

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

AGENCY: North Carolina Sheriff's Education and Training Standards Commission

RULE CITATION: 12 NCAC 10B .0603

DEADLINE FOR RECEIPT: November 10, 2022

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:

Generally, to the Rule: It appears that the Rule could be made much more concise. The Commission may want to consider re-writing the Rule. Rather than

Page 1, Line 27: The Commission's rules only mention "General Detention Officer Certification" in Rule .0603. This certification is not mentioned elsewhere in Chapter 10B. How does one get this certification?

Page 1, Line 33: "Grandfather Detention Officer Certification" is an undefined term. What is it and how does someone get the certification?

Page 2, Line 9: The term "general certification as a correctional officer" is undefined in the rules of the North Carolina Criminal Justice Education and Training Standards Commission." Please identify the specific certification by rule or statute.

Page 2, Lines 8-28: Section (c) is confusing as written. Is (c) conditions precedent to an evaluation or the criteria for the evaluation?

Page 2, Lines 11-12: There appears to be a punctuation and spacing issue.

Page 2, Line 12: Are there any specifications for the correctional officer training? Could it be from another State? YouTube? Distance learning?

Page 2, Line 13: "Transfers" from where? Should "to" be "from"?

Page 2, Line 15: How can an individual be "transferring" and have a break in service?

Page 2, Line 17: Where is the "State Comprehensive Examination" defined or set forth in a Rule?

Page 2, Line 33: Are there any specifications for the correctional officer training? Could it be from another State? YouTube? Distance learning?

William W. Peaslee
Commission Counsel

Date submitted to agency: November 4, 2022

Page 2, Line 34: "Transfers" from where? Should "to" be "from"?

Page 2, Line 36: What does the agency mean by "break in service"? Break from a previously held correctional officer position?

Page 3, Line 1: What documentation is the Commission requiring?

Page 3, Line 3: Upon what criteria will the Division base its decision?

Page 3, Line 7: Where is the "State Comprehensive Examination" defined or set forth in a Rule?

Page 3, Line 8: What "required training"? The training required by the Division's determination in (d)(2)(A)?

Page 3, Line 10: The term "general deputy sheriff certification" does not appear in Chapter 10. Please identify the certification the Commission intends. By probationary certification, is the Commission referring to 12 NCAC 10B .0402?

Page 3, Line 11 and 12: Move "issued" after "probationary or general certification". Or is a law enforcement officer issuing the certification?

Page 3, Line 14: As Consider citing 12 NCAC 09B .0205

Page 3, Line 18: Where is the "State Comprehensive Examination" defined or set forth in a Rule?

Page 3, Line 19: Are the topic areas in Lines 22-236 part of the Detention Officer Training Course (DOTC)? If so, the use of the "after" is odd. As written the officer would need to take a course in the topic areas and then take the DOTC. If training is needed over and above the DOTC, consider making these requirements (5).

The following is a re-write of (c) which is offered for consideration and not as a requirement. If it meets the Commission's intentions, it is more concise language and, I will submit, easier to read. This is provided merely as an example and as an attempt to aid the Commission.

(c) For individuals who have completed training as a correctional officer pursuant to Rule _____ between January 1, 1981, and August 1, 2002, the Division shall grant a waiver of the education requirements of 12 NCAC 10B .0601 if individuals:

- A) Have a general certification as a correctional officer from the North Carolina Criminal Justice Education and Training Standards Commission pursuant to Rule _____; and
- B) Have within the preceding twelve months held a detention officer position with sheriff's office or district confinement facility; and
- C) Serve a 12-month probationary period as set forth in Rule .0602(a) of this Section; and

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Date submitted to agency: November 4, 2022

- D) Have completed the following topics of instruction in a commission-certified Detention Officer Certification Course:
 - a. Orientation
 - b. Etc., Etc.; and
- E) Have successfully completed the State Comprehensive Examination pursuant to _____.

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

1 12 NCAC 10B .0603 is proposed to be amended with changes as published in Volunte 37, Issue 2, pages 178-
2 180 of the North Carolina public register as follows:

3
4 12 NCAC 10B .0603 EVALUATION FOR TRAINING WAIVER

5 (a) ~~Only applicants~~ Applicants for detention officer certification with prior detention or correctional officer
6 experience who have been employed and certified as a detention or correctional officer may seek a training waiver
7 evaluation pursuant to this ~~Rule~~ Section.

8 (b) The Division shall use the following to evaluate a detention officer's training and experience to grant a waiver:

9 (1) Persons who separated from a detention officer position during the probationary period after
10 completion of a commission-certified ~~detention officer training course~~ Detention Officer
11 Certification Course and who have been separated from a detention officer position for more than
12 one year shall complete a subsequent commission-certified ~~detention officer training course~~
13 Detention Officer Certification Course in its entirety and pass the State Comprehensive
14 Examination within the 12 month probationary period as set forth in Rule .0602(a) of this Section.

15 (2) Persons who separated from a detention officer position during their probationary period after
16 completion of a commission-certified ~~detention officer training course~~ Detention Officer
17 Certification Course and who have been separated from a detention officer position for one year or
18 less shall serve the remainder of the initial probationary period in accordance with G.S. 17E-7(b),
19 but need not complete an additional training program.

20 (3) Persons who separated from a detention officer position during the probationary period without
21 completion of a commission-certified ~~detention officer training course~~ Detention Officer
22 Certification Course, or whose certification was suspended pursuant to Rule .0204(b)(1) of this
23 Subchapter and who have remained separated or suspended for over one year shall complete a
24 commission-certified ~~detention officer training course~~ Detention Officer Certification Course in its
25 entirety and pass the State Comprehensive Examination, and shall be allowed a 12 month
26 probationary period as prescribed in Rule .0602(a) of this Section.

27 (4) Persons holding General Detention Officer Certification who completed a commission-certified
28 Detention Officer Certification Course ~~detention officer training course~~ and who separated from a
29 detention officer position for more than one year shall complete a subsequent commission-
30 certified Detention Officer Certification Course ~~detention officer training course~~ in its entirety and
31 pass the State Comprehensive Examination within the 12 month probationary period as prescribed
32 in Rule .0602(a) of this Section.

33 (5) Persons holding Grandfather Detention Officer Certification who separate from a detention officer
34 position and remain separated from a detention officer position for more than one year shall
35 complete a commission-certified Detention Officer Certification Course ~~detention officer training~~
36 ~~program~~ in its entirety and pass the State Comprehensive Examination within the 12 month
37 probationary period as prescribed in Rule .0602(a) of this Section.

1 (6) Persons transferring to a sheriff's office from another law enforcement agency who hold a
2 detention officer certification issued by the North Carolina Criminal Justice Education and
3 Training Standards Commission are subject to evaluation of their prior training and experience on
4 an individual basis. The Division shall review the training received against the training required by
5 Rule .0601 of this Section and determine whether that training is comparable to the requirements
6 set out in Rule .0601 based upon topics covered and determine what additional training, if any is
7 required under Rule .0601.

8 (c) The Division shall use the following ~~to evaluate~~ evaluation ~~a correction officer who holds a general certification~~
9 ~~as a correctional officer training and experience~~ to grant a waiver if the individual has general certification as a
10 correctional officer issued by the North Carolina Criminal Justice Education and Training Standards ~~Commission;~~
11 Commission:

12 ~~(1)~~ and completed training as a correctional officer between January 1, 1981 and August 1, ~~2002;~~ 2002:

13 ~~(1)(2)~~ transfer transfers to a sheriff's office or a district confinement facility in a detention officer
14 position; and

15 ~~(2)(3)~~ has ~~have~~ had less than a one year break in service shall:

16 (A) serve a 12-month probationary period as set forth in Rule .0602(a) of this Section; and

17 (B) take and successfully complete the State Comprehensive Examination ~~state examination~~
18 in its entirety during that probationary period after completing the following topic areas
19 in a commission-certified Detention Officer Certification Course: ~~detention officer~~
20 ~~certification course~~:

21	Orientation	3 hours
22	Legal Aspects of Management & Supervision	14 hours
23	Medical Care in the Jail	6 hours
24	Investigative Process in the Jail	8 hours
25	Criminal Justice System	2 hours
26	Introduction to Rules and Regulations Governing Jails	2 hours
27	Subject Control Techniques	32 hours
28	TOTAL HOURS	67 hours

29
30 (d) The Division shall use the following ~~to evaluate~~ evaluation ~~a correction officer who holds a general certification~~
31 ~~as a correctional officer training and experience~~ to grant a waiver if the individual has general certification as a
32 correctional officer issued by the North Carolina Criminal Justice Education and Training Standards Commission
33 ~~who:~~ ~~(1)~~ and completed training as a correctional officer after August 1, ~~2002;~~ 2002:

34 ~~(2)(1)~~ transfer transfers to a sheriff's office or a district confinement facility in a detention officer
35 position; and

36 ~~(3)(2)~~ have has had less than a one year break in service shall:

1 (A) submit documentation of the training completed as a correctional officer. The Division
2 shall review the training received against the training required by Rule .0601 of this
3 Section and determine whether that training is comparable to the requirements set out in
4 Rule .0601 based upon topics covered and determine what additional training, if any is
5 required under Rule .0601. The Division shall notify the employing agency of the
6 resulting training requirements; and

7 (B) take and successfully complete the State Comprehensive Examination ~~state examination~~
8 in its entirety during the probationary period after completing the required training in a
9 commission-certified Detention Officer Certification Course.

10 (e) Applicants for detention officer certification who hold probationary or general deputy sheriff certification with
11 the North Carolina Sheriffs' Education and Training Standards Commission; or a law enforcement officer issued
12 probationary or general certification by the Criminal Justice Education and Training Standards Commission, shall be
13 granted a training waiver pursuant to this Section provided the individual:

- 14 (1) has successfully completed the NC Basic Law Enforcement Training Course;
- 15 (2) has had no break in service as a deputy sheriff or law enforcement officer exceeding one year.
- 16 (3) serve a 12-month probationary period as a detention officer, as set forth in Rule .0602(a) of this
17 Section; and
- 18 (4) take and successfully complete the State Comprehensive Examination for the Detention Officer
19 Certification Course in its entirety during that probationary period after:

20 (A) completing the following topic areas in a full delivery of a commission-certified
21 Detention Officer Certification Course:

22	<u>Course Orientation</u>	<u>3 hours</u>
23	<u>Ethics</u>	<u>3 hours</u>
24	<u>Fire Emergencies</u>	<u>4 hours</u>
25	<u>Aspects of Mental Illness</u>	<u>6 hours</u>
26	<u>Review and Testing</u>	<u>7 hours</u>
27	<u>Legal Aspects of Management and Supervision</u>	<u>14 hours</u>
28	<u>Contraband/Searches</u>	<u>6 hours</u>
29	<u>Medical Care in the Jail</u>	<u>6 hours</u>
30	<u>Patrol and Security Function of the Jail</u>	<u>5 hours</u>
31	<u>Key and Tool Control</u>	<u>2 hours</u>
32	<u>Supervision and Management of Inmates</u>	<u>5 hours</u>
33	<u>Suicides and Crisis Management</u>	<u>5 hours</u>
34	<u>Introduction to Rules and Regulations</u>	<u>2 hours</u>
35	<u>Stress</u>	<u>3 hours</u>
36	<u>Prison Rape Elimination Act</u>	<u>2 hours</u>
37	<u>TOTAL HOURS</u>	<u>73 hours</u>

1 or

2 (B) ~~completing a commission-certified truncated delivery of the Detention Officer~~

3 ~~Certification Course that covers the following topic areas:~~

4 ~~Course Orientation 3 hours~~

5 ~~Ethics 3 hours~~

6 ~~Fire Emergencies 4 hours~~

7 ~~Aspects of Mental Illness 6 hours~~

8 ~~Review and Testing 7 hours~~

9 ~~Legal Aspects of Management and Supervision 14 hours~~

10 ~~Contraband/Searches 6 hours~~

11 ~~Medical Care in the Jail 6 hours~~

12 ~~Patrol and Security Function of the Jail 5 hours~~

13 ~~Key and Tool Control 2 hours~~

14 ~~Supervision and Management of Inmates 5 hours~~

15 ~~Suicides and Crisis Management 5 hours~~

16 ~~Introduction to Rules and Regulations 2 hours~~

17 ~~Stress 3 hours~~

18 ~~Prison Rape Elimination Act 2 hours~~

19 ~~TOTAL HOURS 73 hours~~

20
21 (f) ~~A truncated delivery of the Detention Officer Certification Course that only teaches blocks as specified in~~
22 ~~Paragraph (e) of this Rule is hereby authorized and shall comply with the following requirements:~~

23 ~~(1) The "Detention Officer Certification Training Manual," including subsequent amendments and editions,~~
24 ~~shall be used as the basic curriculum for the specified topics covered in the truncated delivery.~~

25 ~~(2) The "Truncated Detention Officer Certification Course Management Guide" published by the North~~
26 ~~Carolina Justice Academy is hereby incorporated by reference, including subsequent amendments and~~
27 ~~editions, and shall be used by school directors in planning, implementing, and delivering the truncated~~
28 ~~basic detention officer training.~~

29 ~~(3) The standards and requirements established by the "Truncated Detention Officer Certification Course~~
30 ~~Management Guide" shall be adhered to by the school director. The Justice Academy shall issue to each~~
31 ~~certified school director a copy of the guide at the time of certification at no cost to the certified school.~~

32 ~~(4) Each applicant shall complete form F-1 and pass the medical exam as required by 12 NCAC 10B .0304.~~

33 ~~(5) Each executive officer or officers of the institution or agency sponsoring a truncated Detention Officer~~
34 ~~Certification Course shall comply with the provisions of 12 NCAC 10B .0703 except for subsection~~
35 ~~.0703(e)(3)(D), as the truncated course does not require instruction in Subject Control Techniques because~~
36 ~~this is already provided in Basic Law Enforcement Training.~~

1 ~~(6) Each school director shall submit to the Commission a Pre-Delivery Report of Training Course~~
2 ~~Presentation (Form F-7A) in compliance with 12 NCAC 10B .0704(8).~~

3 ~~(7) Each school director shall not more than ten days after receiving from the Commission's representative~~
4 ~~the Report of Examination Scores, submit to the Commission a Post-Delivery Report of Training Course~~
5 ~~Presentation (Form 7-B) in compliance with 12 NCAC 10B .0704(16).~~

6 ~~(8) The delivering institution or agency must be certified to deliver the Detention Officer Certification~~
7 ~~Course under 12 NCAC 10B .0802.~~

8 ~~(9) Each presentation of the truncated Detention Officer Certification Course shall be reported to the~~
9 ~~Commission in compliance with 12 NCAC 10B .0803.~~

10 ~~(10) All instructors, school directors, executive officers, or lecturers involved in teaching and administering~~
11 ~~a truncated Detention Officer Certification Course shall hold the same certifications and qualifications~~
12 ~~required of instructors, school directors, executive officers, or lecturers in the full Detention Officer~~
13 ~~Certification Course.~~

14
15 *History Note: Authority G.S. 17E-4; 17E-7;*

16 *Eff. January 1, 1989;*

17 *Amended Eff. February 1, 2014; August 1, 2011; January 1, 2006; August 1, 2002; August 1,*
18 *1998; February 1, 1998; January 1, 1996; January 1, 1993; January 1, 1992; January 1, 1991;*

19 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
20 *2018.*

21 *Amended Eff. December 1, 2022;*

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

AGENCY: North Carolina Sheriffs' Education and Training Standards Commission

RULE CITATION: 12 NCAC 10B .0713

DEADLINE FOR RECEIPT: Wednesday, November 9, 2022

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

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

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

Page 1, Line 10, (b): Change "Director" to "School" to be consistent.

Page 1, Line 13 (c): What documentation is required? If there is something specific required, it should be plainly stated.

Page 1, Line 17 (e): To what "reading component" is the Commission referring? I brief review of the code does not appear to require a "reading component".

Page 1, Lines 17-21 (e): Why was this filed with a highlight?

Page 1 and 2: The rule submitted appears to amend the sub-sections beginning with (f) when this do not appear to be a change from the existing rule in the code. This will need to be changed.

Page 1, Lines 24 & 25, (f): Reference is made to two forms; however, neither the forms nor their substantive requirements appear in the code. Please see G.S. 150B-2(8a)d.

Page 1, Line 29 (g): Who certifies the "certified criminal record check"?

Page 2, Line 7 (h): Should not "a combination" be "any combination"?

Page 2, Lines 9-27 (i): This sub-paragraph is wordy and confusing. Consider making it multiple sub-paragraphs and perhaps utilize a list format.

Page 2, Lines 11-16 (i): This sentence is confusing. Consider re-writing it or breaking it up into two sentences.

Page 2, Line 14, 15, 17, 23 (i): Please refer to the style guide for the correct citation of entire Chapters of the North Carolina General Statutes. Remove the parenthetical references to statutes and consider "pursuant to ..."

William W. Peaslee
Commission Counsel
Date submitted to agency:

Page 2, Line 15 (i): As written, “provide an opportunity for both parties to be present” refers to the domestic violence orders and no contact orders. This is ambiguous and confusing.

Page 2, Line 18 (i): What is the “Class B Misdemeanor Manual”?

Page 2, Line 19 (i): The use of the word “include” suggests that there are other offences which need to be reported. Are there no clear criteria which can be identified so that trainees know what offences create an obligation to report?

Page 2, Line 22 (i): Consider using alternative language to “handled”. Perhaps “adjudicated” or “the court with jurisdiction.”

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

William W. Peaslee
Commission Counsel
Date submitted to agency:

1 12 NCAC 10B .0713 is amended with changes as published in Volume 37, Issue 2 , pages 186-187 of the North
2 Carolina public register as follows:

3
4 12 NCAC 10B .0713 ADMISSION OF TRAINEES

5 (a) The school ~~director~~ shall not admit any individual as a trainee in any commission-certified basic training course
6 who is not a citizen of the United States.

7 (b) The school shall not admit any individual younger than ~~21~~ 20 years of age as a trainee in ~~the any~~ Detention Officer
8 Certification Course and shall not admit any individual younger than 18 years of age as a trainee in the
9 Telecommunicator Certification Course without the prior written approval of the Director of the Standards Division.
10 The Director shall approve those individuals who will turn ~~21~~ 20 years of age prior to the end of ~~the any~~ Detention
11 Officer Certification Course and, those individuals who will turn 18 years of age prior to the end of the
12 Telecommunicator Certification Course.

13 (c) The school shall not admit any individual who has not provided documentation that he or she meets the educational
14 requirement set out in 12 NCAC 10B .0302.

15 (d) The school shall give priority admission in commission-certified basic training courses to individuals holding full-
16 time employment with criminal justice agencies.

17 (e) The school shall administer the reading component of a standardized test that reports a grade level for each trainee
18 participating in either the Telecommunicator or Detention Officer Certification Course. The specific test instrument
19 shall be determined by the school ~~director~~ and shall be administered within the first week of the Course. The grade
20 level results for each trainee shall be submitted to the Commission on each trainee's Report of Student Course
21 Completion.

22 ~~(f)(e)~~—The school shall not admit any individual as a trainee in a presentation of ~~the any~~ Detention Officer Certification
23 Course or the Telecommunicator Certification Course unless the individual has provided to the School ~~Director~~ a
24 Medical Examination Report Form (F-2) and the Medical History Statement Form (F-1) in compliance with 12 NCAC
25 10B .0304. The Medical Examination Report Form (F-2) and the Medical History Statement Form (F-1) required by
26 the North Carolina Criminal Justice Education and Training Standards Commission shall be recognized by the
27 Commission for the purpose of complying with this Rule.

28 ~~(g)(f)~~—The school shall not admit any individual trainee in commission-certified basic training courses unless the
29 individual has provided the School ~~Director~~ a certified criminal record check for local and state records where the
30 trainee has resided within the past 10 years and where the trainee attended high school. An Administrative Office of
31 the Courts criminal record check or a comparable out-of-state criminal record check shall satisfy this requirement. If
32 an individual trainee has received a probationary certificate from the Commission at the time of enrollment, this
33 records check requirement shall be waived.

34 ~~(h)(g)~~—The school shall not admit any individual as a trainee in commission-certified basic training courses who has
35 been convicted of the following:

- 36 (1) a felony;
37 (2) a crime for which the punishment could have been imprisonment for more than two years;

- 1 (3) a crime or unlawful act defined as a "Class B Misdemeanor" within the five year period prior to the
2 date of appointment;
- 3 (4) four or more crimes or unlawful acts as defined as "Class B Misdemeanors" regardless of the date
4 of conviction;
- 5 (5) four or more crimes or unlawful acts defined as "Class A Misdemeanors" except the trainee may be
6 enrolled if the last conviction occurred more than two years prior to the date of enrollment; or
- 7 (6) a combination of four or more "Class A Misdemeanors" or "Class B Misdemeanors" regardless of
8 the date of conviction.

9 ~~(i)(4)~~ Individuals charged with crimes specified in this Paragraph that were dismissed or the person was found not
10 guilty may be admitted into the commission-certified basic training courses, but completion will not ensure that
11 certification as a justice officer through the Commission will be issued. Every individual who is admitted as a trainee
12 in a presentation of the Commission-certified Basic Law Enforcement Training Course shall notify the School Director
13 of all criminal offenses that the trainee is arrested for, charged with, pleads no contest to, pleads guilty to, or is found
14 guilty of, and shall notify the School Director of all Domestic Violence Orders (G.S. 50B) and Civil No Contact Orders
15 (50C) that are issued by a judicial official that provide an opportunity for both parties to be present, including all
16 criminal offenses except minor traffic offenses. A minor traffic offense is defined for purposes of this Paragraph as
17 any offense under G.S. 20 or similar laws of other jurisdictions except those Chapter 20 offenses published in the
18 Class B Misdemeanor Manual. Other traffic offenses under laws of other jurisdictions that shall be reported to the
19 School Director include driving while impaired if the maximum allowable punishment is for a term of more than six
20 months but not more than two years and driving while license permanently revoked or permanently suspended. The
21 notifications required under this Paragraph shall be in writing and shall specify the nature of the offense, the court in
22 which the case was handled, the date of the arrest or criminal charge, the date of issuance of the Domestic Violence
23 Order (G.S. 50B) or Civil No Contact Order (G.S. 50C), and the final disposition and the date thereof. The notifications
24 required under this Paragraph shall be received by the School Director within 30 days of the date the case was disposed
25 of in court. The requirements of this Paragraph shall apply at all times during which the trainee is enrolled in a Basic
26 Law Enforcement Training Course. The requirements of this Paragraph shall be in addition to the notifications required
27 under 12 NCAC 10B .0301 and 12 NCAC 09B .0101(8).

28

29 *History Note: Authority G.S. 17C-4; 17E-7;*
30 *Eff. April 1, 2001;*
31 *Amended Eff. January 1, 2018; January 1, 2013; January 1, 2007; January 1, 2005;*
32 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
33 *2018;*
34 *Italicized Amendments have previously been published and are effective January 1, 2023.*
35 *Amended Eff. January 1, 2023.*