

## RRC STAFF OPINION

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

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09B .0235 and .0236

RECOMMENDATION DATE: January 29, 2024

RECOMMENDED ACTION:

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

COMMENT:

*Paragraph (c) of both Rules state:*

*THE "JUVENILE COURT COUNSELOR BASIC TRAINING MANUAL" AS PUBLISHED BY THE NORTH CAROLINA DEPARTMENT OF PUBLIC SAFETY SHALL BE APPLIED AS THE CURRICULUM FOR DELIVERY OF JUVENILE COURT COUNSELOR 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 NORTH CAROLINA DEPARTMENT OF PUBLIC SAFETY 2211 SCHIEFFELIN ROAD APEX, NORTH CAROLINA 27502*

*In the Request for Changes staff counsel inquired whether the training manual had been adopted pursuant to the Administrative Procedures Act and, if so, where. The agency affirmed that the manual had been adopted but offered no citation.*

*Staff counsel briefly reviewed Title 14B applicable to the Department of Public Safety and found no adoption of the training manual.*

*Staff counsel briefly reviewed Title 12 applicable to the Department of Justice and found no adoption of the training manual beyond the language in these rules.*

William W. Peaslee  
Commission Counsel

*Pursuant to G.S. 150B-21.6, agencies may incorporate material in a rule without repeating the text of the referenced material if the material is:*

- (1) Another rule or part of a rule adopted by the agency.*
- (2) All or part of a code, standard, or regulation adopted by another agency, the federal government, or a generally recognized organization or association.*

*To the extent that the agency is incorporating material by reference, it is violating G.S. 150B-21.6. Accordingly, staff recommend objection pursuant to G.S. 150B-21.9(a)(4).*

*To the extent that the agency is mandating a standard or a curriculum, staff recommends objection pursuant to G.S. 150B-21.9(a)(2) for lack of clarity.*

## § 150B-2. Definitions.

As used in this Chapter, the following definitions apply:

- (8a) Rule. - Any agency regulation, **standard**, or statement of general applicability that implements or interprets an enactment of the General Assembly or Congress or a regulation adopted by a federal agency or that describes the procedure or practice requirements of an agency. The term includes the establishment of a fee and the amendment or repeal of a prior rule. The term does not include the following:
- a. Statements concerning only the internal management of an agency or group of agencies within the same principal office or department enumerated in G.S. 143A-11 or 143B-6, including policies and procedures manuals, if the statement does not directly or substantially affect the procedural or substantive rights or duties of a person not employed by the agency or group of agencies.
  - b. Budgets and budget policies and procedures issued by the Director of the Budget, by the head of a department, as defined by G.S. 143A-2 or G.S. 143B-3, or by an occupational licensing board, as defined by G.S. 93B-1.
  - c. Nonbinding interpretative statements within the delegated authority of an agency that merely define, interpret, or explain the meaning of a statute or rule.
  - d. A form, the contents or substantive requirements of which are prescribed by rule or statute.
  - e. Statements of agency policy made in the context of another proceeding, including:
    1. Declaratory rulings under G.S. 150B-4.
    2. Orders establishing or fixing rates or tariffs.
  - f. Requirements, communicated to the public by the use of signs or symbols, concerning the use of public roads, bridges, ferries, buildings, or facilities.
  - g. Statements that set forth criteria or guidelines to be used by the staff of an agency in performing audits, investigations, or inspections; in settling financial disputes or negotiating financial arrangements; or in the defense, prosecution, or settlement of cases.
  - h. Scientific, architectural, or engineering standards, forms, or procedures, including design criteria and construction standards used to construct or maintain highways, bridges, or ferries.

- i. Job classification standards, job qualifications, and salaries established for positions under the jurisdiction of the State Human Resources Commission.
- j. Establishment of the interest rate that applies to tax assessments under G.S. 105-241.21.
- k. The State Medical Facilities Plan, if the Plan has been prepared with public notice and hearing as provided in G.S. 131E-176(25), reviewed by the Commission for compliance with G.S. 131E-176(25), and approved by the Governor.
- l. Standards adopted by the State Chief Information Officer and applied to information technology as defined in G.S. 143B-1320.

**§ 150B-21.6. Incorporating material in a rule by reference.**

An agency may incorporate the following material by reference in a rule without repeating the text of the referenced material:

- (1) Another rule or part of a rule adopted by the agency.
- (2) All or part of a code, standard, or regulation adopted by another agency, the federal government, or a generally recognized organization or association.
- (3) Repealed by Session Laws 1997-34, s. 5.

In incorporating material by reference, the agency must designate in the rule whether or not the incorporation includes subsequent amendments and editions of the referenced material. The agency can change this designation only by a subsequent rule-making proceeding. The agency must have copies of the incorporated material available for inspection and must specify in the rule both where copies of the material can be obtained and the cost on the date the rule is adopted of a copy of the material.

A statement in a rule that a rule incorporates material by reference in accordance with former G.S. 150B-14(b) is a statement that the rule does not include subsequent amendments and editions of the referenced material. A statement in a rule that a rule incorporates material by reference in accordance with former G.S. 150B-14(c) is a statement that the rule includes subsequent amendments and editions of the referenced material. (1973, c. 1331, s. 1; 1975, 2nd Sess., c. 983, s. 64; 1981 (Reg. Sess., 1982), c. 1359, s. 5; 1983, c. 641, s. 3; c. 768, s. 19; 1985, c. 746, s. 1; 1987, c. 285, s. 13; 1991, c. 418, s. 1; 1997-34, s. 5.)

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

(2) Juvenile Court Counselor Specific:

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

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

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
<del>(E)</del>	<del>Unlawful Workplace Harassment</del>	<del>2 hours</del>
<del>(F)</del>	<del>Career Survival: Integrity and Ethics in the North Carolina Department of Public Safety Workplace</del>	<del>2 hours</del>
<del>(G)</del> <u>(E)</u>	<del>Staff and Juvenile Relationships</del> <u>Relationships: Maintaining Professional Boundaries</u>	4 hours
<del>(H)</del> <u>(F)</u>	Gang Awareness	4 <u>2</u> hours
<del>(I)</del> <u>(G)</u>	Situational Awareness and Risk Assessment	4 hours
<del>(J)</del> <u>(H)</u>	Restraints, Controls, and Defensive Techniques	28 hours
<del>(K)</del> <u>(I)</u>	Mechanical Restraints	4 hours
<del>(L)</del> <u>(J)</u>	<del>Mental Health</del> <u>Youth Mental Health First-Aid</u>	8 hours
<del>(M)</del>	<del>CPR</del>	<del>4 hours</del>
<del>(N)</del>	<del>First Aid</del>	<del>4 hours</del>
<del>(O)</del>	<del>Employee Fitness and Wellness</del>	<del>4 hours</del>
<del>(P)</del> <u>(K)</u>	Trauma and Delinquents	6 hours
<del>(Q)</del> <u>(L)</u>	Driver and Secure Transport Safety	8 <u>4</u> hours
<del>(R)</del> <u>(M)</u>	<del>DMC Addressing DMC within the JJ System</del> <u>Racial and Ethnic Disparities (RED) – Addressing RED within the Juvenile Justice System</u>	2 hours
<del>(S)</del> <u>(N)</u>	Verbal De-escalation for Juvenile Justice	4 <u>2</u> hours
	Total Hours	<del>144</del> <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	<del>6</del> 4 hours
5		Total Hours	<del>40</del> 34 hours
6		Total Course Hours	<del>151</del> 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.*