

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

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09A .0204

**DEADLINE FOR RECEIPT: October 9, 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 12: "May" implies discretion. What factors will the Commission use it determining whether or not to "suspend, revoke or deny" and what factors will the Commission use in determining which of the three options to employ?*

*Page 1, Line 14: Define or strike "satisfactorily."*

*Page 1, Line 15: "Prescribed" how? By rule? Cite the rule.*

*Page 1, Line 20: How does the Commission determine if someone has "committed" a crime in the absence of a conviction?*

*Page 1, Lines 21, 23, 27, 29, 31: "Unlawful act" is not defined in 12 NCAC 09A .0103. What is the difference between a "criminal offense" and an "unlawful act?"*

*Page 1, Line 22: How do you "deny" (Line 12) the certification if the time period is "within the five-year period prior to the date of certification." What if they haven't been previously certified?*

*Page 1, Lines 23-26: This is confusing and poorly written. "Regardless of the date of commission" and "occurred more than two years prior" are at odds with one another. Which is it?*

*Page 2, Line 7: Strike "any."*

*Page 2, Line 8: Strike "any."*

*Page 2, Line 15: Define or strike "satisfactorily."*

*Page 2, Line 19: The "Drug Screening Implementation Guide" has not been incorporated by reference pursuant to G.S. 150B-21.6. It is unclear without seeing them*

William W. Peaslee  
Commission Counsel  
Date submitted to agency: September 23, 2024

*whether the “guidelines” set forth therein meet the definition of a rule pursuant to G.S. 150B-2.*

*Page 2, Line 22: What factors will the Commission use in determining “satisfaction.”*

*Line 24: Replace the comma “Commission” with a semi-colon. Or must the suspension and revocation be by both Commissions?*

*Page 2, Line 32 and 33: Replace “may not” with “shall not.”*

*Page 2, Line 32-34: While not the basis of an objection, Paragraph (c) is oddly placed within this rule. No change is necessary though.*

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: September 23, 2024

1 12 NCAC 09A .0204 is being submitted for amendment, with changes, as follows:

2  
3 **12 NCAC 09A .0204 SUSPENSION: REVOCATION: OR DENIAL OF CERTIFICATION**

4 (a) The Commission shall revoke the certification of a criminal justice officer when the Commission finds that the  
5 officer has committed or been convicted ~~of~~ by a local, state, federal, or military court of any offense as outlined in 12  
6 NCAC 09B .0111(a).

7 (1) ~~— a felony offense; or~~

8 (2) ~~— a criminal offense for which the authorized punishment included imprisonment for more than two~~  
9 ~~years. years; or~~

10 (3) ~~— a crime or unlawful act defined as a “Class B misdemeanor” within the 5 year period prior to the~~  
11 ~~date of certification;~~

12 (b) The Commission may suspend, revoke, or deny the certification of a criminal justice officer when the Commission  
13 finds that the applicant for certification or the certified officer:

14 (1) has not enrolled in and satisfactorily completed the required basic training course in its entirety  
15 within prescribed time periods relevant or applicable to a specified position or job title;

16 (2) fails to meet or maintain one or more of the minimum employment standards required by 12 NCAC  
17 09B .0100 for the category of the officer's certification or fails to meet or maintain one or more of  
18 the minimum training standards required by 12 NCAC 09B .0200 or 12 NCAC 09B .0400 for the  
19 category of the officer's certification;

20 (3) has committed or been convicted of:

21 (A) a criminal offense or unlawful act defined in 12 NCAC 09A .0103 as a Class B  
22 misdemeanor; misdemeanor within the five-year period prior to the date of certification; or

23 (B) four or more criminal offenses or unlawful acts defined in 12 NCAC 09A .0103 as a Class  
24 A misdemeanor, regardless of the date of commission or conviction except the applicant  
25 shall be certified if the last conviction or commission occurred more than two years prior  
26 to the date of appointment each of which occurred after the date of initial certification; or

27 (C) a criminal offense or unlawful act defined in 12 NCAC 09A .0103 as a Class B  
28 misdemeanor which occurred after appointment; or

29 (D) four or more crimes or unlawful acts as defined in 12 NCAC 09A .0103 as Class B  
30 misdemeanors regardless of the date of commission or conviction; or

31 (E) any combination of four or more crimes or unlawful acts defined in 12 NCAC 09A .0103  
32 as a Class A misdemeanor or Class B misdemeanor regardless of the date of commission  
33 or conviction.

34 (4) has been discharged by a criminal justice agency for commission or conviction of:

35 (A) a motor vehicle offense requiring the revocation of the officer's driver's license; or

36 (B) any other offense involving moral turpitude;

- (5) has been discharged by a criminal justice agency because the officer lacks the mental or physical capabilities to properly fulfill the responsibilities of a criminal justice officer;
- (6) has knowingly made a material misrepresentation of any information required for certification or accreditation;
- (7) has knowingly and willfully, by any means of false pretense, deception, defraudation, misrepresentation or cheating whatsoever, obtained or attempted to obtain credit, training or certification from the Commission;
- (8) has knowingly and willfully, by any means of false pretense, deception, defraudation, misrepresentation or cheating whatsoever, aided another person in obtaining or attempting to obtain credit, training or certification from the Commission;
- (9) has failed to make either of the notifications as required by 12 NCAC 09B ~~.0101(8);~~ .0101(13);
- (10) has been removed from office by decree of the Superior Court in accord with the provisions of G.S. 128-16 or has been removed from office by sentence of the court in accord with the provisions of G.S. 14-230;
- (11) fails to satisfactorily complete the minimum in-service training requirements as prescribed in 12 NCAC 09E;
- (12) has refused to submit to an applicant or lateral transferee drug screen as required by the rules in this Chapter, or has refused to submit to an in-service drug screen pursuant to the guidelines set forth in the Drug Screening Implementation Guide as required by the agency through which the officer is certified;
- (13) has produced a positive result on a drug screen reported to the Commission as specified in 12 NCAC 09C .0310, where the positive result cannot be explained to the Commission's satisfaction;
- (14) has been denied certification or had certification suspended or revoked by the North Carolina Sheriffs' Education and Training Standards Commission, the North Carolina Criminal Justice Education and Training Standards Commission; the North Carolina Company/Campus Police Program; or a similar North Carolina, out of state or federal approving, certifying or licensing agency;
- (15) has performed activities or duties for which certification by the Commission is required without having first obtained the appropriate certification; or
- (16) has been convicted of any offense proscribed by 18 USC 922(g)(8) that would prohibit possession of a firearm or ammunition.

(c) Following suspension, revocation, or denial of the person's certification, the person may not remain employed or appointed as a criminal justice officer and the person may not exercise any authority of a criminal justice officer during a period for which the person's certification is suspended, revoked, or denied.

*History Note: Authority G.S. 17C-6; 17C-10;  
Eff. January 1, 1981;  
Amended Eff. November 1, 2024; April 1, 2009; February 1, 2006; August 1, 2001; August 1, 1995;  
November 1, 1993; March 1, 1992; July 1, 1990;*

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*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019.*  
*Amended Eff: November 1, 2024.*

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

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09A .0205

DEADLINE FOR RECEIPT: October 9, 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: While Paragraph (b) sets forth a floor for the period of sanctions, there is nothing in the rule which establishes a ceiling nor is there anything which describes the process or what factors should be considered in setting or reducing a sanction.*

*Page 1, Line 4: Add "Pursuant to Rule 12 NCAC 09A .0204" after "criminal justice officer."*

*Page 1, Line 14: Add "pursuant to G.S. 150B" or "pursuant to 12 NCAC 09A .0207" after "administrative hearing" if that is the Commission's intent. If that isn't the intent, explain what the Commission intends.*

*Page 1, Line 19-20: "Medical Review Officer" is an undefined term. Other than being "a licensed physician," how is this officer chosen and by whom? Is there a rule or statute that requires an agency to have a medical review officer?*

*Page 1, Lines 19-20: What factors is the medical review officer using to determine his/her satisfaction?*

*Page 1, Line 20: As written, a current medical license from Yemen would qualify. Was that the Commission's intention?*

*Page 2, Lines 1-12: In the absence of a criminal conviction, what is the process by which the Commission determines whether a crime has been committed? Is this by preponderance of the evidence?*

*Page 2, Line 14: The term "indefinite period" is unclear and ambiguous. It implies that it can end by some process. What is the process and what factors will the Commission consider in determining when the suspension ends.*

*Page 2, Lines 13-15: What is the process for petitioning relief?*

William W. Peaslee  
Commission Counsel

Date submitted to agency: September 23, 2024

*Page 2, Lines 13-15: Is the Commission's intention that once the enumerated causes of sanctions are satisfied, that the CJO's suspension or denial shall be terminated or are these prerequisites to consideration?*

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

12 NCAC 09A .0205 is being submitted for amendment, with changes, as follows:

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

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

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

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

- (1) commission or conviction of a criminal offense other than those listed in Paragraph (a) of this Rule;
- (2) refusal to submit to the applicant or lateral transferee drug screen required by these Rules;
- (3) production of a positive result on a drug screen reported to the Commission under 12 NCAC 09C .0310, where the positive result cannot be explained to the satisfaction of the agency's Medical Review Officer, who shall be a licensed physician;
- (4) material misrepresentation of any information required for certification or accreditation;
- (5) obtaining, attempting to obtain, aiding another person to obtain, or aiding another person to attempt to obtain credit, training or certification by any means of false pretense, deception, fraud, misrepresentation or cheating;
- (6) failure to make either of the notifications as required by 12 NCAC 09B .0101(13);
- (7) removal from office under the provisions of G.S. 128-16 or the provisions of G.S. 14-230;
- (8) performing activities or duties for which certification by the Commission is required without having first obtained the appropriate certification; or

(9) commission or conviction of four or more crimes or unlawful acts as defined as "Class B misdemeanor" in 12 NCAC .0103(24)(b) regardless of the date of conviction. commission or conviction of a crime or unlawful act as defined as a Class B misdemeanor in 12 NCAC 09A .0103 which occurred within 5 years prior to the date of appointment; or

[(10) commission or conviction of four or more crimes or unlawful acts as defined as "Class B misdemeanor" in 12 NCAC 09A .0103(24)(b), except the applicant may be employed if the last conviction occurred more than two years prior to the date of certification; or]



(10) commission or conviction of four or more crimes or unlawful acts defined as Class A misdemeanors in 12 NCAC 09A .0103, unless the last conviction occurred more than two years prior to the date of certification; or

~~[(11) commission or conviction of a combination of four or more "Class A Misdemeanor" or "Class B Misdemeanor" offenses regardless of the date.]~~

(11) commission or conviction of a crime or unlawful acts as defined as Class B misdemeanor in 12 NCAC 09A .0103 which occurred after the date of appointment; or

~~(12) commission or conviction of four or more crimes or unlawful acts defined as "Class B misdemeanors" Class B misdemeanors in 12 NCAC 09A .0103(24)(b), regardless of the date of conviction. .0103 commission or conviction; or~~

(13) commission or conviction of a combination of four or more Class A misdemeanor or Class B misdemeanor offenses, regardless of the date of commission or conviction.

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

- (1) failure to meet or satisfy relevant basic training requirements pursuant to 12 NCAC 09B .0205, .0225, .0235, and .0236;
- (2) failure to meet or maintain the minimum standards of employment pursuant to 09B .0101, .0111, .0114, .0116, .0117;
- (3) discharge from a criminal justice agency for impairment of physical or mental capabilities; or
- (4) failure to meet or satisfy the in-service training requirements as prescribed in 12 NCAC 09E.

*History Note: Authority G.S. 17C-6; 17C-10;*

*Eff. January 1, 1981;*

*Amended Eff. February 1, 2006; August 1, 2001; November 1, 1993; July 1, 1990; July 1, 1989; October 1, 1985;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019;*

*Amended Eff. November 1, 2024; March 1, 2024; January 1, 2022; July 1, 2020.*

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

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09A .0208

**DEADLINE FOR RECEIPT: October 9, 2024**

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

*Generally, to the Rule: While Paragraph (b) sets forth a floor for the period of sanctions, there is nothing in the rule which establishes a ceiling nor is there anything which describes the process or what factors should be considered in setting or reducing a sanction.*

*Page 1, Line 27: Define "appropriate time."*

*Page 2, Line 5: G.S. "150-B" does not exist. Assuming the Commission intended G.S. 150B, explain how Chapter 150B grants rulemaking authority to the Commission.*

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: September 23, 2024

1 12 NCAC 09A .0208 is being submitted for adoption as follows:

2  
3 **12 NCAC 09A .0208 PUBLIC COMMENTS AT HEARINGS**

4 For hearings in which public comments are allowed or required, the following rules apply:

5 (1) The Chair may:

- 6 (a) authorize the designation of any agency employee to act as the hearing officer;  
7 (b) set out the type of hearings that the designated employees are authorized to conduct;  
8 (c) reference the rules of procedure for conducting public rulemaking hearings.

9 (2) The Chair may set time limits on oral presentations.

- 10 (a) Unless the Chair specifies otherwise, oral presentations are limited to five minutes per  
11 person or requesting entity;  
12 (b) The Chair may require that oral presentations be limited to representative spokespersons  
13 for those advocating or opposing agenda items;  
14 (c) In making the above decisions, the Chair should consider:  
15 (i) the length of the agenda and of the meeting;  
16 (ii) the number of rules or agenda items subject to comment;  
17 (iii) the complexity of the issues;  
18 (iv) the public interest in a particular rule, report or agenda item;  
19 (v) the number of people desiring to address the agency;  
20 (vi) the variations in the speakers' arguments and level of agreement within their  
21 positions or relationships;  
22 (vii) the nature of the comments in relation to the agency's scope of review; and  
23 (viii) the amount of notice given to the agency, commission, or committee.

24 (3) The Chair will set the date, time, and place of any public hearing, and, when required, comply with North  
25 Carolina General Statutes Chapter 150B.

- 26 (a) If no hearing end time is designated prior to the beginning of the meeting, the Chair may  
27 end the hearing at any appropriate time.  
28 (b) If a hearing end time has been designated for a hearing in which comments will be  
29 accepted, the hearing officer will remain in the meeting until such end time is reached.

30 (4) When a hearing officer is designated, the hearing officer will collect written and oral submission  
31 presented during the hearing and submit to the agency, commission or committee as appropriate  
32 following the close of the record.

33 (5) Nothing in this rule is meant to require the agency, commission, or committee to allow public comment  
34 when not required by statute.

35 (6) For purposes of this rule, Chair means the person designated as chairperson for the agency, commission

1           or committee, holding the hearing. In the event the Chair is not present at hearing, the Vice-Chair will  
2           preside, and if the Vice-Chair is also not present, then the hearing officer will preside, and either will act,  
3           for purposes of this rule and for the hearing, with the authority of the Chair.

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5           History Note: Authority G.S. 150-B  
6           Eff. November 1, 2024

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

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09B .0104

**DEADLINE FOR RECEIPT: October 9, 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, Line 5, and Line 22: "Basic Law Enforcement Training Course" is not a defined term and should not be capitalized. Consider: "course approved pursuant to Rule \_\_\_\_".*

*Page 1, Line 8: "Current license" from where, anywhere? License provided by whom?*

*Page 1, Lines 15-17: Why is this Paragraph (c) in this Rule? The "Guidelines" are not referenced anywhere in the Rule. This is purely informational in nature.*

*Page 1, Lines 18-19: Is there a Rule which sets forth the substantive requirements of the F-2? See G.S. 150B-2(8a)d.*

*Page 1, Line 23: To which "agency" is the Commission referring?*

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: September 23, 2024

12 NCAC 09B .0104 is being submitted for amendment, with changes, as follows:

**12 NCAC 09B .0104 MEDICAL EXAMINATION**

(a) Each applicant for certification or enrollment in a ~~basic law enforcement training course~~ Commission approved Basic Law Enforcement Training Course shall complete, sign, and date the Commission's Medical History Statement Form (F-1) and shall be examined by either a ~~surgeon~~, physician, physician assistant, or nurse practitioner who is ~~licensed to practice in North Carolina or authorized to practice medicine in the United States Armed Forces, as outlined in 10 U.S. Code 1094, holds a current license to practice medicine,~~ to help determine his or her fitness to carry out the physical requirements of the position of law enforcement officer.

(b) Prior to being examined, the applicant shall provide the examining ~~surgeon~~, physician, ~~physician~~ physician's assistant or nurse practitioner with:

- (1) the Medical History Statement Form (F-1), which must be read, completed, and signed; and
- (2) the Instructions to Agency and Examiner for Completion of Medical Examination Report (F-2A) Form attached to the Medical Examination Report Form (F-2).

(c) The "Medical Screening Guidelines for the Certification of Criminal Justice Officers in North Carolina" as published by the North Carolina Department of Justice may be obtained for use by the examining physician, ~~surgeon~~, physician's assistant, or nurse practitioner, at no cost, at <https://ncdoj.gov/law-enforcement-training/criminal-justice/>.

(d) The examining physician, ~~surgeon~~, physician's assistant, nurse practitioner, shall record the results of the examination on the Medical Examination Report Form (F-2) and shall sign and date the form.

(e) The Medical Examination Report Form (F-2) and the Medical History Statement Form (F-1) shall be valid for one year after the date the examination was conducted and shall be completed prior to:

- (1) the applicant's beginning the Commission approved Basic Law Enforcement Training Course; and
- (2) the agency submission of application for certification to the Commission.

*History Note:* Authority G.S. 17C-6; 17C-10;  
Eff. January 1, 1981;  
Amended Eff. April 1, 2018; October 1, 2017; November 1, 1993; February 1, 1991; March 1, 1990;  
April 1, 1985;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019;  
Amended Eff. November 1, 2024; ~~October 1, 2022~~

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

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09B .0201

**DEADLINE FOR RECEIPT: October 9, 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: Please read the RRC style guide Chapter 3 regarding capitalization of words.*

*Page 1, Line 7: "School Accreditation" should not be capitalized.*

*Page 1, Line 30: Explain the authority of the Commission to regulate the executive officers. What is the enforcement mechanism against the executive officers? The executive officers are not licensed or employed by the Commission. Isn't the Commission simply establishing prerequisites for approval for an institution or agency to sponsor a school. Isn't the institution or agency the entity in peril for loss of authority to sponsor a program?*

*Page 1, Line 30: What is the difference between an institution "sponsoring" (see line 4) and "offering" a program?*

*Page 1, Line 32: Define or delete "sufficient."*

*Page 1, Line 33: Define or delete "necessary."*

*Page 2, Line 1: What facilities are "required?"*

*Page 2, Line 3: Consider "staff to the Commission."*

*Page 2, Lines 7-8: What are "Specialized Instructor Programs?" Is there a list of them?*

*Page 2, Lines 7-8: It is unclear whether the Highway Patrol can administer "specialized instructor programs" other than the "Specialized Driving Instructor Program."*

*Page 2, Line 9: What is the specialized driving instructor program?*

William W. Peaslee  
Commission Counsel

Date submitted to agency: September 23, 2024

*Page 2, Lines 11-12: It is unclear what “DAC-Firearms Instructor and DAC-Controls, Restraints, and Defensive Techniques” are.*

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: September 23, 2024



1 12 NCAC 09B .0201 is being submitted for amendment as follows:

2  
3 **12 NCAC 09B .0201 ADMINISTRATION OF CRIMINAL JUSTICE SCHOOLS**

4 (a) The executive officer or officers of the institution or agency sponsoring any criminal justice training program or  
5 course of instruction shall have primary responsibility for implementation of all of the rules contained in Subchapter  
6 09B Section .0200 and for administration of the school. The executive officer or officers of the institution or agency  
7 shall secure School Accreditation pursuant to 12 NCAC 09C .0401 prior to offering any criminal justice training  
8 course.

9 (b) The executive officers shall designate one compensated staff member for each commission-accredited program  
10 for which the institution or agency has been granted accreditation. Such staff member shall be certified by the  
11 Commission under Section .0500 of this Subchapter to be the criminal justice School Director. The School Director  
12 shall have administrative responsibility for planning, scheduling, presenting, coordinating, reporting, and managing  
13 each sponsored accredited criminal justice training course. If the accredited institution or agency assigns additional  
14 responsibilities to the certified School Director during the planning, development, and implementation of an accredited  
15 basic recruit training course, a qualified assistant must be designated to assist the School Director in the administration  
16 of the course. This person must be selected by the School Director and must attend a course orientation conducted by  
17 Standards Division staff and attend the annual School Directors' Conference.

18 (c) The School Director shall permanently maintain records of all criminal justice training courses sponsored or  
19 delivered by the school, reflecting:

- 20 (1) course title;  
21 (2) delivery hours of course;  
22 (3) course delivery dates;  
23 (4) names and addresses of instructors utilized within designated subject-matter areas;  
24 (5) a roster of enrolled trainees, showing class attendance and designating whether each trainee's course  
25 participation was successful or unsuccessful;  
26 (6) copies of all rules, regulations and guidelines developed by the School Director;  
27 (7) documentation of any changes in the initial course outline, including substitution of instructors; and  
28 (8) documentation of make-up work achieved by each individual trainee, including test scores and  
29 methods.

30 (d) The executive officers of the accredited institution or agency offering any criminal justice training program or  
31 course of instruction shall meet or exceed the following specifications:

- 32 (1) acquire and allocate sufficient financial resources to provide commission certified instructors and  
33 to meet other necessary program expenses; and  
34 (2) provide one designated clerical support person to assist the School Director in maintaining required  
35 records, complete reports, and provide other clerical needs as required by the School Director.

1 (e) In the event an accredited institution or agency does not own all facilities required for training delivery, written  
2 agreements between entities involved shall be in place in order to ensure access to and use of such facilities. A copy  
3 of such agreement must be on file for review by Standards Division staff.

4 ~~(f) Each institution or agency accredited to deliver basic recruit training shall ensure that supplies and equipment for~~  
5 ~~trainees are utilized during course delivery as specified in the Basic Law Enforcement Training Course Management~~  
6 ~~Guide as referenced in 12 NCAC 09B .0205(d).~~

7 (f) The North Carolina Justice Academy is the only accredited criminal justice school to administer Specialized  
8 Instructor Programs, with the exception of the North Carolina State Highway Patrol, who may also administer the  
9 Specialized Driving Instructor Program.

10 (g) The North Carolina Department of Adult Correction (DAC) Office of Staff Development and Training is the only  
11 accredited criminal justice school to administer the DAC-Firearms Instructor and DAC-Controls, Restraints, and  
12 Defensive Techniques programs.

13  
14 *History Note: Authority G.S. 17C-6;*  
15 *Eff. January 1, 1981;*  
16 *Amended Eff. November 1, 1981;*  
17 *Readopted Eff. July 1, 1982;*  
18 *Amended Eff. August 1, 2004; August 1, 2000; January 1, 1996; March 1, 1992; January 1, 1985;*  
19 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*  
20 *2019.*  
21 *Amended Eff. November 1, 2024*  
22

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

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09B .0504

**DEADLINE FOR RECEIPT: October 9, 2024**

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

*Page 1, Lines 17-18: Consider citing to Rule 12 NCAC 09B .0209*

*Page 1, Line 21: Strike "must."*

*Page 1, Lines 27-30: Consider making Paragraph (b) Paragraph (a) (6).*

*Page 2, Line 7: Consider: Would "As" be superior to "When?"*

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: September 23, 2024

12 NCAC 09B .0504 is being submitted for amendment as follows:

**12 NCAC 09B .0504 CERTIFICATION OF QUALIFIED ASSISTANT**

(a) If the accredited institution or agency assigns additional responsibilities to the certified School Director during the planning, development, and implementation of ~~an accredited basic recruit~~ a Commission approved training course, a qualified assistant shall be designated to assist the School Director in the administration of the course. To be eligible to serve as a Qualified Assistant, an applicant shall:

- (1) be selected by the School Director;
- ~~(2) have four years of experience as a criminal justice officer or as an administrator or specialist in a field directly related to the criminal justice system;~~
- ~~(3) be certified as a General Instructor, pursuant to 12 NCAC 09B .0302, if certified as a Qualified Assistant for a Instructor Training Course;~~
- ~~(4) if serving as a Qualified Assistant for an Instructor Training Course, must complete an Instructor Orientation Course as offered by the North Carolina Justice Academy;~~
- ~~(5) have completed an orientation course conducted by Standards Division staff; and~~
- ~~(6) participate in the annual training conducted by Commission staff.~~
- (2) hold current General Instructor certification as issued by the North Carolina Criminal Justice Education and Training Standards Commission;
- (3) furnish documentary evidence to the Standards Division of high school, college, or university graduation as outlined in 12 NCAC 09B .0104;
- (4) attend or must have attended the most current offering of the Qualified Assistant's orientation as developed and presented by the Commission staff; and
- (5) submit a Form F-10 School Director/Qualified Assistant Application to the Commission for the issuance of such certification. This application shall be executed by the certified School Director of the institution or agency currently accredited to administer Commission approved training courses and for whom the applicant will be the designated Qualified Assistant.

(b) In addition to the requirements identified in Subparagraph (a) of this Rule, to qualify for certification as a Qualified Assistant in the presentation of the Criminal Justice Instructor Training Course, an applicant shall document completion of the Instructor Training Orientation presented by the North Carolina Justice Academy on delivery of instructor training course and student evaluations.

~~(b) Any person designated by a School Director as a Qualified Assistant in the delivery or presentation of a Commission mandated training course shall have on file confirmation from the Commission acknowledging designation as Qualified Assistant prior to acting in an official capacity as a Qualified Assistant.~~

~~(c) The School Director shall submit to the Criminal Justice Standards Division the Qualified Assistant Application form. The Qualified Assistant Application Form is located on the agency's website at no cost <http://ncdoj.gov/About-DOJ/Law-Enforcement-Training-and-Standards/Criminal-Justice-Education-and-Training-Standards/Forms-and-Publications.aspx>. Applicants shall provide the following information on the Qualified Assistant Application Form:~~

~~(1) accredited school name and contact information;~~

~~(2) applicant's name and contact information;~~

~~(3) applicant's instructor certification number; and~~

~~(4) School Director name and signature.~~

~~(d) The School Director shall ensure that the person selected meets the requirements set forth in Paragraphs (a) and (b) of this Rule.~~

(c) ~~(e)~~ When directed by the School Director, the Qualified Assistant shall assist in the planning, developing, coordinating, and delivering of Commission-mandated training courses as outlined in 12 NCAC 09B .0202.

*History Note:* Authority G.S. 17C-6;

*Eff. January 1, 2020.*

Amended Eff. November 1, 2024

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

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09B .0505

**DEADLINE FOR RECEIPT: October 9, 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 11: Change “may” to “shall” or state the factors the Commission will use in determining whether to use its discretion.*

*Line 21: Change “may” to “shall” or state the factors the Commission will use in determining whether to use its discretion.*

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: September 23, 2024

12 NCAC 09B .0505 is being submitted for amendment as follows:

**12 NCAC 09B .0505 TERMS AND CONDITIONS OF QUALIFIED ASSISTANT CERTIFICATION**

(a) The term of certification as a Qualified Assistant is three years from the date the Commission issues the certification, unless earlier terminated by action of the Commission. The application for renewal shall include documentation meeting the requirements of Rule .0504(a) and (b) of this Section.

(b) The Commission may deny, suspend, or revoke certification as a Qualified Assistant when the Commission finds that the person failed to meet or maintain any of the requirements for qualification or failed to comply with the Rules of this Chapter.

(c) Prior to the Commission's action denying, suspending, or revoking a Qualified Assistant's certification, the Standards Division may notify the person that a deficiency appears to exist and may attempt, in an advisory capacity, to assist the person in correcting the deficiency.

(d) The Commission shall deny, suspend, or revoke the certification of a Qualified Assistant when it have found the person has engaged in any conduct outlined in Rule .0301(e) or (f) of this Subchapter.

(e) To retain certification as a Qualified Assistant, the Qualified Assistant shall:

(1) Participate in annual training conducted by Commission staff. This annual training shall be delivered in a conference, classroom, or virtual format and shall contain information relevant to the responsibilities of a Qualified Assistant, as outlined in 12 NCAC 09B .0504(c);

(2) Hold current General Instructor Certification as issued by the North Carolina Criminal Justice Education and Training Standards Commission.

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

*History Note: Authority G.S. 17C-6;  
Eff. January 1, 2020.  
Amended Eff. November 1, 2024*

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

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09C .0309

**DEADLINE FOR RECEIPT: October 9, 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:

*Lines 17-18: As “general certification” is not a defined term, add “pursuant to 12 NCAC 09C .0304” after “general certification” if that is the Commission’s intention. If not, define it.*

*Lines 6-15: Consider whether everything after “Prior” through line 15 should be a separate Paragraph.*

*Line 8: Certification for what?*

*Line 9: Cite the Rule which prescribes this “manner.”*

*Line 10-11: Why shouldn’t everything after the semicolon be its own paragraph?*

*Line 12: “Probationary appointment” is not a defined term. Cite a rule.*

*Line 14: “Report of Reappointment” is not a defined term nor does there appear to be a rule which establishes the substantive requirements of the report. State the information required. Or strike “by submitting a Report of Appointment” and specify the method of notification required. I.e. “in writing.”*

*Line 17: To be consistent, “Medical History Statement Report Form (F-1)” if that is the Commission’s intention. If not, define which form or the substantive requirements of the form.*

*Lines 19-12: As written, a current medical license from Yemen would qualify. Was that the Commission’s intention?*

*Lines 26-28: Consider if it meets the Commission’s intentions: Certified local confinement personnel who transfer to another agency within 12 months of leaving their previous position are exempt from meeting the educational or basic training*

William W. Peaslee  
Commission Counsel

Date submitted to agency: September 23, 2024



*requirements of this Rule. This exemption applies only if they were not initially required to meet these requirements when they were first employed by the agency from which they are transferring.*

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

12 NCAC 09C .0309 is being submitted for amendment as follows:

**12 NCAC 09C .0309 LATERAL TRANSFER OF LOCAL CONFINEMENT PERSONNEL**

(a) An officer, supervisor or administrator with general certification may transfer from one local confinement facility to another local confinement facility, or may transfer from one county confinement facility to another county confinement facility with less than a 12-month break in service. Prior to employing the individual, the employing agency shall:

- (1) verify the certification of the individual with the Standards Division;
- (2) submit an up-to-date fingerprint check in the same manner as prescribed for non-certified new applicants; no certification will be transferred if the holder has been convicted since initial certification of any offense for which revocation or suspension or certification is authorized;
- (3) advise the individual that he will be serving under a probationary appointment with the agency for one year;
- (4) notify the Commission, by submitting a Report of Appointment, that the individual is being employed and stating the date on which employment will commence.

(b) Prior to transfer of certification, local confinement personnel shall:

- (1) complete a Medical History Statement Form within one year prior to the transfer to the employing agency;
- (2) submit to examination by a physician ~~licensed to practice medicine in North Carolina~~ who holds a current license to practice medicine in the same manner prescribed for non-certified new applicants in 12 NCAC 09B .0104 within one year prior to the transfer to the employing agency;
- (3) submit results of the physical examination to the employing agency for placement in the individual's permanent personnel file; and
- (4) produce a negative result on a drug screen administered according to the specifications outlined in 12 NCAC 09B .0101(5).

(c) Local confinement personnel previously certified who were not previously required to meet the educational or basic training requirements are not required to meet such requirements when laterally transferring to another agency with less than a 12-month break in service.

*History Note: Authority G.S. 17C-2; 17C-6; 17C-10;  
Eff. June 1, 1986;  
Amended Eff. August 1, 1998; July 1, 1990; March 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019.  
Amended Eff. November 1, 2024*

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

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09C .0310

**DEADLINE FOR RECEIPT: October 9, 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:

*Lines 24: Certified how?*

*Line 29: : "Medical Review Officer" is an undefined term. Other than being "a licensed physician," how is this officer chosen and by whom? Is there a rule or statute that requires an agency to have a medical review officer?*

*Line 29: What factors is the medical review officer using to determine his/her satisfaction?*

*Lines 29-30: As written, a current medical license from Yemen would qualify. Was that the Commission's intention?*

*Lines 33-35: See the above questions about the Medical Review Officer.*

*Page 2, Lines 3 and 6: What about subsequent changes to the threshold value? Are they incorporated?*

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: September 23, 2024

12 NCAC 09C .0310 is being submitted for amendment, with changes, as needed:

**12 NCAC 09C .0310 AGENCY REPORTING OF DRUG SCREENING RESULTS**

(a) Every law enforcement officer shall produce a negative result on a drug screen administered according to the following specifications:

- (1) the drug screen shall be a urine test consisting of an initial screening test using an immunoassay method and a confirmatory test on an initial positive result using a gas chromatography/mass spectrometry (GC/MS) or other initial and confirmatory tests authorized or mandated by the Department of Health and Human Services for Federal Workplace Drug Testing Programs;
- (2) a chain of custody shall be maintained on the specimen from collection to the eventual discarding of the specimen. If the specimen is handled only by a medical professional or a third party provider and the laboratory utilizes federally mandated chain of custody procedures, then the agency does not need an inter-agency chain of custody procedure. If agency staff will be handling the urine specimen at any point, then agency staff shall document the collection, storage, and processing of the specimen for testing purposes.
- (3) the drug screen shall test for the presence of at least cannabis, cocaine, phencyclidine (PCP), opiates, and amphetamines or their metabolites; and
- (4) the test threshold values meet the requirements established by the Department of Health and Human Services for Federal Workplace Drug Testing Programs, as found in 82 FR 7920 (2017) incorporated by reference, including later amendments and editions found at no cost at <https://www.federalregister.gov/documents/2017/01/23/2017-00979/mandatory-guidelines-for-federal-workplace-drug-testing-programs>;
- (5) conduct the test within 90 days of certification; employment;
- (6) the laboratory conducting the test shall be certified for federal workplace drug testing programs, and shall adhere to applicable federal rules, regulations, and guidelines pertaining to the handling, testing, storage, and preservation of samples.

(b) Each agency shall report in writing to the Criminal Justice Standards Division all refusals and all positive results of required drug screening obtained from applicants and lateral transfers. If the positive result were explained by the applicant or lateral transfer to the satisfaction of the agency's Medical Review Officer, who holds a current license to practice medicine, ~~shall be a licensed physician~~, the positive results are not required to be reported.

(c) Each agency, if it conducts a drug screen for in-service officers, shall report in writing positive results or refusals to submit to an in-service drug screening to the Criminal Justice Standards Division within 30 days of the positive result or refusal, unless the officer has explained the positive result to the satisfaction of the agency's Medical Review Officer, who shall be a licensed physician, to the extent the drug screen conducted conforms to the specifications of this Rule.

1 (d) For reporting purposes, a result is considered "positive" only in those cases where the drug screen reveals the  
2 presence of an illegal drug at a level equal to or greater than the threshold value as established by the Department of  
3 Health and Human Services for Federal Workplace Drug Testing Programs and incorporated by reference in this Rule.

4 (e) For reporting purposes, a result is considered "negative" only in those cases where the drug screen reveals the  
5 presence of an illegal drug at a level less than the threshold value as established by the Department of Health and  
6 Human Services for Federal Workplace Drug Testing Programs and incorporated by reference in this Rule.

7 (f) All written reports required to be submitted to the Criminal Justice Standards Division by this Rule shall contain  
8 the individual's name, date of birth, either the date the test was administered or the date of the refusal, and a copy of  
9 the drug screen panel with the results of the medical officer review.

10  
11 *History Note: Authority G.S. 17C-6; 17C-10;*  
12 *Eff. July 1, 1990;*  
13 *Amended Eff. October 1, 2018; May 1, 2009;*  
14 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*  
15 *2019;*  
16 *Amended Eff. November 1, 2024; ~~October 1, 2022~~*  
17

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

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09D .0102

**DEADLINE FOR RECEIPT: October 9, 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: What are "professional awards?" Is it the same as professional certificates? If so, be consistent in your terms throughout.*

*Line 6: "General law enforcement certification" is not a defined term. The Commission needs to be clear what the requirement is. Add a citation to a rule which sets forth the process for the certification if there is one. Consider if it meets the Commission's intentions: "...pursuant to 12 NCAC 09G .0304."*

*Line 11: I believe you should have a comma after "Commission."*

*Line 13: How do you test familiarity?*

*Lines 15-18: It is unclear how this is relevant in the context of "preliminary qualifications" (Line 5.) What does it mean to "be given credit for...?"*

*Line 23: Capitalize "Professional Certificate Program" as it is a title and a defined term in 09D .0101.*

*Lines 33-34: It is unclear how this applies to points? If that cannot be determined, list factors that the Commission will consider in determining the application.*

*Lines 27-34: How many points must a candidate receive for each certificate?*

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: September 23, 2024

12 NCAC 09D .0102 is being submitted for amendment, with changes, as follows:

**12 NCAC 09D .0102      GENERAL PROVISIONS**

(a) In order to be eligible for one or more of the professional awards, an officer shall first meet the following preliminary qualifications:

- (1) The officer shall presently hold general law enforcement officer certification. A person serving under a probationary certification is not eligible for consideration. An officer subject to suspension or revocation proceedings, ~~or who is currently~~ on probation subsequent to suspension or revocation proceedings, or ~~is~~ under investigation for possible decertification action by the Commission, the Company and Campus Police Program, or the North Carolina Sheriffs' Education and Training Standards Commission shall not be eligible for professional awards for the pendency of the proceeding or the period of probation;
- (2) The officer shall be familiar with and subscribe to the Law Enforcement Code of Ethics;
- (3) The officer shall be a full-time, sworn, paid member of a law enforcement agency within the state;
- (4) Applicants shall be given credit for the satisfactory completion of all in-service law enforcement training which is not mandated by the Commission pursuant to 12 NCAC 09E .0105;
- (5) Applicants shall not be given credit for the satisfactory completion of Commission-mandated Basic Law Enforcement Training courses; and
- (6) Full-time, paid employees of a law enforcement agency within the State who have successfully completed a Commission-accredited law enforcement officer basic training program and have previously held general law enforcement officer certification as specified in Subparagraph (1) of this Paragraph, but are presently, by virtue of promotion or transfer, serving in non-sworn positions not subject to certification are eligible to participate in the professional certificate program. Eligibility for this exception requires continuous employment with the law enforcement agency from the date of promotion or transfer from a sworn, certified position to the date of application for a professional certificate.

(b) Awards are based upon a formula which combines formal education, law enforcement training, and actual experience as a law enforcement officer. Points are computed in the following manner:

- (1) Each semester hour of college credit shall equal one point and each quarter hour shall equal two-thirds of a point;
- (2) Twenty classroom hours of Commission-approved law enforcement training shall equal one point; and
- (3) Only experience as a full-time, sworn, paid member of a law enforcement agency or equivalent experience shall be acceptable for consideration.

*History Note: Authority G.S. 17C-6;  
Eff. January 1, 1981;  
Amended Eff. June 1, 2012; August 1, 2002; August 1, 1995; May 1, 1986; April 1, 1984; January 1, 1983;*

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*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019.*  
*Amended Eff. November 1, 2024*



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

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09G .0205

**DEADLINE FOR RECEIPT: October 9, 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 8: As written, a current medical license from Yemen would qualify. Was that the Commission's intention?*

*Line 9: What are the physical requirements?*

*Line 12: By whom?*

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

12 NCAC 09G .0205 is being submitted for amendment, with changes, as follows:

**12 NCAC 09G .0205 MEDICAL EXAMINATION**

(a) Each applicant for certification or enrollment in a basic correctional officer or probation/parole officer training course shall complete, sign, and date the Commission's Medical History Statement Form (F-1) and shall be examined by either a ~~surgeon~~, physician, ~~physician~~ **physician's** assistant, or nurse practitioner who ~~is licensed to practice in North Carolina or authorized to practice medicine in accordance with the rules and regulations of the United States Armed Forces, as outlined in 10 U.S. Code 1094,~~ holds a current license to practice medicine, to help determine his or her fitness to carry out the physical requirements of the position of correctional officer or probation/parole officer.

(b) Prior to being examined, the applicant shall provide the examining ~~surgeon~~, physician, physician's assistant, or nurse practitioner with:

- (1) the Medical History Statement Form (F-1) which must be read, completed, and signed; and
- (2) the Instructions to Agency and Examiner for Completion of Medical Examination Report (F-2A) Form attached to the Medical Examination Report Form (F-2). The Instructions to Agency and Examiner for Completion of Medical Examination Report (F-2A) Form shall notify the examining surgeon, physician, physician's assistant, or nurse practitioner that the "Medical Screening Guidelines for the Certification of Criminal Justice Officers in North Carolina" as published by the North Carolina Department of Justice is available at no cost at <https://ncdoj.gov/law-enforcement-training/criminal-justice/>.

(c) The examining ~~surgeon~~, physician, physician's assistant, or nurse practitioner shall record the results of the examination on the Medical Examination Report Form (F-2) and shall sign and date the form.

(d) The Medical Examination Report Form (F-2) and the Medical History Statement Form (F-1) shall be valid for one year after the date of the examination was conducted and shall be completed prior to:

- (1) the applicant's beginning the basic correctional officer or basic probation/parole officer training course, and
- (2) an agency's submission of application for certification to the Commission.

*History Note: Authority G.S. 17C-6; 17C-10;  
Temporary Adoption Eff. January 1, 2001;  
Eff. August 1, 2002;  
Amended Eff. January 1, 2015; April 1, 2009; August 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019;  
Temporary Amendment Eff. February 15, 2022;  
Amended Eff. November 1, 2024; May 1, 2023; October 1, 2022; August 23, 2022.*

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

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09G .0211

**DEADLINE FOR RECEIPT: October 9, 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: Within what time frame?*

*Line 14: Define or delete "firmly."*

*Line 14: How is this established and to whose satisfaction?*

*Line 23: Can you cite a federal code or reg that establishes the certifications to which the Commission refers?*

*Line 28 and 32: What factors is the MRO using to determine his/her satisfaction? Is it a "more likely than not that the positive result was from a source other than the unlawful use of..." standard?*

*Line 28-29 and 33: A license to practice medicine from where?*

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: September 23, 2024

12 NCAC 09G .0211 is being submitted for amendment, with changes, as follows:

**12 NCAC 09G .0211 AGENCY REPORTING OF DRUG SCREENING RESULTS**

(a) Every correctional or probation/parole officer shall have produced a negative result on a drug screen administered according to the following specifications:

- (1) the drug screen shall be a urine test consisting of an initial screening test using an immunoassay method and a confirmatory test on an initial positive result using a gas chromatography/mass spectrometry (GC/MS) or other initial and confirmatory tests authorized or mandated by the Department of Health and Human Services for Federal Workplace Drug Testing Programs;
- (2) a chain of custody shall be maintained on the specimen from collection to the eventual discarding of the specimen. If the specimen is handled only by a medical professional or a third party provider and the laboratory utilizes federally mandated chain of custody procedures, then the agency does not need an inter-agency chain of custody procedure. If agency staff will be handling the urine specimen at any point, then the agency needs a firmly established chain of custody procedure;
- (3) the drug screen shall test for the presence of at least cannabis, cocaine, phencyclidine (PCP), opiates, and amphetamines or their metabolites; and
- (4) the test threshold values meet the requirements established by the Department of Health and Human Services for Federal Workplace Drug Testing Programs, as found in 82 FR 7920 (2017) incorporated by reference, including later amendments and editions found at no cost at <https://www.federalregister.gov/documents/2017/01/23/2017-00979/mandatory-guidelines-for-federal-workplace-drug-testing-programs>;
- (5) conduct the test within 90 days of certification; employment;
- (6) the laboratory conducting the test shall be certified for federal workplace drug testing programs, and shall adhere to applicable federal rules, regulations, and guidelines pertaining to the handling, testing, storage, and preservation of samples.

(b) The agency shall report in writing to the Criminal Justice Standards Division all refusals and all positive results of required drug screening obtained from applicants. If the positive result was explained by the applicant to the satisfaction of the agency's Medical Review Officer, who ~~shall be a licensed physician~~, holds a current license to practice medicine, the positive results are not required to be reported.

(c) The agency, if it conducts a drug screen for in-service officers, shall report in writing positive results or refusals to submit to an in-service drug screening to the Criminal Justice Standards Division within 30 days of the positive result or refusal, unless the officer has explained the positive result to the satisfaction of the agency's Medical Review Officer, who ~~shall be a licensed physician~~, holds a current license to practice medicine, to the extent the drug screen conducted conforms to the specifications of this Rule.

(d) For reporting purposes, a result is considered "positive" only in those cases where the drug screen reveals the presence of an illegal drug at a level equal to or greater than the threshold value as established by the Department of Health and Human Services for Federal Workplace Drug Testing Programs and incorporated by reference in this Rule.

1 (e) For reporting purposes, a result is considered "negative" only in those cases where the drug screen reveals the  
2 presence of an illegal drug at a level less than the threshold value as established by the Department of Health and  
3 Human Services for Federal Workplace Drug Testing Programs and incorporated by reference in this Rule.

4 (f) All written reports required to be submitted to the Criminal Justice Standards Division by this Rule shall contain  
5 the individual's name, date of birth, either the date the test was administered or the date of the refusal, and a copy of  
6 the drug screen panel with the results of the medical officer review.

7  
8 *History Note: Authority G.S. 17C-6; 17C-10;*  
9 *Eff. May 1, 2023.*  
10 *Amended Eff: November 1, 2024*  
11

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

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09G .0304

**DEADLINE FOR RECEIPT: October 9, 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 5: What "evidence" is required?*

*Line 10: Define "in good standing."*

*Line 17: "Department" is an undefined term.*

*Line 27: What "evidence" is required?*

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: September 23, 2024

12 NCAC 09G .0304 is being submitted for amendment as follows:

**12 NCAC 09G .0304      GENERAL CERTIFICATION**

(a) The Commission shall grant an officer General Certification when evidence is received by the Standards Division that an officer has completed the training requirements of 12 NCAC 09G .0410, .0411, .0412, within the officer's probationary period and the officer has met all requirements for General Certification as specified in Rules ~~.0202~~, .0203, .0204, .0205, and .0303 of this Subchapter.

(b) General Certification is continuous from the date of issuance, so long as the certified officer remains employed as a correctional officer or probation/parole officer in good standing with the North Carolina Department of Adult Correction, and the certification has not been suspended or revoked pursuant to Rule .0503 of this Subchapter.

(c) Certified officers who, through promotional opportunities, or non-disciplinary transfer, move into non-certified positions within the Department, may have their certification reinstated without re-completion of the basic training requirements of 12 NCAC 09G .0410, .0411, or .0412, ~~or .0413~~, and are exempted from reverification of employment standards of 12 NCAC 09G ~~.0202~~, .0205, .0208 (except 12 NCAC 09G .0208(4)), and .0209 (except 12 NCAC 09G .0209(4)) when returning to a position requiring certification if they have maintained employment within the Department.

(d) Documentation of General Certification shall be maintained with the officer's personnel records with the North Carolina Department of Adult Correction and the Commission.

(e) Upon transfer of a certified officer from one type of corrections officer position to another, the North Carolina Department of Adult Correction shall submit a Notice of Transfer to the Standards Division.

- (1) Upon receipt of the Notice of Transfer, the Standards Division shall cancel the officer's current General Certification and upon receipt of documentary evidence that the officer has met the requisite standards for the specified type of corrections officer certification, the Commission shall issue Probationary Certification reflecting the officer's new corrections position.
- (2) The Commission shall grant an officer General Certification as the new type of corrections officer when evidence is received by the Standards Division that an officer has completed the training requirements of 12 NCAC 09G .0410, .0411, or .0412, ~~or .0413~~ within the officer's probationary period and the officer has met all other requirements for General Certification.

*History Note: Authority G.S. 17C-2; 17C-6; 17C-10;*  
*Temporary Adoption Eff. January 1, 2001;*  
*Eff. August 1, 2002;*  
*Amended Eff. January 1, 2015; August 1, 2004;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*  
*2019;*  
*Amended Eff. November 1, 2024; May 1, 2023.*

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

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09G .0417

**DEADLINE FOR RECEIPT: October 9, 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:

*Please see the RFC for 12 NCAC 09B .0504*

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: September 23, 2024



12 NCAC 09G .0417 is being submitted for amendment as follows:

**12 NCAC 09G .0417 CERTIFICATION OF QUALIFIED ASSISTANT**

(a) If the accredited institution or agency assigns additional responsibilities to the certified School Director during the planning, development, and implementation of ~~an accredited basic recruit~~ a Commission approved training course, a ~~qualified assistant~~ Qualified Assistant shall be designated to assist the School Director in the administration of the course. To be eligible to serve as a Qualified Assistant, an applicant shall:

- (1) be selected by the School Director;
- ~~(2) have four years of experience as a criminal justice officer or as an administrator or specialist in a field directly related to the criminal justice system;~~
- ~~(3) be certified as a General Instructor, pursuant to Rule .0308 of this Subchapter, if certified as a Qualified Assistant for an Instructor Training Course;~~
- ~~(4) if serving as a Qualified Assistant for an Instructor Training Course, must complete an Instructor Training Orientation Course as offered by the North Carolina Justice Academy;~~
- ~~(5) have completed an orientation course conducted by Standards Division staff; and~~
- ~~(6) participate in the annual training conducted by Commission staff.~~
- (2) hold current General Instructor certification as issued by the North Carolina Criminal Justice Education and Training Standards Commission;
- (3) furnish documentary evidence to the Standards Division of high school, college, or university graduation as outlined in 12 NCAC 09B .0104.
- (4) attend or must have attended the most current offering of the Qualified Assistant's orientation as developed and presented by the Commission staff; and
- (5) submit a Form F-10 School Director/Qualified Assistant Application to the Commission for the issuance of such certification. This application shall be executed by the certified School Director of the institution or agency currently accredited to administer Commission approved training courses and for whom the applicant will be the designated Qualified Assistant.

(b) In addition to the requirements identified in Subparagraph (a) of this Rule, to qualify for certification as a Qualified Assistant in the presentation of the Criminal Justice Instructor Training Course, an applicant shall document completion of the Instructor Training Orientation presented by the North Carolina Justice Academy on delivery of instructor training course and student evaluations.

~~(b) Any person designated by a School Director as a Qualified Assistant or who performs the duties of, a Qualified Assistant in the delivery or presentation of a Commission mandated training course shall have on file confirmation from the Commission acknowledging designation as Qualified Assistant prior to acting in an official capacity as a Qualified Assistant.~~

~~(c) The School Director shall submit to the Criminal Justice Standards Division the Qualified Assistant Application Form F-10(QA). The Qualified Assistant Application Form F-10(QA) is located on the agency's website at no cost <http://ncdoj.gov/About DOJ/Law Enforcement Training and Standards/Criminal Justice Education and Training>~~

~~Standards/Forms and Publications.aspx. Applicants shall provide the following information on the Qualified Assistant Application Form:~~

~~(1) ——— accredited school name and contact information;~~

~~(2) ——— applicant's name and contact information;~~

~~(3) ——— applicant's instructor certification number; and~~

~~(4) ——— School Director name and signature.~~

~~(d) The School Director shall ensure that the person selected meets the requirements set forth in Paragraphs (a) and (b) of this Rule.~~

~~(e)~~ (c) When directed by the School Director, the Qualified Assistant shall assist in the planning, developing, coordinating, and delivering of Commission-mandated training courses as outlined in Rule .0408 of this Section.

*History Note: Authority G.S. 17C-6;*

*Eff. January 1, 2020.*

*Amended Eff. November 1, 2024*

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

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09G .0418

**DEADLINE FOR RECEIPT: October 9, 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: What are "professional awards?" Is it the same as professional certificates? If so, be consistent in your terms throughout.*

*Line 6: "General correctional officer certification" is not a defined term. The Commission needs to be clear what the requirement is. Add a citation to a rule which sets forth the process for the certification if there is one. Consider if it meets the Commission's intentions: "...pursuant to 12 NCAC 09C .0304."*

*Line 11: I believe you should have a comma after "Commission."*

*Lines 14-15: Are these categories established by rule?*

*Lines 33-34: It is unclear how this applies to points? If that cannot be determined, list factors that the Commission will consider in determining the application.*

*Line 35: What is an officer's "area of expertise" and how is this determined?*

*Lines 35-37: Is the second sentence a limitation? What is the Commission attempting to state?*

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: September 23, 2024

12 NCAC 09G .0418 is being submitted for amendment as follows:

**12 NCAC 09G .0418 TERMS AND CONDITIONS OF QUALIFIED ASSISTANT CERTIFICATION**

(a) The term of certification as a Qualified Assistant is three years from the date the Commission issues the certification, unless earlier terminated by action of the Commission. The application for renewal shall include documentation meeting the requirements of Rule .0417(a) and (b) of this Section.

(b) The Commission may deny, suspend, or revoke certification as a Qualified Assistant when the Commission finds that the person failed to meet or maintain any of the requirements for qualification or failed to comply with the rules of this Chapter.

(c) Prior to the Commission's action denying, suspending, or revoking a Qualified Assistant's certification, the Standards Division may notify the person that a deficiency appears to exist and may attempt, in an advisory capacity, to assist the person in correcting the deficiency.

(d) The Commission shall deny, suspend, or revoke the certification of a Qualified Assistant when it have found the person has engaged in any conduct outlined in Rule .0307 of this Subchapter.

(e) To retain certification as a Qualified Assistant, the Qualified Assistant shall:

(1) Participate in annual training conducted by Commission staff. This annual training shall be delivered in a conference, classroom, or virtual format and shall contain information relevant to the responsibilities of a Qualified Assistant, as outlined in 12 NCAC 09G .0417(c);

(2) Hold current General Instructor Certification as issued by the North Carolina Criminal Justice Education and Training Standards Commission.

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

*History Note: Authority G.S. 17C-6;  
Eff. January 1, 2020.  
Amended Eff. November 1, 2024*