

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

AGENCY: Criminal Justice Training and Standards Commission

RULE CITATION: 12 NCAC 09A .0205

DEADLINE FOR RECEIPT: January 26, 2024

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:

Line 12: Change "may" to "shall" or state the criteria will the Commission use in making the determination whether to reduce, suspend or impose.

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: January 16, 2024

1 **12 NCAC 09A .0205 is amended, with changes, as published in 38:05 NCR 258-267**

2
3 **12 NCAC 09A .0205 PERIOD OF SUSPENSION: REVOCATION: OR DENIAL**

4 (a) When the Commission revokes or denies the certification of a criminal justice officer, the period of the sanction
5 shall be permanent where the cause of sanction is:

- 6 (1) commission or conviction of a felony offense, except as provided by G.S. 17C-13(a);
- 7 (2) commission or conviction of a criminal offense for which punishment is authorized by law to
8 included imprisonment for more than two years, except as provided by G.S. 17C-13(a); or
- 9 (3) the second suspension of an officer's certification for any of the causes requiring a five-year period
10 of suspension pursuant to 12 NCAC 09A .0204.

11 (b) When the Commission suspends or denies the certification of a criminal justice officer, the period of sanction
12 shall be not less than five years; however, the Commission may reduce or suspend the period of sanction or substitute
13 a period of probation in lieu of suspension of certification, or impose a combination of reduction, suspension, or
14 probation as determined on a case-by-case basis following a consent order or an administrative hearing, where the
15 cause of sanction is:

- 16 (1) commission or conviction of a criminal offense other than those listed in Paragraph (a) of this Rule;
- 17 (2) refusal to submit to the applicant or lateral transferee drug screen required by these Rules;
- 18 (3) production of a positive result on a drug screen reported to the Commission under 12 NCAC 09C
19 .0310, where the positive result cannot be explained to ~~be in compliance with the law; the~~
20 satisfaction of the agency's Medical Review Officer, who shall be a licensed physician;
- 21 (4) material misrepresentation of any information required for certification or accreditation;
- 22 (5) obtaining, attempting to obtain, aiding another person to obtain, or aiding another person to attempt
23 to obtain credit, training or certification by any means of false pretense, deception, ~~defraudation,~~
24 fraud, misrepresentation or cheating;
- 25 (6) failure to make either of the notifications as required by 12 NCAC 09B ~~.0101(8); [0101];~~ .0101(13);
- 26 (7) removal from office under the provisions of G.S. 128-16 or the provisions of G.S. 14-230;
- 27 (8) performing activities or duties for which certification by the Commission is required without having
28 first obtained the appropriate certification; or
- 29 (9) commission or conviction of four or more crimes or unlawful acts defined as "Class B
30 misdemeanors" in 12 NCAC 09A .0103(24)(b), regardless of the date of conviction.

31 (c) When the Commission suspends or denies the certification of a criminal justice officer, the period of sanction
32 shall be for an indefinite period, but continuing so long as the stated deficiency, infraction, or impairment continues
33 to exist, where the cause of sanction is:

- 34 (1) failure to meet or satisfy relevant basic training requirements pursuant to 12 NCAC 09B .0205,
35 .0225, .0235, and 0236;
- 36 (2) failure to meet or maintain the minimum standards of employment pursuant to 09B .0101, .0111,
37 .0114, .0116, .0117;

- 1 (3) discharge from a criminal justice agency for impairment of physical or mental capabilities; or
- 2 (4) failure to meet or satisfy the in-service training requirements as prescribed in 12 NCAC 09E.

3

4 *History Note:* *Authority G.S. 17C-6; 17C-10;*
5 *Eff. January 1, 1981;*
6 *Amended Eff. February 1, 2006; August 1, 2001; November 1, 1993; July 1, 1990; July 1, 1989;*
7 *October 1, 1985;*
8 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
9 *2019;*
10 *Amended Eff. January 1, 2024; January 1, 2022; July 1, 2020.*
11

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

AGENCY: Criminal Justice Training and Standards Commission

RULE CITATION: 12 NCAC 09A .0206

DEADLINE FOR RECEIPT: January 26, 2024

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 4 and 8: Change "may" to "shall" or state the criteria will the Commission use in making the determination whether to summarily suspend.

Page 1, Line 4-6: What procedure is used? Is there a rule which can be cited?

Page 1, Line 9: Other than a conviction in the general court of justice, what is the procedure for determining whether a person has "committed" a crime?

Page 1, Lines 18-19: During which proceedings? I believe the Commission needs to clarify that it intends "during the proceedings for suspension and revocation" and not the summary suspension proceedings if that is the Commission's intention.

Page 1, Lines 25-27: Or what? What is the authority of the Commission over Department Heads and the executive officer of institutions?

Page 1, Line 30: What criteria will the Commission use in determining whether an out of compliance course has "negatively affected the public safety." What is the process?

Page 1, Line 34: What criteria will the Director use in determining whether an out of compliance course has "negatively affected the public safety?" What is the process?

Page 2, Line 18: Which proceedings? See the request for Page 1, Lines 18-19.

Page 2, Line 24: Shouldn't G.S. 14-415.12 be listed as authority?

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: January 16, 2024

1 **12 NCAC 09A .0206 is amended, with changes, as published in 38:05 NCR 258-267**

2
3 **12 NCAC 09A .0206 SUMMARY SUSPENSIONS**

4 (a) The Commission, by and through the Probable Cause Committee, may summarily suspend the certification of a
5 criminal justice officer or instructor before the commencement of proceedings for suspension or revocation of the
6 certification if the public health, safety, or welfare requires action pursuant to G.S. 150B-3. The Commission has
7 determined that the following conditions specifically affect the public health, safety, or welfare and therefore it, by
8 and through the Probable Cause Committee, may summarily suspend a certification of a criminal justice officer if:

- 9 (1) the person has committed or been convicted of a violation of the criminal code that would require a
10 permanent revocation or denial of certification;
- 11 (2) the certified officer fails to complete the in-service training requirements as prescribed in 12 NCAC
12 09E; or
- 13 (3) the certified officer has produced a positive result on a urinalysis test, conducted in accordance with
14 12 NCAC ~~09B .0101~~(5) ~~[.0101]~~ **09C .0310;**

15 (b) For the purpose of considering a summary suspension of certification, the Probable Cause Committee shall meet
16 only upon notice given by mail, telephone, or other means not less than 48 hours in advance of the meeting.

17 (c) A summary suspension shall be effective on the date specified in the order of summary suspension or upon service
18 of the certified copy of the order at the last known address of the person, whichever is later. The summary suspension
19 shall remain effective during the proceedings.

20 (d) The Director, upon receipt of information showing the existence of a basis for summary suspension provided for
21 in Subparagraph (a)(1), (2), or (3) of this Rule, shall coordinate the meeting described in Paragraph (b) of this Rule.
22 All affected persons shall be notified that the person may submit any pertinent matters to the Probable Cause
23 Committee for its consideration before the Committee acts on the summary suspension issue. No person shall be
24 allowed more than 48 hours to submit information to the Probable Cause Committee.

25 (e) Upon oral notification by the Director that the certification of an officer or instructor is being summarily suspended
26 by written order, the Department Head of the Criminal Justice Agency or the executive officer of the institution shall
27 ensure that the officer or instructor does not perform duties requiring certification by the Commission.

28 (f) The Commission, by and through the Director, upon determining that a Commission-certified Concealed Carry
29 Handgun Instructor has conducted a concealed carry handgun training course as mandated by G.S. 14-415.12(a)(4)
30 that is not in compliance with 12 NCAC 09F .0102 and negatively affects the public safety and welfare shall do the
31 following until such time as the training course has been brought into compliance or reported to the Probable Cause
32 Committee for action:

- 33 (1) summarily suspend the Concealed Carry Handgun Instructor certification, prohibiting him or her
34 from delivering concealed carry handgun training until the Director determines the training program
35 is brought into compliance with 12 NCAC 09F .0102 and 12 NCAC 09F .0105 of this Chapter; and
- 36 (2) inform the instructor that he or she may appeal the Director's suspension by requesting, in writing,
37 a formal hearing before the Probable Cause Committee at the next scheduled Commission meeting.

1 (g) The Commission, by and through the Director, upon determining that a Commission-certified instructor has
2 conducted a Commission-approved training course in a way that was not in accordance with the requirements of this
3 Chapter or has conducted a Commission-approved training course while being in violation of the instructor's minimum
4 standards as outlined in 12 NCAC 09B .0301 shall do the following until such time as the training course or his or her
5 instructor certification has been brought into compliance:

6 (1) summarily suspend the individual's Instructor's certification, prohibiting him or her from delivering
7 Commission approved training until the noncompliance is remedied; and

8 (2) the Director shall send a report of all summary suspensions for a formal hearing before the Probable
9 Cause Committee at the next scheduled Commission meeting.

10 (h) The Commission, by and through the Director, upon determining a Commission-certified instructor has been
11 alleged to have violated a certification rule as outlined in this Chapter shall do the following:

12 (1) summarily suspend the individual's Instructor's certification, prohibiting him or her from delivering
13 Commission approved training until the matter is resolved; and

14 (2) the Director shall send a report of all summary suspensions for a formal hearing before the Probable
15 Cause Committee at the next scheduled Commission meeting.

16 (i) A summary suspension shall be effective on the date specified in the order of summary suspension or upon service
17 of the certified copy of the order at the last known address of the person, whichever is later. The summary suspension
18 shall remain effective during the proceedings.

19 (j) The Commission, by and through the Director, upon determining that a criminal justice officer who was issued a
20 waiver of the requirements of 12 NCAC 09C .0306 has not met those requirements within 60 days of being awarded
21 general certification by the Commission, shall summarily suspend the officer's certification until the officer meets the
22 requirements of 12 NCAC 09C .0306.

23
24 *History Note: Authority G.S. 17C-6; 17C-10; 150B-3;*
25 *Eff. January 1, 1981;*
26 *Amended Eff. October 1, 2017; February 1, 2016; December 1, 2007; March 1, 2004; July 1, 1990;*
27 *July 1, 1989; October 1, 1985; August 15, 1981;*
28 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
29 *2019;*
30 *Amended Eff. August 1, 2021.*
31 *Amended Eff. October 1, 2023*
32 *Amended Eff. January 1, 2024*
33

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

AGENCY: Criminal Justice Training and Standards Commission

RULE CITATION: 12 NCAC 09B .0103

DEADLINE FOR RECEIPT: January 26, 2024

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:

Line 4: Certification for what? This could also be clarified by citing a Rule or Subchapter.

Line 18: Change "may" to "shall".

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: January 16, 2024

1 **12 NCAC 09B .0103 is amended as published in 38:05 NCR 258-267**

2
3 **12 NCAC 09B .0103 FINGERPRINT CRIMINAL HISTORY RECORD CHECK**

4 (a) Each applicant for certification shall submit electronic fingerprints in the Statewide Automated Fingerprint
5 Identification System (SAFIS).

6 (b) The employing agency shall forward the applicant's fingerprints to the North Carolina State Bureau of
7 Investigation for a criminal history record check utilizing fingerprints against State and federal files.

8 (c) The employing agency will receive a report of the results of the criminal history record check utilizing fingerprints
9 against State and federal files. The employing agency shall retain the results of the criminal history record check
10 utilizing fingerprints in compliance with the North Carolina Department of Natural and Cultural Resources Retention
11 and Disposition Schedule established pursuant to G.S. 121-4 and G.S. 132-8.1. The employing agency shall include
12 the results of the fingerprint criminal history record check with the applications submitted to the Commission.

13 (d) Each applicant for certification and certified criminal justice officers shall also submit electronic fingerprints,
14 other identifying information required by the State and National Repositories of Criminal Histories, and any other
15 information required by the State Bureau of Investigation for their enrollment in the Federal Bureau of Investigation's
16 Next Generation Identification (NGI) System and Criminal Justice Record of Arrest and Prosecution Background
17 (RapBack) Service.

18 ~~(d)~~(e) Pursuant to 12 NCAC 09C .0303(a), an applicant for certification as a law enforcement officer may not perform
19 any action requiring certification by the Commission prior to the date on which the employing agency receives the
20 report of the results of the criminal history record check utilizing fingerprints.

21
22 *History Note: Authority G.S. 17C-6; 17C-10;*
23 *Eff. January 1, 1981;*
24 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
25 *2019;*
26 *Amended Eff. January 1, 2024; October 1, 2022.*
27

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

AGENCY: Criminal Justice Training and Standards Commission

RULE CITATION: 12 NCAC 09B .0235

DEADLINE FOR RECEIPT: January 26, 2024

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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:

Page 1, Lines 5-7: This is an ambiguous standard.

Page 2, Lines 6-8: Has the training manual been adopted pursuant to the APA? If so, where? If not, explain how the Commission cannot incorporate the curriculum by reference.

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: January 16, 2024

12 NCAC 09B .0235 is amended, with changes, as published in 38:05 NCR 258-267

12 NCAC 09B .0235 BASIC TRAINING – JUVENILE COURT COUNSELORS AND CHIEF COURT COUNSELORS

(a) The basic training course for Juvenile Court Counselors and Chief Court Counselors shall consist of a minimum of ~~151~~ **121** **119** hours of instruction designed to provide the trainee with the skills and knowledge to perform those tasks essential to function as a Juvenile Court Counselor and a Chief Court Counselor.

(b) Each basic training course for Juvenile Court Counselors shall include training in the following topic areas:

(1) Juvenile Justice Common Core:

(A)	Basic Individual Counseling Skills	8 6 hours
(B)	Interpersonal Communication Skills	8 6 hours
(C)	Working with Families	3 hours
(D)	Characteristics of Delinquents	4 hours
(E)	Unlawful Workplace Harassment	2 hours
(F)	Career Survival: Integrity and Ethics in the North Carolina Department of Public Safety Workplace	2 hours
(G) (E)	Staff and Juvenile Relationships <u>Relationships: Maintaining Professional Boundaries</u>	4 hours
(H) (F)	Gang Awareness	4 2 hours
(I) (G)	Situational Awareness and Risk Assessment	4 hours
(J) (H)	Restraints, Controls, and Defensive Techniques	28 hours
(K) (I)	Mechanical Restraints	4 hours
(L) (J)	Mental Health <u>Youth Mental Health First-Aid</u>	8 hours
(M)	CPR	4 hours
(N)	First Aid	4 hours
(O)	Employee Fitness and Wellness	4 hours
(P) (K)	Trauma and Delinquents	6 hours
(Q) (L)	Driver and Secure Transport Safety	8 4 hours
(R) (M)	DMC – Addressing DMC within the JJ System <u>Racial and Ethnic Disparities (RED) – Addressing RED within the Juvenile Justice System</u>	2 hours
(S) (N)	Verbal De-escalation for Juvenile Justice	4 2 hours
	Total Hours	111 83 hours

(2) Juvenile Court Counselor Specific:

(A)	<u>Roles and Responsibilities</u> <u>Statutory Responsibilities and Requirements of Juvenile Court Counselors</u>	8 6 hours
(B)	Juvenile Law	8 hours

1	(C) Intake <u>Intake, Supervision and Services</u>	8 hours
2	(D) Assessing Risk and Needs	4 6 hours
3	(E) Report Writing and Documentation	12 8 hours
4	Total Hours	40 [38] 36 hours
5	Total Course Hours	151 121 119 hours

6 (c) The "Juvenile Court Counselor Basic Training Manual" as published by the North Carolina Department of Public
7 Safety shall be applied as the curriculum for delivery of Juvenile Court Counselor basic training courses. Copies of
8 this publication may be inspected at or purchased at the cost of printing and postage from the office of the agency:

9 ~~The Office of Staff Development and Training~~
10 Division of Juvenile Justice and Delinquency Prevention
11 North Carolina Department of Public Safety
12 2211 Schieffelin Road 3010 Hammond Business Place
13 Apex, North Carolina 27502
14 Raleigh, North Carolina 27603

15 (d) Upon completion of a Commission-certified training course for Juvenile Court Counselors and Chief Court
16 Counselors, the Director of the school conducting the course shall notify the Commission of training completion by
17 submitting a Report of Training Course Completion for each trainee. The Report of Training Course Completion, F-
18 11, identifies the student, student's social security number, date of birth, employing agency, position, date of
19 appointment, and course information, to include title of course, location course was conducted at, the dates the course
20 began and ended, the hours the course was conducted, number of instructional contact hours, and name of certifying
21 official regarding the successful completion of the training course. The Report of Training Completion Form is located
22 on the agency's website: [http://www.ncdoj.gov/getattachment/fb13480e-05a1-4e0e-a81a-04070dea6199/F-11-](http://www.ncdoj.gov/getattachment/fb13480e-05a1-4e0e-a81a-04070dea6199/F-11-Form-10-2-14.pdf.aspx)
23 [Form-10-2-14.pdf.aspx](http://www.ncdoj.gov/getattachment/fb13480e-05a1-4e0e-a81a-04070dea6199/F-11-Form-10-2-14.pdf.aspx).

24 (e) Employees of the Division of ~~Adult Correction~~ and Juvenile Justice and Delinquency Prevention who have
25 completed the minimum ~~151~~ ~~[121]~~ 119 hour training program accredited by the Commission pursuant to Rule .0236
26 of this Section after January 1, 2013 who transfer from a Juvenile Justice Officer position to a Juvenile Court
27 Counselor position shall be required to complete only the portions of the course identified as specific to the duties and
28 responsibilities of a Juvenile Court Counselor under Subparagraph (b)(2) of this Rule.

29
30 *History Note: Authority G.S. 17C-2; 17C-6; 17C-10;*
31 *Temporary Adoption Eff. April 15, 2003;*
32 *Eff. April 1, 2004;*
33 *Amended Eff. July 1, 2017; July 1, 2016; August 1, 2015; May 1, 2014;*
34 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
35 *2019;*
36 *Amended Eff. January 1, 2022.*
37 *Amended Eff. January 1, 2024*
38

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

AGENCY: Criminal Justice Training and Standards Commission

RULE CITATION: 12 NCAC 09B .0236

DEADLINE FOR RECEIPT: January 26, 2024

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

Page 1, Lines 4-6: This is an ambiguous standard.

Page 2, Lines 7-9: Has the training manual been adopted pursuant to the APA? If so, where? If not, explain how the Commission cannot incorporate the curriculum by reference.

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: January 16, 2024

1 **12 NCAC 09B .0236 is amended, with changes, as published in 38:05 NCR 258-267**

2
3 **12 NCAC 09B .0236 BASIC TRAINING - JUVENILE JUSTICE OFFICERS**

4 (a) The basic training course for Juvenile Justice Officers shall consist of a minimum of ~~154~~ 117 hours of instruction
5 designed to provide the trainee with the skills and knowledge to perform those tasks essential to function as a juvenile
6 justice officer.

7 (b) Each basic training course for Juvenile Justice Officers shall include training in the following identified topic
8 areas:

9 (1) Juvenile Justice Common Core:

(A)	Basic Individual Counseling Skills	8 <u>6</u> hours
(B)	Interpersonal Communication Skills	8 <u>6</u> hours
(C)	Working with Families	3 hours
(D)	Characteristics of Delinquents	4 hours
(E)	Unlawful Workplace Harassment	2 hours
(F)	Career Survival: Integrity and Ethics in the North Carolina Department of Public Safety Workplace	2 hours
(G) <u>(E)</u>	Staff and Juvenile Relationships <u>Relationships: Maintaining Professional Boundaries</u>	4 hours
(H) <u>(F)</u>	Gang Awareness	4 <u>2</u> hours
(I) <u>(G)</u>	Situational Awareness and Risk Assessment	4 hours
(J) <u>(H)</u>	Restraints, Controls, and Defensive Techniques	28 hours
(K) <u>(I)</u>	Mechanical Restraints	4 hours
(L) <u>(J)</u>	Mental Health <u>Youth Mental Health First-Aid</u>	8 hours
(M)	CPR	4 hours
(N)	First Aid	4 hours
(O)	Employee Fitness and Wellness	4 hours
(P) <u>(K)</u>	Trauma and Delinquents	6 hours
(Q) <u>(L)</u>	Driver and Secure Transport Safety	8 <u>4</u> hours
(R) <u>(M)</u>	DMC Addressing DMC within the JJ System <u>Racial and Ethnic Disparities (RED) – Addressing RED within the Juvenile Justice System</u>	2 hours
(S) <u>(N)</u>	Verbal De-escalation for Juvenile Justice	4 <u>2</u> hours
	Total Hours	144 <u>83</u> hours

34 (2) Juvenile Justice Officer Specific:

(A)	Treatment Program Operations	4 hours
(B)	Maintaining Documentation of Activities and Behaviors	8 hours
(C)	Basic Group Leadership Skills	8 <u>4</u> hours

1	(D)	Effective Behavior Management	10 hours
2	(E)	Health Services Overview	2 hours
3	(F)	Contraband and Search Techniques	2 hours
4	(G)	Suicide Prevention and Response	6 4 hours
5		Total Hours	40 34 hours
6		Total Course Hours	151 117 hours

(c) The "Juvenile Justice Officer Basic Training Manual" as published by the North Carolina Department of Public Safety shall be applied as the curriculum for delivery of Juvenile Justice Officer basic training courses. Copies of this publication may be inspected at or purchased at the cost of printing and postage from the office of the agency:

~~The Office of Staff Development and Training~~
Division of Juvenile Justice and Delinquency Prevention
 North Carolina Department of Public Safety
~~2211 Schieffelin Road~~ 3010 Hammond Business Place
~~Apex, North Carolina 27502~~ Raleigh, North Carolina 27603

(d) Upon completion of a Commission-certified training course for Juvenile Justice Officers the Director of the school conducting the course shall notify the Commission of the training completion by submitting a Report of Training Course Completion for each trainee. The requirements for completion of the Report of Training Course Completion, F-11, is outlined in 12 NCAC 09B .0235. The Report of Training Completion Form is located on the agency's website: <http://www.ncdoj.gov/getattachment/fbf3480e-05a1-4e0e-a81a-04070dea6199/F-11-Form-10-2-14.pdf.aspx>.

(e) Employees of the Division of ~~Adult Correction and~~ Juvenile Justice and Delinquency Prevention who have completed the minimum ~~151~~ 117 hour training program accredited by the Commission under Rule .0235 of this Section after January 1, 2013 who transfer from a Juvenile Court Counselor position to a Juvenile Justice Officer position shall be required to complete only the portions of the course identified as specific to the duties and responsibilities of a Juvenile Justice Officer pursuant to Subparagraph (b)(2) of this Rule.

*History Note: Authority G.S. 17C-2; 17C-6; 17C-10;
 Temporary Adoption Eff. April 15, 2003;
 Eff. April 1, 2004;
 Amended Eff. January 1, 2024; July 1, 2017; July 1, 2016; August 1, 2015; May 1, 2014;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019.*

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

AGENCY: Criminal Justice Training and Standards Commission

RULE CITATION: 12 NCAC 09B .0301

DEADLINE FOR RECEIPT: January 26, 2024

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

Page 1, Line: 29: The Commission uses the phrase “shall include” which means that the criteria to be used to determine the maintenance of competence is not exclusive to “attending and completing all updated instructor training courses. Accordingly, the criteria to be used is ambiguous.

Page 1, Line 32: Found by whom? What is the process by which this determination will be made?

Page 1, Lines 34-39, and Page 2, Line 1: The Commission uses the word “including” which means that the actions listed in items (1) through (5) are not exclusive. Accordingly, as written, the Paragraph is ambiguous.

Page 1, Lines 34-39, and Page 2, Line 1: As written, the Commission shall do items (1) through (5) as opposed to a menu of options. Is that what the Commission intended?

Page 2, Lines 6-9: The Commission cannot adopt standards in manuals or guides which have not been adopted pursuant to the APA. Please see G.S. 150B- 21.6. Has the training manual or management guide been adopted pursuant to the APA? If so, where? If not, explain how the Commission cannot incorporate the curriculum by reference.

Page 2, Line 14 and Line 26: Explain the process by which the Commission will determine the “commission” of a criminal offense other than by a conviction in the Court of General Justice. Has a rule been adopted setting forth the process and criteria which will be used?

Page 3, Lines 1-11: Paragraph (e) lists the instances in which the Commission shall deny or revoke a certification when “finds that person” has done one or more of the listed acts. Part (B) of the paragraph however requires an act by “managing personnel”, not an instructor. There appears to be a disjunctive.

William W. Peaslee
Commission Counsel

Date submitted to agency: January 16, 2024

Page 3, Line 12: This is an ambiguous standard.

Page 3, Lines 30-37: This paragraph lacks clarity and needs to be re-written.

Page 3, Line 30: By what method does the Commission certify a person as a “law enforcement officer”? Does the Commission mean “criminal justice officer” which is defined in GS 17C-2(3)?

Page 3, Lines 30-37: Rule .0301 regulates instructors. These lines are regulating “law enforcement officers” who may or may not be instructors. In short, why would a person who is not an instructor look at this rule to find this requirement?

Consider if it meets the Commission’s intention:

(f) Any instructor whose criminal justice officer certification or power to make arrests is suspended or revoked by the federal government, State of North Carolina or any subdivisions thereof, or by any other State Carolina or any subdivisions thereof, shall report the suspension or revocation to the Criminal Justice Standards Commission within five days of the officer’s receipt of notice of the suspension or revocation.

(g) (Add the commensurate suspension of the “General Instructor Certification” language here. However, as “general instructor certification” is not a defined term, the Commission should also reference the rule establishing the certification and it should not be capitalized.)

(h) Any applicant for instructor certification whose criminal justice officer certification or power to make arrests has been denied, suspended or revoked at any time by the federal government, State of North Carolina or any subdivisions thereof, or by any other State Carolina or any subdivisions thereof, shall report the suspension or revocation to the Criminal Justice Standards Commission at the time the application is submitted. This requirement is not withstanding any subsequent reinstatement of the certification or power to make arrests.

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: January 16, 2024

2
3 SECTION .0300 - MINIMUM STANDARDS FOR CRIMINAL JUSTICE INSTRUCTORS

4
5 12 NCAC 09B .0301 CERTIFICATION OF INSTRUCTORS

6 (a) A person participating in a Commission-certified criminal justice training course or program as an instructor,
7 teacher, professor, lecturer, or other participant making presentations to the class shall first be certified by the
8 Commission as an instructor.

9 (b) The Commission shall certify instructors under the following categories: General Instructor Certification,
10 Specialized Instructor Certification, or Professional Lecturer Certification as outlined in Rules .0302, .0304 and .0306
11 of this Section. Instructor certification shall be granted on the basis of documented qualifications of experience,
12 education, and training in accordance with the requirements of this Section and as stated on the applicant's Request
13 for Instructor Certification Form: Application for Instructor or Professional Lecturer Certification, F-12. The
14 Application for Instructor or Professional Lecturer F-12 shall contain:

- 15 (1) name of applicant/instructor;
- 16 (2) address, phone, email address, date of birth, age, last 4 of Social Security Number, and Acadis
17 number;
- 18 (3) current agency/firm, status (Retired, Civilian, Sworn), agency address, and business phone number;
- 19 (4) type of instructor certification applying for;
- 20 (5) supporting documents for specific certification sought;
- 21 (6) highest education level, school attended, school location, and graduation date;
- 22 (7) criminal justice experience;
- 23 (8) signature of applicant/instructor;
- 24 (9) school, course title, hours taught, course date(s) and whether course was a requirement of Mandatory
25 In-Service Training; and
- 26 (10) signature of certifying School Director or In-Service Training Coordinator, school or agency, phone
27 number, and email address.

28 (c) In addition to all other requirements of this Section, each instructor certified by the Commission to teach in a
29 Commission-certified course shall remain competent in his or her specialized areas. Such competence shall include
30 remaining current in the instructor's area of expertise, which shall be demonstrated by attending and completing all
31 updated instructor training courses required by the Commission.

32 (d) If a person certified as an instructor by the Commission is found to have knowingly and willfully violated any
33 provision or requirement of the rules in this Subchapter, the Commission shall take action to correct the violation and
34 to ensure that the violation does not recur, including:

- 35 (1) issuing an oral warning and request for compliance;
- 36 (2) issuing a written warning and request for compliance;
- 37 (3) issuing an official written reprimand;
- 38 (4) suspending the individual's certification for a specified period of time or until acceptable corrective
39 action is taken by the individual; and no more than three years; and

- 1 (5) revoking the individual's certification.
- 2 (e) The Commission shall deny, suspend, or revoke an instructor's certification when the Commission finds that the
- 3 person:
- 4 (1) has failed to meet and maintain any of the requirements for qualification;
- 5 (2) has failed to remain competent in the person's areas of expertise;
- 6 (3) has failed to deliver training in a manner consistent with the instructor lesson plans outlined in the
- 7 "Instructor Training Manual" as found in Rule .0209 of this Subchapter;
- 8 (4) has failed to follow specific guidelines outlined in the "Basic Law Enforcement Training Course
- 9 Management Guide" as found in Rule .0205 of this Subchapter;
- 10 (5) has demonstrated "unprofessional personal" conduct in the delivery of Commission approved or
- 11 mandated training. For the purposes of this Subparagraph, unprofessional personal conduct is
- 12 identified as:
- 13 (A) job-related conduct that constitutes a violation of state or federal law;
- 14 (B) a conviction or commission of a criminal offense, as set out in 12 NCAC 09A .0204;
- 15 (C) the willful violation of rules of this Chapter;
- 16 (D) conduct that is detrimental to instruction in the Commission's mandated courses. Conduct
- 17 is "detrimental to instruction" if the conduct is demeaning or disruptive to the learning
- 18 environment;
- 19 (E) the physical or verbal abuse of a client or student who the instructor is teaching or
- 20 supervising; or
- 21 (F) falsification of an instructor application or other employment documentation;
- 22 (6) is an instructor, School Director, or Qualified Assistant and is involved in the instruction of (for
- 23 instructors) or oversight of (for School Directors and Qualified Assistants) a student with whom the
- 24 instructor, School Director, or Qualified Assistant has a close personal relationship such as, familial,
- 25 financial, dating, or sexual, even if consensual; and fails to take immediate and appropriate
- 26 corrective action. Appropriate corrective action requires the instructor, School Director, or Qualified
- 27 Assistant to notify his or her managing personnel in writing of the relationship and requires the
- 28 instructor, School Director, or Qualified Assistant to stop instructing or overseeing the student with
- 29 whom the relationship exists:
- 30 (A) the written notice to managing personnel shall include:
- 31 (i) school/agency name;
- 32 (ii) name of course;
- 33 (iii) name of the instructor, School Director, or Qualified Assistant;
- 34 (iv) name of student;
- 35 (v) name of managing personnel; and
- 36 (vi) nature of the relationship;

1 (B) the written notice from the school/agency managing personnel to the Standards Division
2 shall be submitted within 10 days of receipt of notice from the instructor, School Director,
3 or Qualified Assistant and shall include:

- 4 (i) school/agency name;
- 5 (ii) name of course;
- 6 (iii) name of the instructor, School Director, or Qualified Assistant;
- 7 (iv) name of student;
- 8 (v) name of managing personnel;
- 9 (vi) nature of the relationship; and
- 10 (vii) explanation of action taken to ensure the named instructor, School Director, or
11 Qualified Assistant is not in violation of this Rule;

12 (7) has demonstrated instructional incompetence;

13 (8) has knowingly and willfully obtained or attempted to obtain instructor certification by deceit, fraud,
14 or misrepresentation;

15 (9) has failed to meet or maintain good moral character as defined in: In re Willis, 288 N.C. 1, 215
16 S.E.2d 771, appeal dismissed, 423 U.S. 976 (1975); State v. Harris, 216 N.C. 746, 6 S.E.2d 854
17 (1940); In re Legg, 325 N.C. 658, 386 S.E. 2d 174 (1989); In re Applicants for License, 143 N.C.
18 1, 55 S.E. 635 (1906); In re Dillingham, 188 N.C. 162, 124 S.E. 130 (1924); State v. Benbow, 309
19 N.C. 538, 308 S.E.2d 647 (1983); and later court decisions that cite these cases as authority, and as
20 required to discharge the duties of a criminal justice instructor;

21 (10) has failed to deliver training in a manner consistent with the Qualified Retired Law Enforcement
22 Officers Firearms Qualification Certification Program as found in 12 NCAC 09H .0102;

23 (11) has knowingly and willfully aided or attempted to aid any person in obtaining qualification or
24 certification under the Qualified Retired Law Enforcement Officers Firearms Qualification
25 Certification Program by deceit, fraud, or misrepresentation;

26 (12) has committed or been convicted of an offense that could result in the denial, suspension, or
27 revocation of an officer's law enforcement certification, pursuant to 12 NCAC 09G .0504; or

28 (13) has knowingly made a material misrepresentation of any information required for certification or
29 accreditation.

30 (f) When a person certified as a law enforcement officer by the North Carolina Criminal Justice Education and
31 Training Standards Commission (Commission), the North Carolina Sheriffs Education and Training Standards
32 Commission (Sheriffs' Commission), the North Carolina Department of Insurance, Office of State Fire Marshal, Fire
33 Rescue Commission (Fire Commission), Office of Emergency Medical ~~Services Services, and the~~ North Carolina
34 Company/Campus Police Program; or a North Carolina, out of state or federal approving, certifying or licensing
35 agency; has been denied certification or had his or her certification suspended or revoked by their respective
36 Commission, or agency the State or local law enforcement officer shall report the suspension or revocation to the
37 Criminal Justice Standards Division within five days. The General Instructor Certification (if applicable) shall be

1 automatically suspended or revoked for the same time period as his or her respective Commission certification in
2 accordance with the following:

- 3 (1) this suspension or revocation of the General Instructor certification shall also include suspension or
4 revocation to any Commission recognized specialized or additional instructor certification, as
5 outlined in Rule .0304 of this Section;
- 6 (2) if the term of suspension or revocation exceeds the expiration date of the instructor's initial
7 certification expiration date, he or she shall forfeit their certifications as a General Instructor and
8 Specialized Instructor and shall be required to obtain certification pursuant to the requirements of
9 Rule .0302 of this Section before any instruction may be delivered in any Commission-approved or
10 mandated training, including the completion of a subsequent General Instructor's training Instructor
11 Training course in its entirety; and
- 12 (3) if the term of suspension or revocation does not exceed the expiration date of the instructor's initial
13 certification expiration date, the instructor shall be reinstated as a General Instructor only upon
14 reinstatement of his or her law enforcement officer certification by the Commission. The terms of
15 renewal for the existing General Instructor and Specialized Instructor certifications shall remain
16 subject to all renewal requirements pursuant to Rule .0303(d) of this Section by the next expiration
17 date.

18
19 *History Note:* Authority G.S. 17C-6;
20 Eff. January 1, 1981;
21 Amended Eff. December 1, 2018; October 1, 2017; October 1, 2009; August 1, 2004; April 1, 1999;
22 July 1, 1991; January 1, 1985;
23 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,
24 2019;
25 Amended Eff. January 1, 2024; October 1, 2020; August 1, 2019.
26

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

AGENCY: Criminal Justice Training and Standards Commission

RULE CITATION: 12 NCAC 09C .0306

DEADLINE FOR RECEIPT: January 26, 2024

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 7: This line is unclear. What 30 days is the Commission referencing? Or change "the officer" to "an officer".

Page 1, Line 27: Who is "law enforcement"?

Page 2, Lines 20-37, and Page 3 Lines 1-2: Why isn't Paragraph (c) not part of Paragraph (a)? They both appear to be regulating the same entity ("the employing agency") under the same circumstances ("Prio to employing the officer")

Page 2, Line 20: Change "the officer" to "an officer".

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: January 16, 2024

1 12 NCAC 09C .0306 is amended, with changes, as published in 38:05 NCR 258-267

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, officer who has been separated from his previous agency for more than 30 days, the
8 employing agency shall:

- 9 (1) verify the certification of the officer with the Criminal Justice Standards Division or the Sheriffs'
10 Standards Division;
- 11 (2) submit a new fingerprint check to the North Carolina State Bureau of Investigation, in compliance
12 with the requirements set forth in 12 NCAC 09B .0103(a) and (b), in the same manner as prescribed
13 for non-certified new applicants. No certification shall be transferred if the holder has been
14 convicted since initial certification of any offense for which revocation or suspension of certification
15 is authorized; and
- 16 ~~(3) advise the officer that he will be serving under a probationary appointment with the agency for one~~
17 ~~year; and~~
- 18 ~~(4)~~(3) notify the Commission by submitting a Report of Appointment that the officer is being employed
19 and stating the date on which employment will ~~commence~~, commence; ~~[and]~~
- 20 (4) obtain a signed and notarized Release Authorization Form from the transferring officer. The
21 employing agency shall obtain the full personnel file from the previous agency(ies) worked during
22 the previous 24 months and include this content in the background file, minus any medically
23 protected or sensitive material; and
- 24 (5) complete a background investigation on all applicants for employment as set forth in 12 NCAC 09B
25 .0102.

26 (b) For officers who have been separated from their previous agency for more than 30 days, prior ~~Prior~~ to transfer of
27 certification, the law enforcement officer ~~[officers with more than a 30-day gap in employment by an agency]~~ shall:

- 28 (1) ~~[complete a Medical History Statement Form within one year prior to the transfer to the employing~~
29 ~~agency;]~~ comply with the requirements of 12 NCAC 09B .0104;
- 30 (2) ~~[submit to examination by a surgeon, physician, physician assistant, or nurse practitioner licensed~~
31 ~~to practice medicine in North Carolina in the same manner prescribed for non-certified new~~
32 ~~applicants in 12 NCAC 09B .0104 within one year prior to the transfer to the employing agency;]~~
- 33 ~~(3)~~(2) submit results of the physical examination to the employing agency for placement in the officer's
34 permanent personnel file;
- 35 (4) (3) produce a negative result on a drug screen administered according to the specifications outlined in
36 12 NCAC ~~09B .0101(5); .0101~~ ~~[.0101(6);]~~ 09C .0310; and
- 37 ~~(5)~~(4) either:

- 1 (A) submit a copy of the Commission's annual in-service training report form Firearms
2 Qualification Record Instructions Form F-9A to the employing agency for placement in
3 the officer's permanent personnel file when the duty and off duty weapons remain the same
4 as those previously used to qualify. The Form F-9A shall contain the date(s) and instructors
5 signature indicating the law enforcement officer's successful completion of the mandatory
6 firearms classroom training, and the firearms range qualification scores for the duty and
7 off-duty weapons assigned to the law enforcement officer. Such in-service training
8 compliance shall have occurred within the 12 month period preceding transfer; or
9 (B) satisfactorily complete the employing agency's in-service firearms training program as
10 prescribed in 12 NCAC 09E .0105 and .0106.

11 ~~[(c) — Law enforcement officers who are transferring from one agency to another and have no more than a 30 day~~
12 ~~gap in employment with an agency are not required to complete the requirements outlined in section (b) of this Rule.~~
13 ~~They shall be certified providing:~~

- 14 (1) ~~the officer satisfactorily completes the employing agency's in-service firearms training program as~~
15 ~~prescribed in 12 NCAC 09E .0105 and .0106;~~
16 (2) ~~the separating agency submits an F5B with no negative comment regarding investigations or~~
17 ~~Commission rule violations;~~
18 (3) ~~the employing agency conducts a background investigation as outlined in 12 NCAC 09B .0102, that~~
19 ~~does not reveal misconduct or Commission rule violations.]~~

20 (c) ~~Prior to employing the officer who has been separated from his previous agency for 30 days or less, the employing~~
21 ~~agency shall:~~

- 22 (1) ~~verify the certification of the officer with the Criminal Justice Standards Division or the Sheriffs'~~
23 ~~Standards Division;~~
24 (2) ~~review the Form F-5B, Affidavit of Separation from the previous employed agency;~~
25 (3) ~~submit a new fingerprint check to the North Carolina State Bureau of Investigation, in compliance~~
26 ~~with the requirements set forth in 12 NCAC 09B .0103(a) and (b), in the same manner as prescribed~~
27 ~~for non-certified new applicants. This fingerprint check will be waived once all officers are enrolled~~
28 ~~in the Federal Bureau of Investigation's Next Generation Identification System and Criminal Justice~~
29 ~~Record of Arrest and Prosecution Background (RapBack) Service. No certification shall be~~
30 ~~transferred if the holder has been convicted since initial certification of any offense for which~~
31 ~~revocation or suspension of certification is authorized;~~
32 (4) ~~notify the Commission by submitting a Name/Status Change, Form F-19, that the officer is being~~
33 ~~employed and stating the date on which the employment will commence. The Name/Status Change,~~
34 ~~Form f-19, shall contain the officers name, date of birth and Social Security Number on file, and~~
35 ~~any changes to that information, the agency's name, officer's current status and status changed to,~~
36 ~~the effective date of change, whether the officer is undercover or not, and the signature and printed~~
37 ~~name of the submitting agency head or authorized representative, and~~

1 (5) satisfactorily complete the employing agency's in-service firearms training program as prescribed
2 in 12 NCAC 09E .0105 and .0106.

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

6 (⇨) (e) For currently certified full time officers with no break in service, upon written request from the department
7 head of the hiring agency, the Division shall waive for a period of no more than ~~60 days~~ 60 days from the receipt of
8 the Report of Appointment by the Standards Division the requirements of Subparagraphs of (b)(1), (b)(2), (b)(3), and
9 ~~(b)(4)~~, (b)(4) and (b)(5) of this Rule. ~~The Report of Appointment Form is located on the agency's website:~~
10 ~~[http://www.ncdoj.gov/getdoc/64d263a3-a598-4e45-9541-04ef088cf288/F-5A-\(DJJDP\)-6-11.aspx](http://www.ncdoj.gov/getdoc/64d263a3-a598-4e45-9541-04ef088cf288/F-5A-(DJJDP)-6-11.aspx)~~.

11
12 *History Note:* *Authority G.S. 17C-6; 17C-10;*
13 *Eff. January 1, 1981;*
14 *Amended Eff. April 1, 2018; October 1, 2017; May 1, 2009; July 1, 1990; March 1, 1990; July 1,*
15 *1989; July 1, 1982;*
16 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
17 *2019.*
18 *Amended Eff. January 1, 2024*
19

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

AGENCY: Criminal Justice Training and Standards Commission

RULE CITATION: 12 NCAC 09E .0103

DEADLINE FOR RECEIPT: January 26, 2024

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 4: Who is the "Department head"? The Secretary of DPS? Justice? Police? Why is "Department" capitalized?

Page 1, Line 6: Which department?

Page 1, Line 12: After "qualification" cite the rule which requires this. "Pursuant to rule _____."

Page 1, Lines 16-20: The Rule lists items which the Department head must do. These lines are adding responsibilities to officers. In short, the Commission is fixing concepts.

Page 1, Line 21-22: For how long?

Page 1, Line 31: "Industry accepted practices and procedures" is ambiguous.

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: January 16, 2024

1 **12 NCAC 09E .0103 is amended, with changes, as published in 38:05 NCR 258-267**

2
3 **12 NCAC 09E .0103 DEPARTMENT HEAD RESPONSIBILITIES: ANNUAL IN-SERVICE TRAINING**

4 The Department head shall ensure that the annual in-service training is conducted according to specifications as
5 outlined in Rules 09E .0105 and 09E .0106. In addition, the Department head or designated representative:

- 6 (1) shall review departmental policies regarding the use of force during the agency's annual in-service
7 training ~~program; and program. The Department head or designated representative shall certify that~~
8 ~~this review has been completed by submitting a Commission form to the Criminal Justice Standards~~
9 ~~Division; and~~ and
- 10 (2) shall report to the Criminal Justice Standards Division once each calendar year a roster of all law
11 enforcement officers who fail to successfully complete the annual in-service training and firearms
12 qualification and shall certify that all law enforcement officers in the agency not listed did
13 successfully complete the training. This roster shall reflect the annual in-service training and
14 firearms qualification status of all law enforcement officers employed by the agency as of December
15 31 of each calendar year and shall be received by the Criminal Justice Standards Division no later
16 than the following January ~~15th; and 15th. Officers having completed Basic Law Enforcement~~
17 ~~Training and passed the comprehensive state final examination in this same calendar year must~~
18 ~~complete the annual in-service training for the year if they were sworn in between January 1st and~~
19 ~~June 30th of that year. Officers sworn in between July 1st and December 31st must complete the~~
20 ~~annual in-service training by June 30th of the following year, and~~
- 21 (3) shall maintain in each officer's file documentation ~~on a Commission form~~ that the officer has
22 completed the annual in-service training requirement; and
- 23 (4) shall, where the officer fails to successfully qualify with any of the weapons specified in Rule 09E
24 .0106(a) and (b), prohibit access to such weapon(s) until such time as the officer obtains
25 qualification; and
- 26 (5) shall, where the officer fails to successfully qualify with any of the weapons specified in Rule 09E
27 .0106(d), prohibit the possession of such weapon(s) while on duty or when acting in the discharge
28 of that agency's official duties, and shall deny the officer authorization to carry such weapon(s)
29 concealed when off-duty, except when the officer is on his own premises; and
- 30 (6) shall, where the officer has access to any specialized or tactical weapon(s) not specifically covered
31 in Rule 09E .0106(a) and (b), use industry accepted practices and procedures to ensure that officers
32 authorized to use such weapon(s) are qualified. Where the officer fails to qualify, the agency head
33 or designated representative shall restrict access to such weapon(s).

34
35 *History Note: Authority G.S. 17C-6; 17C-10;*
36 *Eff. July 1, 1989;*
37 *Amended Eff. January 1, 2024; January 1, 2005; January 1, 1995;*
38 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
39 *2019.*

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

AGENCY: Criminal Justice Training and Standards Commission

RULE CITATION: 12 NCAC 09F .0103

DEADLINE FOR RECEIPT: January 26, 2024

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: Explain with specificity the authority of the Commission to approve a course certified or sponsored by the National Rifle Association or “college , private or public institutions or organization, or fire arms training school” taught by instructors certified by the United States Concealed Carry Association or NRA.

Page 1, Line 8: What is a “submitted course”? Which courses are required to be submitted and pursuant to what rule or statute?

Page 1, Line 15: Explain the authority of the Commission to regulate “all courses”.

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: January 16, 2024

1 **12 NCAC 09F .0103 is amended as published in 37:19 NCR 1927-1940 as follows:**

2

3 **12 NCAC 09F .0103 APPROVAL OF COURSES**

4 (a) An approved course is one that:

5 (1) meets or exceeds the criteria as specified in Rule .0102 of this Section;

6 (2) is certified or sponsored by one of the agencies listed in G.S. 14-415.12(a)(4)(a), (b), and (c); and

7 (3) is approved by the Commission.

8 (b) The Commission shall review and ensure that submitted courses meet or exceed the general guidelines as specified
9 in Rule .0102 of this Section.

10 (c) Courses submitted for review shall be submitted by the instructor who is to deliver the instruction by mailing the
11 course to the Commission.

12 (d) Any modification of an approved course shall be submitted for approval and approved prior to the delivery of any
13 such modified course and shall be submitted by the instructor who is to deliver the instruction by mailing the course
14 to the Commission.

15 (e) All courses are to be taught in person. Virtually delivered courses are not approved by the Commission.

16

17 *History Note:*

Authority G.S. 14-415.12;

18 *Temporary Adoption Eff. November 1, 1995;*

19 *Eff. May 1, 1996;*

20 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*

21 *2019; Amended Eff. January 1, 2024.*

22

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

AGENCY: Criminal Justice Training and Standards Commission

RULE CITATION: 12 NCAC 09F .0104

DEADLINE FOR RECEIPT: January 26, 2024

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: Explain with specificity the authority of the Commission to approve instructors.

Page 1, Line 4: What is the "Concealed Carry Handgun Training" Course? What is the Commission quoting? It isn't G.S. 14-415.12.

Page 1, Lines 6-7: Cite the Rule which establishes this certification.

Page 1, Lines 13-14: Cite the Rule which establishes this certification.

Page 1, Lines 16-17 and Lines 22-28: Explain with specificity the authority of the Commission to regulate National Rifle Association, United States Concealed Carry Association course instructors, or "college, private or public institutions or organizations, or fire arms training school" instructors certified by the United States Concealed Carry Association or NRA.

Page 1, Line 23: Place a comma after "charged" otherwise "all court orders" is left unmodified; in which case the rule would be ambiguous.

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: January 16, 2024

1 **12 NCAC 09F .0104 is amended as published in 37:19 NCR 1927-1940**

2
3 **12 NCAC 09F .0104 INSTRUCTOR QUALIFICATIONS**

4 (a) To be approved to deliver the "Concealed Carry Handgun Training" course, instructors shall:

5 (1) hold one of the following certifications:

6 (a) ~~Specific~~ "Specialized Instructor Certification-Firearms" issued by the Criminal Justice
7 Education and Training Standards Commission (Commission);

8 (b) ~~Private Protective Services Firearms Trainer Certification; or~~

9 (e) (b) "Firearms Instructor Certification" in Personal Protection, Basic Pistol, or Police Firearms
10 issued by the National Rifle Association; or

11 (c) "Firearms Instructor Certification – Concealed Carry and Home Defense" issued by the
12 United States Concealed Carry Association;

13 (2) hold a certificate issued by the North Carolina Justice Academy showing completion of the course
14 "Laws Governing Concealed Handgun and Use of Deadly Force"; and

15 (3) be eligible to receive or possess a firearm under Federal and North Carolina State Law.

16 (b) If the instructor fails to file with the Commission a concealed carry handgun course outline and proof of firearm's
17 instructor certification as specified in Paragraph (a)(1) of this Rule for two consecutive years, he or she must repeat
18 the course "Laws Governing Concealed Handgun and Use of Deadly Force" conducted by the North Carolina Justice
19 Academy, provide to the Commission proof of a current firearms instructor certification as specified in Paragraph
20 (a)(1) of this Rule, and maintain eligibility to possess a firearm as specified in Paragraph (a) of this Rule prior to
21 instructing a concealed carry handgun course.

22 (c) The instructor shall notify the Criminal Justice Standards Division of all court orders, domestic violence orders of
23 protection, and criminal offenses for which the instructor is charged which would prohibit the instructor from being
24 eligible to receive or possess a firearm under Federal and North Carolina State Law. The notifications required under
25 this Paragraph must be in writing, must specify the nature of the offense, the court in which the case is being handled,
26 the date of arrest, court order, and domestic violence order of protection or criminal charge. The notification required
27 under this Paragraph must be received by the Criminal Justice Standards Division within 10 days of the date of the
28 court order, domestic violence order of protection, arrest, or criminal charge.

29
30 *History Note: Authority G.S. 14-415.12;*
31 *Temporary Adoption Eff. November 1, 1995;*
32 *Eff. May 1, 1996;*
33 *Amended Eff. November 1, 2015; September 1, 2005; May 1, 2004;*
34 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
35 *2019; Amended Eff. January 1, 2024.*
36

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

AGENCY: Criminal Justice Training and Standards Commission

RULE CITATION: 12 NCAC 09F .0105

DEADLINE FOR RECEIPT: January 26, 2024

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: Explain with specificity the authority of the Commission to regulate National Rifle Association, United States Concealed Carry Association course instructors, or “college, private or public institutions or organization, or fire arms training school” instructors certified by the United States Concealed Carry Association or NRA.

Page 1, Line 4: What is the “Concealed Carry Handgun Training” Course? What is the Commission quoting? It isn’t G.S. 14-415.12.

Page 1, Lines 11-13: Is there any charge for the certificates?

Page 1, Lines 14-17: What criteria will the Director use in determining approval?

Page 1, Lines 289-30: Explain with specificity the authority of the Commission to establish qualifications for students of National Rifle Association, United States Concealed Carry Association courses, or “college, private or public institutions or organization, or fire arms training school” instructors certified by the United States Concealed Carry Association or NRA.

Page 1, Lines 29-30: The Rule concerns the regulation of instructors. These lines set standards for students. The Commission is mixing concepts.

Page 1, Lines 29-30: What happens if a student does not achieve a 70 percent score?

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: January 16, 2024

1 **12 NCAC 09F .0105 is amended, with changes, as published in 37:19 NCR 1927-1940**

2
3 **12 NCAC 09F .0105 INSTRUCTOR RESPONSIBILITIES**

4 In delivering the "Concealed Carry Handgun Training" (CCH) course the instructor shall:

- 5 (1) have a valid Concealed Carry Handgun instructor certification issued by the Criminal Justice
6 ~~Standards Division;~~ Education and Training Standards Commission (Commission);
- 7 (2) file a copy of the proposed firearms course description, outline, and proof of instructor certification
8 along with a written request to conduct the "~~Concealed Carry Handgun Training~~" CCH course for
9 approval by the Commission prior to delivery of any instruction required by G.S. 14-415.12;
- 10 (3) file a copy of all modifications;
- 11 (4) be issued by Commission staff a quantity of certificates as requested by the instructor for course
12 participants that shall bear the instructor's name, the instructor's assigned number, be sequentially
13 numbered, and bear the raised seal of the Commission;
- 14 (5) if a Concealed Carry Handgun Instructor relinquishes his or her certification and wants to transfer
15 his or her assigned participants' certificates to another Concealed Carry Handgun instructor, a
16 written request shall be submitted to the Criminal Justice Standards Division (Division) Director for
17 approval. The written request shall include the following:
- 18 (a) instructor name and identification number;
- 19 (b) name of business;
- 20 (c) business phone number and email address;
- 21 (d) recipient instructor name and identification number;
- 22 (e) recipient business name;
- 23 (f) recipient business phone number, email address; and
- 24 (g) list of the assigned certificate numbers for participants to be transferred;
- 25 (6) affix the student's name to one certificate and issue that certificate to the student who successfully
26 completes the "~~Concealed Carry Handgun Training~~" CCH course;
- 27 (7) conduct the training consistent with the guidelines established in Rule .0102 of this Section;
- 28 (8) administer a written examination, that includes at a minimum questions provided by the
29 Commission, which the student shall pass with a minimum score of 70 percent on the questions
30 provided by the Commission; and
- 31 (9) administer a proficiency examination that demonstrates the student is competent in the firing and
32 safe handling of a handgun. Such examination shall include, at a minimum, the following:
- 33 (a) The student fires 30 rounds of ammunition at a bulls-eye or silhouette target from three,
34 five, and seven yard distances;
- 35 (b) At each yard distance the student shall fire a minimum ten rounds; and
- 36 (c) 21 of the 30 rounds fired by the student hit the target.

1 (d) For safety purposes, steel or metal targets will not be used at distances less than 10 yards
2 from the target.

3 ~~[(10) — Not fewer than 30 days before commencing delivery of the course, submit to the Commission a Pre-~~
4 ~~Delivery Report of Training Course Presentation [Form F 10A (CCH)] with the following~~
5 ~~information:~~

6 - ~~(a) — Instructor(s) name(s)~~

7 ~~(b) — Type of course (NCJA model, NRA, or USCCA as approved by the Commission)~~

8 ~~(c) — Date and location of course~~

9 ~~(d) — Hours of course (minimum of 8 hours)~~

10 ~~(e) — Anticipated number of students~~

11 ~~(11) — Not more than 10 days after course completion, submit to the Commission a Post-Delivery Report~~
12 ~~[Form F 10B(CCH)] containing the following information:~~

13 - ~~(a) — Instructor(s) name(s), if changes were made~~

14 - ~~(b) — Actual number of attendees~~

15 ~~(12) — Maintain a roster of all students completing each CCH course in compliance with the North Carolina~~
16 ~~Department of Natural and Cultural Resources Retention and Disposition Schedule established~~
17 ~~pursuant to G.S. 121-4 and G.S. 132-8.1. This roster must include, at a minimum, each student's~~
18 ~~legal name and contact information. The instructor must be able to produce the student list for~~
19 ~~inspection by Division staff for audit purposes.]~~

20 ~~[(43)]~~ (10) Provide each student for their permanent personal use [with] a current copy of the "Concealed
21 Carry Handgun Training" manual (Red [book] Book) manual as published by the North Carolina
22 Justice [Academy:] Academy, or an alternative training manual that includes all of the content of
23 the most current copy of the "Concealed Carry Handgun Training" manual (Red Book) published
24 by the North Carolina Justice Academy. The contents of the "Concealed Carry Handgun Training"
25 manual (Red Book) published by the North Carolina Justice Academy must be included in the
26 curriculum for the CCH course. [The contents of this manual must be included in the curriculum for
27 the CCH course.] Copies of this publication may be inspected at the agency:

28 Criminal Justice Standards Division

29 North Carolina Department of Justice

30 1700 Tryon Park Drive

31 Post Office Drawer 149

32 Raleigh, North Carolina 27602

33
34 and may be purchased at the cost of printing and postage from the Academy at the following
35 address:

36 North Carolina Justice Academy

37 Post Office Drawer 99

Salemburg, NC 28385

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*History Note: Authority G.S. 14-415.12; 14-415.13;
Temporary Adoption Eff. November 1, 1995;
Eff. May 1, 1996;
Amended Eff. April 1, 2018; May 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,
2019;
Amended Eff. January 1, 2025; January 1, 2020; August 1, 2019.*

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

AGENCY: Criminal Justice Training and Standards Commission

RULE CITATION: 12 NCAC 09G .0307

DEADLINE FOR RECEIPT: January 26, 2024

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 16: There appears to be something wrong with is sentence.

Page 2, Line 36: Define "instructional incompetence".

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: January 16, 2024

1 12 NCAC 09G .0307 is amended, with changes, as published in 38:05 NCR 258-267

2
3 **12 NCAC 09G .0307 CERTIFICATION OF INSTRUCTORS**

4 (a) A person participating in a Commission-accredited corrections training course or program as an instructor, teacher,
5 professor, lecturer, or other participant making presentations to the class shall first be certified by the Commission as
6 an instructor.

7 (b) The Commission shall certify instructors under the following categories: General Instructor Certification,
8 Specialized Instructor Certification or Professional Lecturer Certification as outlined in Rules .0308, .0310, and .0311
9 of this Section. Instructor certification shall be granted on the basis of documented qualifications of experience,
10 education, and training in accord with the requirements of this Section and as stated on the applicant's Request for
11 Instructor Certification Form. Application for Instructor or Professional Lecturer Certification F-12. The
12 requirements to complete the Application for Instructor or Professional Lecturer are outlined in 12 NCAC 09B .0301.

13 (c) In addition to all other requirements of this Section each instructor certified by the Commission to teach in a
14 Commission-certified course shall remain competent in his or her specific or specialty areas. Such competence
15 includes remaining current in the instructor's area of expertise, which may be demonstrated by attending and
16 completing any instructor all updated instructor training courses required by the Commission.

17 (d) If a person certified as an instructor by the Commission is found to have knowingly and willfully violated any
18 provision or requirement of the rules in this Subchapter, the Commission shall take action to correct the violation and
19 to ensure that the violation does not recur, including:

- 20 (1) issuing an oral warning and request for compliance;
21 (2) issuing a written warning and request for compliance;
22 (3) issuing an official written reprimand;
23 (4) suspending the individual's certification for ~~a specified period of time or until acceptable corrective~~
24 ~~action is taken by the individual; or no more than 3 years; or~~
25 (5) revoking the individual's certification.

26 (e) The Commission shall deny, suspend, or revoke an instructor's certification when the Commission finds that the
27 person:

- 28 (1) has failed to meet and maintain any of the requirements for qualification;
29 (2) has failed to remain currently knowledgeable in the person's areas of expertise by failing to attend
30 trainings as required by the rules in this Chapter;
31 (3) has failed to deliver training in a manner consistent with the instructor lesson plans outlined in the
32 "Basic Instructor Training Manual" as found in Rule .0414 of this Subchapter;
33 (4) has failed to follow specific guidelines outlined in the basic corrections officers' training manual set
34 out in Rules .0411 through .0416 of this Subchapter;
35 (5) has demonstrated unprofessional personal conduct in the delivery of Commission approved or
36 mandated training. For the purposes of this Subparagraph "unprofessional personal conduct" is
37 identified as:

- 1 (A) job-related conduct that constitutes a violation of state or federal law;
- 2 (B) conviction or commission of a criminal offense as set out in Rule .0504 of this Subchapter;
- 3 (C) the willful violation of rules of this Chapter;
- 4 (D) conduct that is detrimental to instruction in the Commission's mandated courses. For
- 5 purposes of this Chapter, conduct is "detrimental to instruction" if the conduct is demeaning
- 6 or disruptive to the learning environment;
- 7 (E) the physical or verbal abuse of a client or student who the instructor is teaching or
- 8 supervising; or
- 9 (F) falsification of an instructor application or other employment documentation;
- 10 (6) is an instructor, School Director, or Qualified Assistant and is involved in the instruction of (for
- 11 instructors) or oversight of (for School Directors and Qualified Assistants) a student with whom the
- 12 instructor, School Director, or Qualified Assistant has a close personal relationship such as, familial,
- 13 financial, dating, or sexual even if consensual; and fails to take immediate and appropriate corrective
- 14 action. Appropriate corrective action requires the instructor, School Director, or Qualified Assistant
- 15 to notify his or her managing personnel in writing of the relationship and requires the instructor,
- 16 School Director, or Qualified Assistant to stop instructing or overseeing the student with whom the
- 17 relationship exists and
- 18 (A) the written notice to managing personnel shall include:
- 19 (i) school/agency name;
- 20 (ii) name of course;
- 21 (iii) name of the instructor, School Director, or Qualified Assistant;
- 22 (iv) name of student;
- 23 (v) name of managing ~~personnel~~; **personnel**; and
- 24 (vi) nature of the relationship;
- 25 (B) the written notice from the school/agency managing personnel to the Standards Division
- 26 shall be submitted within 10 days of receipt of notice from the instructor, School Director,
- 27 or Qualified Assistant and shall include:
- 28 (i) school/agency name;
- 29 (ii) name of course;
- 30 (iii) name of the instructor, School Director, or Qualified Assistant;
- 31 (iv) name of student;
- 32 (v) name of managing personnel;
- 33 (vi) nature of the relationship; and
- 34 (vii) explanation of action taken to ensure the named instructor, School Director, or
- 35 Qualified Assistant is not in violation of this Rule;
- 36 (7) has demonstrated instructional incompetence;

- 1 (8) has knowingly and willfully obtained, or attempted to obtain instructor certification by deceit, fraud,
2 or misrepresentation;
- 3 (9) has failed to meet or maintain good moral character as defined in: In re Willis, 288 N.C. 1, 215
4 S.E.2d 771, appeal dismissed, 423 U.S. 976 (1975); State v. Harris, 216 N.C. 746, 6 S.E.2d 854
5 (1940); In re Legg, 325 N.C. 658, 386 S.E. 2d 174 (1989); In re Applicants for License, 143 N.C.
6 1, 55 S.E. 635 (1906); In re Dillingham, 188 N.C. 162, 124 S.E. 130 (1924); State v. Benbow, 309
7 N.C. 538, 308 S.E.2d 647 (1983); and later court decisions that cite these cases as authority, and as
8 required to discharge the duties of a criminal justice instructor;
- 9 (10) has committed or been convicted of an offense that could result in the denial, suspension, or
10 revocation of an officers certification pursuant to Rules .0204 or .0504 of this Subchapter;
- 11 (11) has knowingly made a material misrepresentation of any information required for certification or
12 accreditation.

13 (f) When a person certified as an officer by the North Carolina Criminal Justice Education and Training Standards
14 Commission (Commission), the North Carolina Sheriffs Education and Training Standards Commission (Sheriffs'
15 Commission), the North Carolina Department of Insurance, Office of State Fire Marshal, Fire Rescue Commission
16 (Fire Commission), Office of Emergency Medical Services and the North Carolina Company/Campus Police Program;
17 or a similar North Carolina, out of state or federal approving, certifying or licensing agency has been denied
18 certification or had his or her certification suspended or revoked by their respective Commission or agency the officer
19 shall report the suspension or revocation to the Criminal Justice Standards Division within five days. The General
20 Instructor certification shall be (if applicable) suspended or revoked for the same time period as their respective
21 Commission in accordance with the following:

- 22 (1) this suspension or revocation of the General Instructor certification shall also include suspension or
23 revocation to any Commission recognized specialized or additional instructor certification, as
24 outlined in Rule .0310 of this Section;
- 25 (2) if the term of suspension or revocation exceeds the expiration date of the instructor's initial
26 certification expiration date, they shall forfeit their certifications as a General Instructor and
27 Specialized Instructor and shall be required to obtain certification pursuant to the requirements of
28 Rule .0304 of this Section before any instruction may be delivered in any Commission-approved or
29 mandated training, including the completion of a subsequent **General Instructor's training Instructor**
30 **Training** course in its entirety; and
- 31 (3) if the term of suspension or revocation does not exceed the expiration date of the instructor's initial
32 certification expiration date, the instructor shall be reinstated as a General Instructor only upon
33 reinstatement of his or her law enforcement officer certification by the Commission. The terms of
34 renewal for the existing General Instructor and Specialized Instructor certifications shall remain
35 subject to all renewal requirements pursuant to Rule .0309(c) of this Section by the next expiration
36 date.

1 *History Note: Authority G.S. 17C-6; 17C-10;*
2 *Temporary Adoption Eff. January 1, 2001;*
3 *Eff. August 1, 2002;*
4 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
5 *2019;*
6 *Amended Eff. January 1, 2024; October 1, 2020; August 1, 2019.*
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