu
12 of the Fitness Assessment and Testing topic. The person shall also be examined
13 by a physician per Rule .0104(b) of this Subchapter; and
- 14 (iii) The person shall complete some of the topics in the legal unit of instruction in the
15 Basic Law Enforcement Training course as set forth in Rule .0205(b)(1) of this
16 Subchapter. The required topics include Motor Vehicle Law; Juvenile Laws and
17 Procedures; Arrest, Search and Seizure/Constitutional Law; and ABC Laws and
18 Procedures. The person shall achieve a passing score on the appropriate topic tests
19 for each course. The person may undertake each of these legal unit topics of
20 instruction either in a Commission-accredited Basic Law Enforcement Training
21 course or under the instruction of a Commission-certified instructor for that
22 particular topic of instruction. The person shall complete each of the enumerated
23 topics of instruction within 12 months from the beginning of his or her return to
24 active criminal justice status; and
- 25 (20) An active duty member of the armed forces who completes the basic training course in its entirety
26 as prescribed in Rule .0405 of this Subchapter, annually completes the mandatory in-service training
27 topics as prescribed in 12 NCAC 09E .0105, with the exception of the Firearms and Qualification
28 testing requirements contained in 12 NCAC 09E .0105(a)(3) for each year subsequent to the
29 completion of the basic training course, and achieves a passing score on the State Comprehensive
30 Examination as prescribed in Rule .0406 of this Subchapter within five years of separating from
31 active duty status shall be eligible for probationary certification as prescribed in 12 NCAC 09C
32 .0303 for a period of 12 months from the date he or she separates from active duty status in the
33 armed forces. All mandatory in-service training topics as prescribed in 12 NCAC 09E .0105 shall
34 be completed by the individual prior to receiving probationary certification.
- 35 (b) In the event the applicant's prior training is not equivalent to the Commission's standards, the Commission shall
36 prescribe as a condition of certification supplementary or remedial training to equate previous training with current
37 standards.

1 (c) If certifications issued by the Commission require satisfactory performance on a written examination as part of
2 the training, the Commission shall require the examinations for the certification.

3 (d) If an evaluation of the applicant's prior training and experience determines that required attendance in the entire
4 Basic Law Enforcement Training Course is unnecessary, the Director of the Standards Division shall determine the
5 amount of training the individual shall complete during his or her probationary period.

6 (e) The following criteria shall be used by Standards Division staff in evaluating prior training and experience of local
7 confinement personnel to determine eligibility for a waiver of training requirements:

8 (1) Persons who hold probationary, general, or grandfather certification as local confinement personnel
9 and separate after having completed a Commission-accredited course as prescribed in Rule .0224
10 or .0225 of this Subchapter and have been separated for one year or more shall complete a
11 subsequent Commission-accredited training course and achieve a passing score on the State
12 Comprehensive Examination during the probationary period as prescribed in Rule .0401(a) of this
13 Section;

14 (2) Persons who separated from a local confinement personnel position after having completed a
15 Commission-accredited course as prescribed in Rule .0224 or .0225 of this Subchapter and who
16 have been separated for less than one year shall serve a new 12 month probationary period, but shall
17 be required to complete an additional training program;

18 (3) Applicants who hold or previously held "Detention Officer Certification" issued by the North
19 Carolina Sheriffs' Education and Training Standards Commission shall be subject to evaluation of
20 their prior training and experience on an individual basis. No additional training shall be required
21 where the applicant obtained certification and successfully completed the required 120 hour training
22 course and has not had a break in service in excess of one year; and

23 (4) Persons holding certification for local confinement facilities who transfer to a district or county
24 confinement facility shall complete the course for district and county confinement facility personnel,
25 as adopted by reference in Rule .0224 of this Subchapter, and achieve a passing score on the State
26 Comprehensive Examination during the probationary period as prescribed in Rule .0401(a) of this
27 Section.

28
29 *History Note: Authority G.S. 17C-2; 17C-6; 17C-10; 93B-15.1;*
30 *Eff. January 1, 1981;*
31 *Amended Eff. October 1, 2017; January 1, 2017; October 1, 2016; November 1, 2014; August 1,*
32 *2000; November 1, 1993; March 1, 1992; July 1, 1989; February 1, 1987;*
33 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
34 *2019;*
35 *Amended Eff. October 1, 2023; July 1, 2021.*

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

AGENCY: N.C. Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09B .0501

DEADLINE FOR RECEIPT: Tuesday, September 12, 2023.

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:

In (b)(1), line 10, is the General Instructor certification governed by another Rule or statute?

In (b)(2), line 13, to whom must the applicant furnish this information?

In (b)(2), line 16, add hyphens to “out of state”. See also (b)(2)(A), line 25.

In (b)(2)(B), lines 29-30, please define “comparable to United States curriculum requirements.” As far as I am aware, there is no unified national high school curriculum.

In (b)(2)(C), line 32, what will staff evaluate the courses for? What standards will they use?

In (b)(2)(E), starting on p.2, line 11, the text that has not been edited (starting with “and has acquired...”) does not seem to fit here.

In (b)(2)(E), line 12, and (b)(2)(F), line 17, define “directly related”.

In (b)(2)(E), line 14, define “actively participating”.

In (b)(2)(F), line 19, define “directly participating”. Also, how is this different from “actively participating” as used in (E)?

In (b)(2)(G), lines 21-22, what is a “regionally accredited institution of higher learning”? As a side note, it appears you changed the equivalent language in 09G .0405(b)(2)(G). You may want to consider doing so here as well.

In (b)(3), line 23, is the “orientation” defined or required elsewhere?

In (b)(4), what are you requiring? This is wordy and unclear.

Brian Liebman
Commission Counsel

Date submitted to agency: August 29, 2023

In (c)(2),p.3, line 4, what is a “General Instructor” certification? Is it defined elsewhere? How does one become certified?

In (c)(3), line 5, is the “Instructor Training Orientation” different than the “orientation” described in (b)(3)? Is this orientation defined or required elsewhere?

In your History Note, drop the newly added language down to its own line.

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

Brian Liebman
Commission Counsel

Date submitted to agency: August 29, 2023

1 12 NCAC 09B. 0501 is amended with changes as published in 37:19 NCR 1927-1940

2
3 **12 NCAC 09B .0501 CERTIFICATION OF SCHOOL DIRECTORS**

4 (a) Any person designated to act as, or who performs the duties of, a School Director in the delivery or presentation
5 of a Commission-certified criminal justice training course shall be and continuously remain certified by the
6 Commission as a school director.

7 (b) To qualify for initial certification as a School Director, an applicant shall:

8 (1) ~~Attend and complete a Commission-certified instructor training course or an equivalent instructor~~
9 ~~training program as determined by the Commission (if certified after July 1, 2004);~~ Hold current
10 General Instructor certification as issued by the North Carolina Criminal Justice Education and
11 Training Standards Commission;

12 (2) ~~Present documentary evidence showing that the applicant:~~

13 Furnish documentary evidence of high school, college, or university graduation to the employing
14 agency. Documentary evidence of high school graduation consists of diplomas or transcripts from
15 public schools or private schools which meet standards adopted by either the North Carolina
16 Department of Public Instruction, the Division of Non-Public Instruction, or a comparable out of
17 state agency; or such documentation as described in Paragraphs (A), (B), (C), (D) and (E) of this
18 Rule. Documentary evidence of college or university graduation consists of diplomas or transcripts
19 from colleges or universities accredited as such by the Department of Education of the state in which
20 the institution is located, an accredited body recognized by either the U.S. Department of Education
21 or Council for Higher Education Accreditation, or the state university of the state in which the
22 institution is located.

23 (A) High school diplomas earned through home school programs must be accompanied by a
24 true and accurate or certified transcript and must meet the requirements of Part 3 of Article
25 39 of Chapter 115C of the North Carolina General Statutes, or a comparable out-of-state
26 statute.

27 (B) Diplomas earned from high schools or equivalent institutions outside of the United States
28 must be translated into English and be accompanied by an authentic transcript. The
29 Division's staff shall evaluate the transcripts to ensure they are scholastically comparable
30 to United States curriculum requirements.

31 (C) The Division's staff shall evaluate high school diplomas earned through on-line or
32 correspondence courses on a case by case basis. Such diplomas must meet state and local
33 requirements for the jurisdiction from which the diploma was issued.

34 (D) Documentary evidence of having earned a High School Equivalency (HSE) diploma shall
35 be satisfied by a certified copy of a high school equivalency credential or an adult high
36 school diploma, both of which must be recognized by the U.S. Department of Education,

1 the state Department of Education, or educational agency that is authorized in the state to
2 issue High School Equivalency (HSE) diplomas.

3 (E) Documentary evidence of the attainment of satisfactory scores on any military high school
4 equivalency examination is acceptable as evidence of high school graduation if verified by
5 a true copy of the veteran's DD214, Certificate of Release from Active Duty.

6 is a high school, college, or university graduate or has received a high school equivalency
7 credential as [awarded from colleges or universities accredited by the Department of
8 Education of the state in which the institution is located, from an accredited body
9 recognized by either the U.S. Department of Education or the Council for Higher Education
10 Accreditation, or from the state university of the state in which the institution is located]

11 ~~recognized by the issuing state~~ and has acquired five years of practical experience as a
12 criminal justice officer or as an administrator or specialist in a field directly related to the
13 criminal justice system. At least one year of the required five years experience must have
14 been while actively participating in criminal justice training as a Commission-certified
15 instructor; or

16 (B)(F) has been awarded an associate degree and has acquired four years of practical experience
17 as a criminal justice officer or as an administrator or specialist in a field directly related to
18 the criminal justice system. At least one year of the required four years experience must
19 have been while directly participating in criminal justice training as a Commission-certified
20 instructor; or

21 (C)(G) has been awarded a baccalaureate degree from a regionally accredited institution of higher
22 learning;

23 (3) Attend or must have attended the most current offering of the School Director's orientation as
24 developed and presented by the Commission staff, otherwise an individual orientation with a staff
25 member shall be required; and

26 (4) Submit a written request for the issuance of such certification executed by the executive officer of
27 the institution or agency currently certified, or which may be seeking certification, by the
28 Commission to make presentation of certified training programs and for whom the applicant will be
29 the designated School Director.

30 (c) To qualify for certification as a School Director in the presentation of the Criminal Justice Instructor Training
31 Course, an applicant shall:

32 (1) Document that he or she has been awarded a baccalaureate degree from colleges or universities
33 accredited by the Department of Education of the state in which the institution is located, from an
34 accredited body recognized by either the U.S. Department of Education or the Council for Higher
35 Education Accreditation, or from the state university of the state in which the institution is located;
36 ~~a regionally accredited institution of higher learning;~~

- 1 (2) ~~Present evidence showing completion of a Commission certified instructor training course or an~~
2 ~~equivalent instructor training course utilizing the Instructional Systems Design model, an~~
3 ~~international model with applications in education, military training, and private enterprise;~~
4 (3)(2) Be currently certified as a ~~criminal justice~~ General Instructor instructor by the Commission; and
5 (4)(3) Document completion of a ~~special program~~ the Instructor Training Orientation presented by the
6 North Carolina Justice Academy on delivery of the instructor training course and trainee evaluation.

7
8 *History Note:* *Authority G.S. 17C-6;*
9 *Eff. January 1, 1985;*
10 *Amended Eff. February 1, 2016; November 1, 2015; July 1, 2004;*
11 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
12 *2019; Amended Eff. October 1, 2023.*
13

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

AGENCY: N.C. Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09B .0502

DEADLINE FOR RECEIPT: Tuesday, September 12, 2023.

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:

In (a), line 7, I believe you mean "Subchapter" instead of "Section".

In (a), line 7, to be clear, the School Director has to submit his or her educational credentials and attend an orientation every time they apply for renewal?

In (a), line 7, what "documentation" are you requiring to show that the applicant attended the orientation?

In (b)(1), what training are you requiring? Is this defined somewhere?

In (b)(2) and (3), what are these documents? Are they Commission documents? Are they eligible for incorporation by reference under G.S. 150B-21.6?

In (b)(4), how is the applicant to demonstrate that they have "performed" these duties? What are you requiring in the application?

In (c)(1), what training are you requiring? Is this defined somewhere?

In (c)(2), what is this document? Is it a Commission document? Is it eligible for incorporation by reference under G.S. 150B-21.6?

In (c)(3), how is the applicant to demonstrate that they have "performed" these duties? What are you requiring in the application?

In (d), line 25, what are "exceptional circumstances"?

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

Brian Liebman
Commission Counsel

Date submitted to agency: August 29, 2023

1 12 NCAC 09B .0502 is amended as published in 37:19 NCR 1927-1940

2
3 **12 NCAC 09B .0502 TERMS AND CONDITIONS OF SCHOOL DIRECTOR CERTIFICATION**

4 (a) The term of certification as a School Director is two years from the date the Commission issues the certification,
5 unless earlier terminated by action of the Commission. Upon application, the certification may subsequently be
6 renewed by the Commission for three-year periods. The application for renewal shall contain documentation meeting
7 the requirements of Rule .0501(b)(2) and (3) of this Section.

8 (b) To retain certification as a Basic Law Enforcement Training School Director, the School Director shall:

- 9 (1) Participate in annual training conducted by commission staff;
10 (2) Maintain and comply with the current version of the "Basic Law Enforcement Training Course
11 Management Guide";
12 (3) Maintain and ensure compliance with the current version of the "Basic Law Enforcement Training
13 Instructor Notebook" assigned to each certified school; and
14 (4) Perform the duties and responsibilities of a School Director as specifically required in Rule .0202
15 of this Subchapter.

16 (c) To retain certification as a Speed Measuring Instrument, Instructor Training, ~~or Specialized Instructor Training,~~
17 ~~School Director, Juvenile Justice, or Diversion Investigator/Supervisor Training School Director,~~ the school director
18 shall:

- 19 (1) Participate in annual training conducted by commission staff;
20 (2) Maintain and ensure compliance with the current version of the specific speed measuring instrument
21 or Instructor Training notebook assigned to each certified school; and
22 (3) Perform the duties and responsibilities of a School Director as specifically required in Rule .0202
23 of this Subchapter.

24 (d) The Director may grant a waiver of attendance at the annual training for just cause. For purposes of this Rule, just
25 cause means accident, illness, emergency, or other exceptional circumstances, which precluded the School Director
26 from attending the scheduled annual training. School Directors who receive a waiver of attendance shall be required
27 to complete a make up training session prior to the end of the calendar year in which the training requirement applies.

28
29 *History Note: Authority G.S. 17C-6;*
30 *Eff. January 1, 1985;*
31 *Amended Eff. February 1, 2016; May 1, 2014; April 1, 2009;*
32 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
33 *2019; Amended Eff. October 1, 2023.*
34

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

AGENCY: N.C. Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09C .0306

DEADLINE FOR RECEIPT: Tuesday, September 12, 2023.

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:

In (a)(5), line 19, I am confused by the language “applicants for certification”. According to (a) and (a)(1), this Rule applies to officers who are already certified—(a) talks about an officer “with general certification” and (a)(1) asks the employing agency to “verify the certification”. What is being required of whom here?

In (b)(1) and (2), it appears you’re essentially repeating the requirements of Rule .0104. Why not just eliminate these two items and say that the officer shall “comply with the requirements of 12 NCAC 09B .0104”?

In (b)(1), line 22, has the Medical History Statement Form gone through rulemaking, or are its contents or substantive requirements described in another rule or statute?

In (b)(4), line 30, 12 NCAC 09B .0101(6) points to 09C .0310. Why not simplify the reference?

In (b)(5), line 32, has the form gone through rulemaking, or are its contents or substantive requirements described in another rule or statute?

In (d), p.2, line 5, delete the hyphen between “60” and “days”.

In (d), line 7, has the form gone through rulemaking, or are its contents or substantive requirements described in another rule or statute?

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

Brian Liebman
Commission Counsel

Date submitted to agency: August 29, 2023

1 **12 NCAC 09C .0306 is amended as published in 37:19 NCR 1927-1940**

2
3 **12 NCAC 09C .0306 LATERAL TRANSFER OF LAW ENFORCEMENT OFFICERS**

4 (a) A law enforcement officer with general certification from either the Criminal Justice Education and Training
5 Standards Commission or the Sheriffs' Education and Training Standards Commission may transfer from one law
6 enforcement agency to another law enforcement agency with less than a 12 month break in law enforcement service.

7 Prior to employing the officer, the employing agency shall:

- 8 (1) verify the certification of the officer with the Criminal Justice Standards Division or the Sheriffs'
9 Standards Division;
- 10 (2) submit a new fingerprint check to the North Carolina State Bureau of Investigation, in compliance
11 with the requirements set forth in 12 NCAC 09B .0103(a) and (b), in the same manner as prescribed
12 for non-certified new applicants. No certification shall be transferred if the holder has been
13 convicted since initial certification of any offense for which revocation or suspension of certification
14 is authorized;
- 15 (3) advise the officer that he will be serving under a probationary appointment with the agency for one
16 year; ~~and~~
- 17 (4) notify the Commission by submitting a Report of Appointment that the officer is being employed
18 and stating the date on which employment will commence; and
- 19 (5) complete a background investigation on all applicants for certification, as set forth in 12 NCAC 09B
20 .0102.

21 (b) Prior to transfer of certification, the law enforcement officer shall:

- 22 (1) complete a Medical History Statement Form within one year prior to the transfer to the employing
23 agency;
- 24 (2) submit to examination by a surgeon, physician, physician assistant, or nurse practitioner licensed to
25 practice medicine in North Carolina in the same manner prescribed for non-certified new applicants
26 in 12 NCAC 09B .0104 within one year prior to the transfer to the employing agency;
- 27 (3) submit results of the physical examination to the employing agency for placement in the officer's
28 permanent personnel file;
- 29 (4) produce a negative result on a drug screen administered according to the specifications outlined in
30 12 NCAC 09B .0101~~(5)~~(6); and
- 31 (5) either:
 - 32 (A) submit a copy of the Commission's annual in-service training report form to the employing
33 agency for placement in the officer's permanent personnel file when the duty and off duty
34 weapons remain the same as those previously used to qualify. Such in-service training
35 compliance shall have occurred within the 12 month period preceding transfer; or
 - 36 (B) satisfactorily complete the employing agency's in-service firearms training program as
37 prescribed in 12 NCAC 09E .0105 and .0106.

1 (c) Officers previously certified who were not previously required to meet the educational or basic training
2 requirements shall not be required to meet such requirements when laterally transferring to another agency with less
3 than a 12-month break in law enforcement service.

4 (d) For currently certified full time officers with no break in service, upon written request from the department head
5 of the hiring agency, the Division shall waive for a period of no more than 60-days from the receipt of the Report of
6 Appointment by the Standards Division the requirements of Subparagraphs of (b)(1), (b)(2), (b)(3), (b)(4), and (b)(5)
7 of this Rule. The Report of Appointment Form is located on the agency's website:
8 [http://www.ncdoj.gov/getdoc/64d263a3-a598-4c45-9541-04ef088cf288/F-5A-\(DJJDP\)--6-11.aspx](http://www.ncdoj.gov/getdoc/64d263a3-a598-4c45-9541-04ef088cf288/F-5A-(DJJDP)--6-11.aspx).

9
10 *History Note:* Authority G.S. 17C-6; 17C-10;
11 Eff. January 1, 1981;
12 Amended Eff. April 1, 2018; October 1, 2017; May 1, 2009; July 1, 1990; March 1, 1990; July 1,
13 1989; July 1, 1982;
14 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,
15 2019; Amended Eff. October 1, 2023.
16

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

AGENCY: N.C. Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09G .0405

DEADLINE FOR RECEIPT: Tuesday, September 12, 2023.

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:

Note: to the extent that 09B .0501 and this Rule are identical, the change requests are also identical. There are some requests that are unique to this Rule, however.

In (b)(1), line 10, is the General Instructor certification governed by another Rule or statute?

In (b)(2), line 12, to whom must the applicant furnish this information?

In (b)(2), line 16, add hyphens to “out of state”. See also (b)(2)(A), lines 24-25.

In (b)(2)(A), lines 24 and 25, there appear to be extra spaces between “Article” and “39” and “state” and “statute”. Also in (b)(2)(D), line 36, there’s an extra space between “Education,” and “the”.

In (b)(2)(B), lines 28-29, please define “comparable to United States curriculum requirements.” As far as I am aware, there is no unified national high school curriculum.

In (b)(2)(C), line 31, what will staff evaluate the courses for? What standards will they use?

In (b)(2)(E), starting on p.2, line 14, the text that has not been edited (starting with “and has acquired...”) does not seem to fit here.

In (b)(2)(E), line 16, and (b)(2)(F), line 25, define “directly related”.

In (b)(2)(E), line 17, define “actively participating”.

In (b)(2)(F), line 26, define “directly participating”. Also, how is this different from “actively participating” as used in (E)?

Brian Liebman
Commission Counsel

Date submitted to agency: August 29, 2023

In (b)(3), line 23, is the “orientation” defined or required elsewhere?

In (b)(4), p.3, line 1, has the Form F-10(SD) gone through rulemaking, or are its contents or substantive requirements described in another rule or statute?

In (c)(1), lines 8-9, what is a “regionally accredited institution of higher learning”?

In (c)(2), line 12, what is a “General Instructor” certification? Is it defined elsewhere? How does one “hold” it?

In (c)(3), lines 14-15, is the “Instructor Training Orientation” different than the “orientation” described in (b)(3)? Is this orientation defined or required elsewhere?

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

Brian Liebman
Commission Counsel

Date submitted to agency: August 29, 2023

1 **12 NCAC 09G .0405 is amended with changes as published in 37:19 NCR 1927-1940**

2
3 **12 NCAC 09G .0405 CERTIFICATION OF SCHOOL DIRECTORS**

4 (a) Any person designated to act as, or who performs the duties of, a School Director in the delivery or presentation
5 of a Commission-certified corrections training course shall be and continuously remain certified by the Commission
6 as a School Director.

7 (b) To qualify for initial certification as a corrections School Director, an applicant shall:

8 (1) ~~Attend and successfully complete a Commission-certified instructor training course or an equivalent~~
9 ~~instructor training program as determined by the Commission (if certified after January 1, 2006);~~
10 Hold current General Instructor Certification as issued by the North Carolina Criminal Justice
11 Education and Training Standards Commission;

12 (2) ~~present documentary evidence showing that the applicant:~~ Furnish documentary evidence of high
13 school, college, or university graduation. Documentary evidence of high school graduation consists
14 of diplomas or transcripts from public schools or private schools which meet standards adopted by
15 either the North Carolina Department of Public Instruction, the Division of Non-Public Instruction,
16 or a comparable out of state agency; or such documentation as described in Paragraphs (A), (B),
17 (C), (D) and (E) of this Rule. Documentary evidence of college or university graduation consists of
18 diplomas or transcripts from colleges or universities accredited as such by the Department of
19 Education of the state in which the institution is located, an accredited body recognized by either
20 the U.S. Department of Education or Council for Higher Education Accreditation, or the state
21 university of the state in which the institution is located.

22 (A) High school diplomas earned through home school programs must be accompanied by a
23 true and accurate or certified transcript and must meet the requirements of Part 3 of
24 Article 39 of Chapter 115C of the North Carolina General Statutes, or a comparable out-
25 of-state statute.

26 (B) Diplomas earned from high schools or equivalent institutions outside of the United States
27 must be translated into English and be accompanied by an authentic transcript. The
28 Division's staff shall evaluate the transcripts to ensure they are scholastically comparable
29 to United States curriculum requirements.

30 (C) The Division's staff shall evaluate high school diplomas earned through on-line or
31 correspondence courses on a case by case basis. Such diplomas must meet state and local
32 requirements for the jurisdiction from which the diploma was issued.

33 (D) Documentary evidence of having earned a High School Equivalency (HSE) diploma
34 shall be satisfied by a certified copy of a high school equivalency credential or an adult
35 high school diploma, both of which must be recognized by the U.S. Department of
36 Education, the state Department of Education, or educational agency that is
37 authorized in the state to issue High School Equivalency (HSE) diplomas.

1 (E) Documentary evidence of the attainment of satisfactory scores on any military high
2 school equivalency examination is acceptable as evidence of high school graduation if
3 verified by a true copy of the veteran's DD214, Certificate of Release from Active
4 Duty.

5 is a high school, college, or university graduate or has received a high school equivalency
6 credential as [awarded from colleges or universities accredited by the Department of
7 Education of the state in which the institution is located, from an accredited body
8 recognized by either the U.S. Department of Education or the Council for Higher Education
9 Accreditation, or from the state university of the state in which the institution is located]

10 (A) is a high school graduate or has received a high school equivalency credential
11 [awarded by the Department of Education of the state in which the institution is located, or
12 from an accredited body recognized by either the U.S. Department of Education or the
13 Council for Higher Education Accreditation] recognized by the issuing state and has
14 acquired five years of practical as recognized by the issuing state and has acquired five
15 years of practical experience as a criminal justice officer, corrections officer, or as an
16 administrator or specialist in a field directly related to the corrections system. At least one
17 year of the required five years experience must have been while actively participating in
18 corrections training as a Commission-certified instructor;

19 (B)(F) has been awarded an associate degree from colleges or universities accredited by the
20 Department of Education of the state in which the institution is located, from an accredited
21 body recognized by either the U.S. Department of Education or the Council for Higher
22 Education Accreditation, or from the state university of the state in which the institution is
23 located recognized by the issuing state and has acquired four years of practical experience
24 as a criminal justice officer, corrections officer, or as an administrator or specialist in a
25 field directly related to the corrections system. At least one year of the required four years
26 experience must have been while directly participating in corrections training as a
27 Commission-certified instructor; or

28 (C)(G) has been awarded a baccalaureate degree from from colleges or universities accredited by
29 the Department of Education of the state in which the institution is located, from an
30 accredited body recognized by either the U.S. Department of Education or the Council for
31 Higher Education Accreditation, or from the state university of the state in which the
32 institution is located; ~~recognized by the issuing state a regionally accredited institution of~~
33 ~~higher learning;~~

34 (3) attend or have attended the most current offering of the School Director's orientation as developed
35 and presented by the Commission staff, otherwise an individual orientation with a staff member
36 shall be required; and

1 (4) submit a completed Form F-10(SD), Request for School Director Certification to the Commission
2 for the issuance of such certification. This request shall be executed by the executive officer of the
3 Office of Staff Development and Training of the North Carolina Department of Public Safety,
4 Division of Adult Correction and Juvenile Justice. The Form F-10(SD) is located on the agency's
5 website: [http://ncdoj.gov/getdoc/f23e5e4d-d56d-4aba-af1e-44712690d5d5/F-10\(SD\)-6-11.aspx](http://ncdoj.gov/getdoc/f23e5e4d-d56d-4aba-af1e-44712690d5d5/F-10(SD)-6-11.aspx).

6 (c) To qualify for certification as a School Director in the presentation of the "Criminal Justice Instructor Training
7 Course" an applicant shall:

8 (1) document that he or she has been awarded a baccalaureate degree from a regionally accredited
9 institution of higher learning;

10 (2) ~~present evidence showing successful completion of a Commission-certified instructor training~~
11 ~~course or an equivalent instructor training program as determined by the Commission; Hold current~~
12 ~~General Instructor certification; and,~~

13 (3) ~~be currently certified as a criminal justice instructor by the Commission; and~~

14 (4)(3) document ~~successful participation in a special program~~ successful completion of Instructor Training
15 Orientation presented by the Justice Academy for purposes of familiarization and supplementation
16 relevant to delivery of the instructor training course and trainee evaluation.
17

18 *History Note: Authority G.S. 17C-6;*
19 *Temporary Adoption Eff. January 1, 2001;*
20 *Temporary Adoption Expired December 20, 2001;*
21 *Temporary Adoption Eff. April 15, 2003;*
22 *Eff. April 1, 2004;*
23 *Amended Eff. February 1, 2016; January 1, 2006;*
24 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
25 *2019.*
26 *Amended Eff. October 1, 2023*
27

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

AGENCY: N.C. Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09G .0406

DEADLINE FOR RECEIPT: Tuesday, September 12, 2023.

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:

In (a), line 7, to be clear, the School Director has to submit his or her educational credentials and attend an orientation every time they apply for renewal?

In (a), line 7, what "documentation" are you requiring to show that the applicant attended the orientation?

In (b), line 8, how is the applicant to demonstrate that they have "performed" these duties? What are you requiring in the application?

In (c), line 10, what "annual training" are you requiring? Is this defined somewhere?

In (c), line 10, "commission" should be capitalized.

In (c), line 12, what are "exceptional circumstances"?

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

Brian Liebman
Commission Counsel

Date submitted to agency: August 29, 2023

1 **12 NCAC 09G .0406 is amended as published in 37:19 NCR 1927-1940**

2

3 **12 NCAC 09G .0406 TERMS AND CONDITIONS OF SCHOOL DIRECTOR CERTIFICATION**

4 (a) The term of certification as a School Director is two years from the date the Commission issues the certification,
5 unless earlier terminated by action of the Commission. Upon application the certification may subsequently be
6 renewed by the Commission for two-year periods. The application for renewal shall contain documentation meeting
7 the requirements of 12 NCAC 09G .0405(b)(2) and (b)(3).

8 (b) To retain certification as a School Director, the School Director shall perform the duties and responsibilities of a
9 School Director as specifically required in 12 NCAC 09G .0408.

10 (c) To retain certification, School Directors must participate in annual training conducted by commission staff. The
11 Director may grant a waiver of attendance at the annual training for just cause. For purposes of this Rule, just cause
12 means accidents, illness, emergency, or other exceptional circumstances which precluded the School Director from
13 attending the scheduled annual training. School Directors who receive a waiver of attendance shall be required to
14 complete a make up training session prior to the end of the calendar year in which the training requirement applies.

15

16 *History Note: Authority G.S. 17C-6;*
17 *Temporary Adoption Eff. January 1, 2001;*
18 *Temporary Adoption Expired December 20, 2001;*
19 *Temporary Adoption Eff. April 15, 2003;*
20 *Eff. April 1, 2004;*
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22 *2019; Amended Eff. October 1, 2023.*

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