

## 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 09A .0204

RECOMMENDATION DATE: November 18, 2024

RECOMMENDED ACTION:

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

COMMENT:

As it currently exists in the North Carolina Administrative Code, Paragraph (a) of 12 NCAC 09A .0204 (the "Rule") sets forth two bases for the revocation of a criminal justice offer's certification by the Criminal Justice Education and Training Standards Commission, (the "Agency").

In the proposed Rule published in the North Carolina Register, the Agency appears to strike three bases in Paragraph (a) for the revocation from the existing language in favor of a reference to 12 NCAC 09B .0111. One of the bases, specifically Paragraph (a)(3), was not in the existing Rule. In short, the Agency attempted to strike language from the Rule which does not exist.

While the agency made changes to the published version in other paragraphs, Paragraph (a) was unchanged from the published language, and was filed for review with the Rules Review Commission ("RRC").

William W. Peaslee  
Commission Counsel

Staff counsel issued a request for changes (“RFC”) on October 9, 2024. The RFC did not request any changes be made to Paragraph (a) or to Paragraph (b)(9).

On November 13, 2024, the agency responded to the RFC with revisions to the Rule including Paragraph (a) and Paragraph (b)(9).

Regarding Paragraph (a), it appears that the Agency is attempting to revert to the current language of Paragraph (a) as it exists in the North Carolina Administrative Code.<sup>1</sup>

Regarding Paragraph (b)(9), the Agency added references to 12 NCAC 09B .0114, .0116 and .0117.

I.

G.S. 150B-21.2(a)(1) requires agencies to publish the text of the proposed rule in the North Carolina Register. The Agency failed to so do by publishing a document purporting to strike language which did not exist from an existing rule. Accordingly, staff recommends objection to the Rule pursuant to G.S. 150B-21.9(a)(4) for the Agency’s failure to adopt the Rule in accordance with Part 2 of Article 2 of the North Carolina Administrative Code.

II.

26 NCAC 05 .0107(b) states, “An agency shall make no changes to any rule after filing with the RRC and before review by the RRC except: (1) in response to a request for technical changes from the RRC or from the RRC staff; or (2) after notifying RRC staff of the changes in writing, identifying each change, and providing an explanation for each change.”

G.S. 150B-21.2 states, “When an agency adopts a rule, it shall not take subsequent action on the rule without following the procedures in this Part.”

G.S. 150B-21.10 states, “In reviewing a new rule or an amendment to an existing rule, the Commission may request an agency to make technical changes to the rule and may condition its approval of the rule on the agency's making the requested technical changes.”

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<sup>1</sup> IT SHOULD BE NOTED THAT TO DATE THE AGENCY HAS NOT BEEN ABIDING BY RULE 26 NCAC 02C .0405 REGARDING FORMATTING CHANGES WHICH MAKES IT DIFFICULT FOR THE RRC AND THE PUBLIC TO UNDERSTAND THE AGENCY’S INTENTIONS.

Here the agency made changes to language in Paragraphs (a) and (b)(9) which were not subject to a request for change. Further, the agency has not provided an explanation for the change as required by Rule .0107; however, it appears facially that the Agency simply changed its mind after publication, adoption, and filing with the RRC.

Accordingly, staff recommends objection pursuant to G.S. 150B-21.9(a)(4) as the rule was not adopted in accordance with Part 2 of Article 2 of the Administrative Procedures Act (“APA”).

### III.

Pursuant to G.S. 150B-21.2(g), an agency cannot adopt a rule which differs substantially from a proposed rule if it:

*(1) Affects the interests of persons that, based on the proposed text of the rule published in the North Carolina Register, could not reasonably have determined that the rule would affect their interests.*

*(2) Addresses a subject matter or an issue that is not addressed in the proposed text of the rule.*

*(3) Produces an effect that could not reasonably have been expected based on the proposed text of the rule.*

Paragraph (b) sets forth the circumstances under which a “criminal justice [officer’s]” certification shall be suspended or denied, including Subparagraph (b)(9) which, as published, only referred to 12 NCAC 09B .0101(13).

Post publication the Agency revised the Subparagraph to include the following references:

*12 NCAC 09B .0114 MINIMUM STANDARDS FOR  
LOCAL CONFINEMENT PERSONNEL*

*12 NCAC 09B .0116 MINIMUM STANDARDS FOR  
JUVENILE COURT COUNSELORS AND CHIEF COURT  
COUNSELORS*

*12 NCAC 09B .0117 MINIMUM STANDARDS FOR  
JUVENILE JUSTICE OFFICERS*

While the circumstances requiring the officer to notify the Agency are the same in 12 NCAC 09B .0114, .0116, and .0117, they differ from those in .0101. Thus, the post-publication additions

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Commission Counsel

expand the bases by which a criminal justice officer's certification "shall be suspended or denied" and produces an effect that could not reasonably be expected based upon the proposed text of the rule.

Accordingly, staff recommends objection pursuant to G.S. 150B-21.9(a)(4) as the rule was not adopted in accordance with Part 2 of Article 2 of the APA.

William W. Peaslee  
Commission Counsel

**§ 150B-21.9. Standards and timetable for review by Commission.**

(a) Standards. - The Commission must determine whether a rule meets all of the following criteria:

- (1) It is within the authority delegated to the agency by the General Assembly.
- (2) It is clear and unambiguous.
- (3) It is reasonably necessary to implement or interpret an enactment of the General Assembly, or of Congress, or a regulation of a federal agency. The Commission shall consider the cumulative effect of all rules adopted by the agency related to the specific purpose for which the rule is proposed.
- (4) It was adopted in accordance with Part 2 of this Article.

The Commission shall not consider questions relating to the quality or efficacy of the rule but shall restrict its review to determination of the standards set forth in this subsection.

The Commission may ask the Office of State Budget and Management to determine if a rule has a substantial economic impact and is therefore required to have a fiscal note. The Commission must ask the Office of State Budget and Management to make this determination if a fiscal note was not prepared for a rule and the Commission receives a written request for a determination of whether the rule has a substantial economic impact.

(a1) Entry of a rule in the North Carolina Administrative Code after review by the Commission creates a rebuttable presumption that the rule was adopted in accordance with Part 2 of this Article.

(b) Timetable. - The Commission must review a permanent rule submitted to it on or before the twentieth of a month by the last day of the next month. The Commission must review a rule submitted to it after the twentieth of a month by the last day of the second subsequent month. The Commission must review a temporary rule in accordance with the timetable and procedure set forth in G.S. 150B-21.1. (1991, c. 418, s. 1; 1995, c. 507, s. 27.8(f); 2000-140, s. 93.1(a); 2001-424, s. 12.2(b); 2003-229, s. 9.)

**§ 150B-21.2. Procedure for adopting a permanent rule.**

(a) Steps. - Before an agency adopts a permanent rule, the agency must comply with the requirements of G.S. 150B-19.1, and it must take the following actions:

- (1) Publish a notice of text in the North Carolina Register.
- (2) When required by G.S. 150B-21.4, prepare or obtain a fiscal note for the proposed rule.
- (3) Repealed by Session Laws 2003-229, s. 4, effective July 1, 2003.
- (4) When required by subsection (e) of this section, hold a public hearing on the proposed rule after publication of the proposed text of the rule.
- (5) Accept oral or written comments on the proposed rule as required by subsection (f) of this section.

(b) Repealed by Session Laws 2003-229, s. 4, effective July 1, 2003.

(c) Notice of Text. - A notice of the proposed text of a rule must include all of the following:

- (1) The text of the proposed rule, unless the rule is a readoption without substantive changes to the existing rule proposed in accordance with G.S. 150B-21.3A.
- (2) A short explanation of the reason for the proposed rule.
- (2a) A link to the agency's website containing the information required by G.S. 150B-19.1(c).
- (3) A citation to the law that gives the agency the authority to adopt the rule.
- (4) The proposed effective date of the rule.
- (5) The date, time, and place of any public hearing scheduled on the rule.
- (6) Instructions on how a person may demand a public hearing on a proposed rule if the notice does not schedule a public hearing on the proposed rule and subsection (e) of this section requires the agency to hold a public hearing on the proposed rule when requested to do so.
- (7) The (i) period of time during which and (ii) person within the agency to whom written comments may be submitted on the proposed rule.
- (8) If a fiscal note has been prepared for the rule, a statement that a copy of the fiscal note can be obtained from the agency.
- (9) Repealed by Session Laws 2013-143, s. 1, effective June 19, 2013.

(d) Mailing List. - An agency must maintain a mailing list of persons that have requested notice of rulemaking. When an agency publishes in the North Carolina Register a notice of text of a proposed rule, it must mail a copy of the notice of text to each person on the mailing list that has requested notice on the subject matter described in the notice or the rule affected. An agency may charge an annual fee to each person on the agency's mailing list to cover copying and mailing costs.

(e) Hearing. - An agency must hold a public hearing on a rule it proposes to adopt if the agency publishes the text of the proposed rule in the North Carolina Register and the agency receives a written request for a public hearing on the proposed rule within 15 days after the notice of text is published. The agency must accept comments at the public hearing on both the proposed rule and any fiscal note that has been prepared in connection with the proposed rule.

An agency may hold a public hearing on a proposed rule and fiscal note in other circumstances. When an agency is required to hold a public hearing on a proposed rule or decides to hold a public hearing on a proposed rule when it is not required to do so, the agency must publish in the North Carolina Register a notice of the date, time, and place of the public hearing. The hearing date of a public hearing held after the agency publishes notice of the hearing in the North Carolina Register must be at least 15 but not later than 60 days after the date the notice is published. If notice of a

public hearing has been published in the North Carolina Register and that public hearing has been cancelled, the agency must publish notice in the North Carolina Register at least 15 days prior to the date of any rescheduled hearing.

(f) Comments. - An agency must accept comments on the text of a proposed rule that is published in the North Carolina Register and any fiscal note that has been prepared in connection with the proposed rule for at least 60 days after the text is published or until the date of any public hearing held on the proposed rule, whichever is longer. An agency must consider fully all written and oral comments received.

(g) Adoption. - An agency shall not adopt a rule until the time for commenting on the proposed text of the rule has elapsed and shall not adopt a rule if more than 12 months have elapsed since the end of the time for commenting on the proposed text of the rule. Prior to adoption, an agency must review any fiscal note that has been prepared for the proposed rule and consider any public comments received in connection with the proposed rule or the fiscal note. An agency shall not adopt a rule that differs substantially from the text of a proposed rule published in the North Carolina Register unless the agency publishes the text of the proposed different rule in the North Carolina Register and accepts comments on the proposed different rule for the time set in subsection (f) of this section.

An adopted rule differs substantially from a proposed rule if it does one or more of the following:

- (1) Affects the interests of persons that, based on the proposed text of the rule published in the North Carolina Register, could not reasonably have determined that the rule would affect their interests.
- (2) Addresses a subject matter or an issue that is not addressed in the proposed text of the rule.
- (3) Produces an effect that could not reasonably have been expected based on the proposed text of the rule.

When an agency adopts a rule, it shall not take subsequent action on the rule without following the procedures in this Part. An agency must submit an adopted rule to the Rules Review Commission within 30 days of the agency's adoption of the rule.

(h) Explanation. - An agency must issue a concise written statement explaining why the agency adopted a rule if, within 15 days after the agency adopts the rule, a person asks the agency to do so. The explanation must state the principal reasons for and against adopting the rule and must discuss why the agency rejected any arguments made or considerations urged against the adoption of the rule. The agency must issue the explanation within 15 days after receipt of the request for an explanation.

(i) Record. - An agency must keep a record of a rulemaking proceeding. The record must include all written comments received, a transcript or recording of any public hearing held on the rule, any fiscal note that has been prepared for the rule, and any written explanation made by the agency for adopting the rule. (1973, c. 1331, s. 1; 1975, 2nd Sess., c. 983, s. 63; 1977, c. 915, s. 2; 1983, c. 927, ss. 3, 7; 1985, c. 746, s. 1; 1985 (Reg. Sess., 1986), c. 1022, s. 1(1), (7); 1987, c. 285, ss. 7-9; 1989, c. 5, s. 1; 1991, c. 418, s. 1; 1995, c. 507, s. 27.8(d); 1996, 2nd Ex. Sess., c. 18, s. 7.10(e); 2003-229, s. 4; 2011-398, s. 5; 2013-143, s. 1; 2013-413, s. 3(a); 2021-88, s. 17; 2023-134, s. 21.2(b).)

William W. Peaslee  
Commission Counsel



12 NCAC 09A .0204

Currently in the North Carolina Code

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

(a) The Commission shall revoke the certification of a criminal justice officer when the Commission finds that the officer has committed or been convicted of:

- (1) a felony offense; or
- (2) a criminal offense for which the authorized punishment included imprisonment for more than two years.

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

- (1) has not enrolled in and satisfactorily completed the required basic training course in its entirety within prescribed time periods relevant or applicable to a specified position or job title;
- (2) fails to meet or maintain one or more of the minimum employment standards required by 12 NCAC 09B .0100 for the category of the officer's certification or fails to meet or maintain one or more of the minimum training standards required by 12 NCAC 09B .0200 or 12 NCAC 09B .0400 for the category of the officer's certification;
- (3) has committed or been convicted of:
  - (A) a criminal offense or unlawful act defined in 12 NCAC 09A .0103 as a Class B misdemeanor; or
  - (B) four or more criminal offenses or unlawful acts defined in 12 NCAC 09A .0103 as a Class A misdemeanor, each of which occurred after the date of initial certification;
- (4) has been discharged by a criminal justice agency for commission or conviction of:
  - (A) a motor vehicle offense requiring the revocation of the officer's driver's license; or
  - (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);
- (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. April 1, 2009; February 1, 2006; August 1, 2001; August 1, 1995; November 1,  
1993; March 1, 1992; July 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,  
2019.*

Proposed 12 NCAC 09A .0204

Published in the North Carolina Registry

# ***NORTH CAROLINA REGISTER***

**VOLUME 38 • ISSUE 18 • Pages 1166 – 1216**

**March 15, 2024**

<b>I. EXECUTIVE ORDERS</b>	
Executive Order No. 304-305 .....	1166 – 1175
<b>II. PROPOSED RULES</b>	
<b>Justice, Department of</b>	
Criminal Justice Education and Training Standards Commission .....	1176 – 1188
<b>Secretary of State, Department of</b>	
Department .....	1188 – 1189
<b>Occupational Licensing Boards and Commissions</b>	
Dental Examiners, Board of .....	1189 – 1195
Electrical Contractors, Board of Examiners of .....	1195 – 1196
Plumbing, Heating and Fire Sprinkler Contractors, Board of Examiners of ..	1196 – 1199
Appraisal Board .....	1199 – 1204
<b>State Human Resources, Office of</b>	
State Human Resources Commission .....	1204 – 1208
<b>III. RULES REVIEW COMMISSION</b> .....	1209 – 1216

**PUBLISHED BY**  
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*Cathy Matthews-Thayer, Editorial Assistant*

*Note from the Codifier: The notices published in this Section of the NC Register include the text of proposed rules. The agency must accept comments on the proposed rule(s) for at least 60 days from the publication date, or until the public hearing, or a later date if specified in the notice by the agency. If the agency adopts a rule that differs substantially from a prior published notice, the agency must publish the text of the proposed different rule and accept comment on the proposed different rule for 60 days. Statutory reference: G.S. 150B-21.2.*

**TITLE 12 – DEPARTMENT OF JUSTICE**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Criminal Justice Education and Training Standards Commission intends to adopt the rule cited as 12 NCAC 09A .0208 and amend the rules cited as 12 NCAC 09A .0204, .0205; 09B .0104, .0304, .0504, .0505; 09C .0309, .0310; 09D .0102; 09G .0205, .0211, .0417, .0418, and .0602.*

**Link to agency website pursuant to G.S. 150B-19.1(c):**  
<https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/>

**Proposed Effective Date:** *November 1, 2024*

**Public Hearing:**

**Date:** *May 14, 2024*

**Time:** *1:00 p.m.*

**Location:** *Meeting to be held on Microsoft Teams. Microsoft Teams meeting information is listed on the agency's website.*

**Reason for Proposed Action:** *To update what medical providers can complete required forms, to update certification requirements for Qualified Assistants, to update criminal charge information for certified individuals, to update requirements for receipt of professional certificates, and to create requirements for conduct of public hearings.*

**Comments may be submitted to:** *Michelle Schilling, NC Department of Justice, Criminal Justice Standards Division, PO Box 149, Raleigh, NC 27602-0149*

**Comment period ends:** *May 14, 2024*

**Procedure for Subjecting a Proposed Rule to Legislative Review:**

If an objection is not resolved prior to the adoption of the rule, a person may also submit a written objection to the Rules Review Commission. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via email to [oah.rules@oah.nc.gov](mailto:oah.rules@oah.nc.gov). If you have any further questions concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or call a Commission staff attorney at 984-236-1850.

**Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.**

- State funds affected
- Local funds affected
- Substantial economic impact ( $\geq$  \$1,000,000)
- Approved by OSBM
- No fiscal note required

**CHAPTER 09 - CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS**

**SUBCHAPTER 09A - CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION**

**SECTION .0200 - ENFORCEMENT OF RULES**

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

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

- (1) ~~a felony offense; or~~
- (2) ~~a criminal offense for which the authorized punishment included imprisonment for more than two years; years; or~~
- (3) ~~a crime or unlawful act defined as a "Class B misdemeanor" within the 5-year period prior to the date of certification;~~

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

- (1) has not enrolled in and satisfactorily completed the required basic training course in its entirety within prescribed time periods relevant or applicable to a specified position or job title;
- (2) fails to meet or maintain one or more of the minimum employment standards required by 12 NCAC 09B .0100 for the category of the officer's certification or fails to meet or maintain one or more of the minimum training standards required by 12 NCAC 09B .0200 or 12 NCAC 09B .0400 for the category of the officer's certification;
- (3) has committed or been convicted of:
  - (A) a criminal offense or unlawful act defined in 12 NCAC 09A .0103 as a Class B misdemeanor; or
  - (B) four or more criminal offenses or unlawful acts defined in 12 NCAC

- 09A .0103 as a Class A misdemeanor, each of which occurred after the date of initial certification;
- (4) has been discharged by a criminal justice agency for commission or conviction of:
  - (A) a motor vehicle offense requiring the revocation of the officer's driver's license; or
  - (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.

*Authority G.S. 17C-6; 17C-10.*

**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 include 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);

12 NCAC 09A .0204

As adopted and filed with the RRC



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;

- 1 (5) has been discharged by a criminal justice agency because the officer lacks the mental or physical  
2 capabilities to properly fulfill the responsibilities of a criminal justice officer;
- 3 (6) has knowingly made a material misrepresentation of any information required for certification or  
4 accreditation;
- 5 (7) has knowingly and willfully, by any means of false pretense, deception, defraudation,  
6 misrepresentation or cheating whatsoever, obtained or attempted to obtain credit, training or  
7 certification from the Commission;
- 8 (8) has knowingly and willfully, by any means of false pretense, deception, defraudation,  
9 misrepresentation or cheating whatsoever, aided another person in obtaining or attempting to obtain  
10 credit, training or certification from the Commission;
- 11 (9) has failed to make either of the notifications as required by 12 NCAC 09B ~~.0101(8)~~, .0101(13);
- 12 (10) has been removed from office by decree of the Superior Court in accord with the provisions of G.S.  
13 128-16 or has been removed from office by sentence of the court in accord with the provisions of  
14 G.S. 14-230;
- 15 (11) fails to satisfactorily complete the minimum in-service training requirements as prescribed in 12  
16 NCAC 09E;
- 17 (12) has refused to submit to an applicant or lateral transferee drug screen as required by the rules in this  
18 Chapter, or has refused to submit to an in-service drug screen pursuant to the guidelines set forth in  
19 the Drug Screening Implementation Guide as required by the agency through which the officer is  
20 certified;
- 21 (13) has produced a positive result on a drug screen reported to the Commission as specified in 12 NCAC  
22 09C .0310, where the positive result cannot be explained to the Commission's satisfaction;
- 23 (14) has been denied certification or had certification suspended or revoked by the North Carolina  
24 Sheriffs' Education and Training Standards Commission, the North Carolina Criminal Justice  
25 Education and Training Standards Commission; the North Carolina Company/Campus Police  
26 Program; or a similar North Carolina, out of state or federal approving, certifying or licensing  
27 agency;
- 28 (15) has performed activities or duties for which certification by the Commission is required without  
29 having first obtained the appropriate certification; or
- 30 (16) has been convicted of any offense proscribed by 18 USC 922(g)(8) that would prohibit possession  
31 of a firearm or ammunition.
- 32 (c) Following suspension, revocation, or denial of the person's certification, the person may not remain employed or  
33 appointed as a criminal justice officer and the person may not exercise any authority of a criminal justice officer during  
34 a period for which the person's certification is suspended, revoked, or denied.

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36 *History Note:* Authority G.S. 17C-6; 17C-10;  
37 Eff. January 1, 1981;  
38 Amended Eff. November 1, 2024; April 1, 2009; February 1, 2006; August 1, 2001; August 1, 1995;  
39 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.*

12 NCAC 09A .0204

As revised post- request for changes

Final Rule

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 or deny the certification of a criminal justice officer when the Commission finds  
5 that the officer has committed or been convicted of: [~~of: by a local, state, federal, or military court of any offense as~~  
6 ~~outlined in 12 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 (1) a felony offense; or

13 (2) a criminal offense for which the authorized punishment included imprisonment for more than two  
14 years.

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

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

19 (2) fails to meet or maintain one or more of the minimum employment standards required by 12 NCAC  
20 09B .0100 for the category of the officer's certification or fails to meet or maintain one or more of  
21 the minimum training standards required by 12 NCAC 09B .0200 or 12 NCAC 09B .0400 for the  
22 category of the officer's certification;

23 (3) has ~~committed~~ committed, as defined in 12 NCAC 09A .0103(5), or been convicted of:

24 (A) ~~a criminal offense or unlawful act defined in 12 NCAC 09A .0103 as a Class B~~  
25 ~~misdemeanor; misdemeanor, as defined in 12 NCAC 09A .0103, within the five-year~~  
26 ~~period prior to the date of application for certification; or~~

27 (B) ~~four or more criminal offenses or unlawful acts defined in 12 NCAC 09A .0103 as a Class~~  
28 ~~A misdemeanor; misdemeanors, unless the last conviction or commission occurred more~~  
29 ~~than two years prior to the date of appointment each of which occurred after the date of~~  
30 ~~initial certification; or~~

31 (C) a Class B misdemeanor, as defined in 12 NCAC 09A .0103, which occurred after  
32 appointment; or

33 (D) four or more Class B misdemeanors, as defined in 12 NCAC 09A .0103, regardless of the  
34 date of commission or conviction; or

35 (E) any combination of four or more Class A misdemeanors and Class B misdemeanors, as  
36 defined in 12 NCAC 09A .0103, regardless of the date of commission or conviction  
37 provided that at least one misdemeanor is a Class B misdemeanor.

- 1 (4) has been discharged by a criminal justice agency for commission or conviction of:
- 2 (A) a motor vehicle offense requiring the revocation of the officer's driver's license; or
- 3 (B) any other offense involving moral turpitude;
- 4 (5) has been discharged by a criminal justice agency because the officer lacks the mental or physical
- 5 capabilities to properly fulfill the responsibilities of a criminal justice officer;
- 6 (6) has knowingly made a material misrepresentation of any information required for certification or
- 7 accreditation;
- 8 (7) has knowingly and willfully, by ~~any~~ means of false pretense, deception, defraudation,
- 9 misrepresentation or cheating whatsoever, obtained or attempted to obtain credit, training or
- 10 certification from the Commission;
- 11 (8) has knowingly and willfully, by ~~any~~ means of false pretense, deception, defraudation,
- 12 misrepresentation or cheating whatsoever, aided another person in obtaining or attempting to obtain
- 13 credit, training or certification from the Commission;
- 14 (9) has failed to make ~~either of the~~ notifications as required by 12 NCAC 09B .0101(8); ~~[. 0101(13);]~~
- 15 .0101, .0114, .0116, or .0117;
- 16 (10) has been removed from office by decree of the Superior Court in accord with the provisions of G.S.
- 17 128-16 or has been removed from office by sentence of the court in accord with the provisions of
- 18 G.S. 14-230;
- 19 (11) fails to ~~satisfactorily~~ complete the minimum in-service training requirements as prescribed in 12
- 20 NCAC 09E;
- 21 (12) has refused to submit to an ~~applicant or~~ applicant, lateral transferee or in-service drug screen as
- 22 required by the rules in this Chapter, ~~or has refused to submit to an in-service drug screen pursuant~~
- 23 ~~to the guidelines set forth in the Drug Screening Implementation Guide as required by the agency~~
- 24 ~~through which the officer is certified;~~ Chapter;
- 25 (13) has produced a positive result on a drug screen reported to the Commission as specified in 12 NCAC
- 26 09C .0310, ~~where the positive result cannot be explained to the Commission's satisfaction;~~ and there
- 27 is no finding by the Commission that the positive result on the drug screen was the result of:
- 28 (A) use pursuant to and in compliance with a valid prescription;
- 29 (B) involuntary consumption of the controlled substance; or
- 30 (C) unknowing consumption of the controlled substance based upon a reasonable belief of the
- 31 officer;
- 32 (14) has been denied certification or had certification suspended or revoked by the North Carolina
- 33 Sheriffs' Education and Training Standards ~~Commission,~~ Commission; the North Carolina Criminal
- 34 Justice Education and Training Standards Commission; the North Carolina Company/Campus
- 35 Police Program; or a similar North Carolina, out of state or federal approving, certifying or licensing
- 36 agency;

1 (15) has performed activities or duties for which certification by the Commission is required without  
2 having first obtained the appropriate certification; or

3 (16) has been convicted of any offense proscribed by 18 USC 922(g)(8) that would prohibit possession  
4 of a firearm or ammunition.

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

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9 *History Note: Authority G.S. 17C-6; 17C-10;*  
10 *Eff. January 1, 1981;*  
11 *Amended Eff. November 1, 2024; April 1, 2009; February 1, 2006; August 1, 2001; August 1, 1995;*  
12 *November 1, 1993; March 1, 1992; July 1, 1990;*  
13 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*  
14 *2019.*  
15 *Amended Eff. November 1, 2024.*  
16

12 NCAC 09B .0101, .0114, .0116, and .0117

Referenced in the final rule



**SUBCHAPTER 09B - STANDARDS FOR CRIMINAL JUSTICE EMPLOYMENT: EDUCATION: AND TRAINING**

**SECTION .0100 - MINIMUM STANDARDS FOR CRIMINAL JUSTICE EMPLOYMENT**

**12 NCAC 09B .0101 MINIMUM STANDARDS FOR LAW ENFORCEMENT OFFICERS**

Every law enforcement officer who is employed in or has received a conditional offer of employment for a certified position by an agency in North Carolina shall:

- (1) be a citizen of the United States;
- (2) be at least 20 years of age;
- (3) be a high school graduate, or the equivalent as defined in 12 NCAC 09B .0106;
- (4) have been fingerprinted by the employing agency in the manner provided in 12 NCAC 09B .0103;
- (5) have had a medical examination as required by 12 NCAC 09B .0104;
- (6) have produced a negative result on a drug screen as described in 12 NCAC 09C .0310;
- (7) have been administered a psychological screening examination in accordance with G.S. 17C-10(c). The psychological screening shall be valid for a period of one year from the date on which it was administered.
- (8) have been interviewed as described in 12 NCAC 09B .0105;
- (9) have a background investigation conducted by the employing agency, including a personal interview as required by 12 NCAC 09B .0102;
- (10) not have committed or been convicted of a crime or crimes as specified in 12 NCAC 09B .0111;
- (11) for personnel who are authorized to carry a firearm in the execution of their duties, satisfactorily complete the employing agency's in-service firearms training program as prescribed in 12 NCAC 09E .0105 and .0106. Such firearms training compliance must have occurred prior to submission of the application for appointment to the Commission and must be completed using the agency approved service handgun(s) and any other weapon(s) that the applicant has been issued or authorized to use by the agency; and
- (12) be of good moral character as defined in: : In re Willis, 288 N.C. 1, 215 S.E. 2d 771 appeal dismissed 423 U.S. 976 (1975); State v. Harris, 216 N.C. 746, 6 S.E. 2d 854 (1940); In re Legg, 325 N.C. 658, 386 S.E. 2d 174 (1989); in re Applicants for License, 143 N.C. 1, 55 S.E. 635 (1906); In re Dillingham, 188 N.C. 162, 124 S.E. 130 (1924); State v. Benbow, 309 N.C. 538, 308 S.E. 2d 647 (1983); and later court decisions.
- (13) Make the following notifications:
  - (a) within five business days of the qualifying event notify the Standards Division and the appointing agency head in writing of all criminal offenses for which the officer is charged, arrested, pleads no contest, pleads guilty, or of which the officer is found guilty. This shall include traffic offenses identified in the Class B Misdemeanor Manual and offenses of driving under the influence (DUI) or driving while impaired (DWI);
  - (b) within five business days of service, officers shall notify the Standards Division and the appointing agency head of all Domestic Violence Protective Order (G.S. 50B) and Civil No Contact Orders (G.S. 50C) that are issued by a judicial official against the officer;
  - (c) within five business days of the date the case was disposed of in court, the agency head, provided he or she has knowledge of the officer's arrests or criminal charges and final dispositions, shall also notify the Standards Division of arrests or criminal charges and final disposition;
  - (d) within five business days of the issuance of all Domestic Violence Protective Orders (G.S. 50B) and Civil No Contact Orders (G.S. 50C), the agency head, provided he or she has knowledge of the order, shall also notify the Standards Division of these orders.
  - (e) The required notifications in this Rule shall be in writing and shall specify the nature of the offense or order, the court in which the case was handled, the date of the arrest, criminal charge, or service of the order, and the final disposition. The notification shall include a certified copy of the order or court documentation and final disposition from the Clerk of Court in the county of adjudication. The requirements of this Item shall be applicable at all times during which the officer is employed and certified by the Commission and shall also apply to all applicants for certification. Receipt by the

Standards Division of a single notification, from the officer or the agency head, shall be sufficient notice for compliance with this Item.

- (14) The requirements of this Rule shall apply to all applicants for certification and shall also apply at all times during which the law enforcement officer is certified by the Commission.

*History Note: Authority G.S. 17C-6; 17C-10;  
Eff. January 1, 1981;  
Amended Eff. April 1, 2018; October 1, 2017; September 1, 2001; April 1, 1999; January 1, 1995;  
November 1, 1993; July 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019;  
Amended Eff. October 1, 2020;  
Temporary Amendment Eff. February 15, 2022;  
Amended Eff. October 1, 2022; August 23, 2022.*

**12 NCAC 09B .0114 MINIMUM STANDARDS FOR LOCAL CONFINEMENT PERSONNEL**

(a) Every officer, supervisor, or administrator employed by a local confinement facility in North Carolina shall:

- (1) be a citizen of the United States;
- (2) be at least 20 years of age;
- (3) be a high school graduate, or the equivalent as defined in 12 NCAC 09B .0106;
- (4) have been fingerprinted by the employing agency in the manner provided in 12 NCAC 09B .0103;
- (5) have had a medical examination as required by 12 NCAC 09B .0104;
- (6) have produced a negative result on a drug screen as described in 12 NCAC 09C .0310;
- (7) have been administered a psychological screening examination in accordance with G.S. 17C-10(c). The psychological screening examination shall be valid for a period of one year from the date on which it was administered.
- (8) have been interviewed as described in 12 NCAC 09B .0105;
- (9) have a background investigation conducted by the employing agency, including a personal interview as required by 12 NCAC .09B .0102;
- (10) not have committed or been convicted of a crime or crimes as specified in 12 NCAC 09B .0111;
- (11) be of good moral character as defined in : In re Willis 288 N.C. 1, 215 S.E. 2d 771 appeal dismissed 423 U.S. 976 (1975); State v. Harris, 216 N.C. 746, 6 S.E. 2d 854 (1940); In re Legg, 325 N.C. 658, 386 S.E. 2d 174(1989); in re Applicants for License, 143 N.C. 1, 55 S.E. 635 (1906); In re Dillingham, 188 N.C. 162, 124 S.E. 130 (1924); State v. Benbow, 309 N.C. 538, 308 S.E. 2d 647 (1983); and later court decisions.
- (12) Make the following notifications:
  - (A) within five days of the qualifying event, notify the Standards Division and the appointing agency head in writing of all criminal offenses for which the officer is charged or arrested. This shall include traffic offenses identified in the Class B Misdemeanor Manual and offenses of driving under the influence (DUI) or driving while impaired (DWI);
  - (B) within five days of the qualifying event, notify the Standards Division and the appointing agency head in writing of all criminal offenses for which the officer pleads no contest, pleads guilty or of which the officer is found guilty. This shall include traffic offenses identified in the Class B Misdemeanor Manual and offenses of driving under the influence (DUI) or driving while impaired (DWI);
  - (C) within five days of service, officers shall notify the Standards Division of all Domestic Violence Protective Order (G.S. 50B) and Civil No Contact Orders (G.S. 50C) that are issued by a judicial official against the officer;
  - (D) within five days of the date the case was disposed of in court, the agency head, provided he or she has knowledge of the officer's arrests or criminal charges and final dispositions, shall also notify the Standards Division of arrests or criminal charges and final disposition; and
  - (E) within five days of the issuance of all Domestic Violence Protective Orders (G.S. 50B) and Civil No Contact Orders (G.S. 50C), the agency head, provided he or she has knowledge of the order, shall also notify the Standards Division of these orders.
- (13) The required notifications in this Rule shall be in writing and shall specify the nature of the offense or order, the court in which the case was handled, the date of the arrest, criminal charge, or service of the order, and the final disposition. The notification shall include a certified copy of the order or court documentation and final disposition from the Clerk of Court in the county of adjudication. The requirements of this Item shall be applicable at all times during which the officer is employed and certified by the Commission and shall also apply to all applicants for certification. Receipt by the Standards Division of a single notification, from the officer or the agency head, shall be sufficient notice for compliance with this Item.

(b) The word "officer" as identified in Paragraph (a) of this Rule, means those officers identified in G.S. 17C-2(3).

(c) The requirements of this Rule shall apply to all applicants for certification and shall also apply at all times during which the law enforcement officer is certified by the Commission.

*History Note: Authority G.S. 17C-6; 17C-10;  
Eff. June 1, 1986;  
Amended Eff. November 1, 2015; December 1, 1987;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest eff. May 25, 2019;  
Amended Eff. October 1, 2022.*

**12 NCAC 09B .0116      MINIMUM STANDARDS FOR JUVENILE COURT COUNSELORS AND CHIEF COURT COUNSELORS**

(a) Every Juvenile Court Counselor and Chief Court Counselor employed by the North Carolina Department of Juvenile Justice and Delinquency Prevention shall:

- (1) be a citizen of the United States;
- (2) be at least 20 years of age;
- (3) have attained a bachelor's degree as described in 12 NCAC 09B .0106(b);
- (4) have been fingerprinted by the employing agency in the manner provided in 12 NCAC 09B .0103;
- (5) have had a medical examination as required by 12 NCAC 09B .0104;
- (6) have produced a negative results on a drug screen as described in 12 NCAC 09C .0310;
- (7) have been administered a psychological screening examination in accordance with G.S. 17C-10(c). The psychological screening examination shall be valid for a period of one year from the date on which it was administered;
- (8) have been interviewed as described in 12 NCAC 09B .0105;
- (9) use the method of documenting the results of the background investigation it deems most appropriate to its needs in accordance with the Commission form. However, the Commission's Mandated Background Investigation Form (F-8) must be used as a guide of minimum information to be collected and recorded by the investigator for all other law enforcement officer applicants that are regulated by the Commission;
- (10) not have committed or been convicted of a crime or crimes as specified in 12 NCAC 09B .0111;
- (11) be of good moral character as defined in: *In re Willis* 288 N.C. 1, 215 S.E. 2d 771 appeal dismissed 423 U.S. 976 (1975); *State v. Harris*, 216 N.C. 746, 6 S.E. 2d 854 (1940); *In re Legg*, 325 N.C. 658, 386 S.E. 2d 174(1989); *in re Applicants for License*, 143 N.C. 1, 55 S.E. 635 (1906); *In re Dillingham*, 188 N.C. 162, 124 S.E. 130 (1924); *State v. Benbow*, 309 N.C. 538, 308 S.E. 2d 647 (1983); and later court decisions.
- (12) Make the following notifications:
  - (A) within five days of the qualifying event, notify the Standards Division and the appointing agency head in writing of all criminal offenses for which the officer is charged or arrested. This shall include traffic offenses identified in the Class B Misdemeanor Manual and offenses of driving under the influence (DUI) or driving while impaired (DWI);
  - (B) within five days of the qualifying event, notify the Standards Division and the appointing agency head in writing of all criminal offenses for which the officer pleads no contest, pleads guilty or of which the officer is found guilty. This shall include traffic offenses identified in the Class B Misdemeanor Manual and offenses of driving under the influence (DUI) or driving while impaired (DWI);
  - (C) within five days of service, officers shall notify the Standards Division of all Domestic Violence Protective Order (G.S. 50B) and Civil No Contact Orders (G.S. 50C) that are issued by a judicial official against the officer;
  - (D) within five days of the date the case was disposed of in court, the agency head, provided he or she has knowledge of the officer's arrests or criminal charges and final dispositions, shall also notify the Standards Division of arrests or criminal charges and final disposition; and
  - (E) within five days of the issuance of all Domestic Violence Protective Orders (G.S. 50B) and Civil No Contact Orders (G.S. 50C), the agency head, provided he or she has knowledge of the order, shall also notify the Standards Division of these orders.
- (13) The required notifications in this Rule shall be in writing and shall specify the nature of the offense or order, the court in which the case was handled, the date of the arrest, criminal charge, or service of the order, and the final disposition. The notification shall include a certified copy of the order or court documentation and final disposition from the Clerk of Court in the county of adjudication. The requirements of this Item shall be applicable at all times during which the officer is employed and certified by the Commission and shall also apply to all applicants for certification. Receipt by the Standards Division of a single notification, from the officer or the agency head, shall be sufficient notice for compliance with this Item.

(b) The requirements of this Rule shall apply to all applicants for certification and shall also apply at all times during which the law enforcement officer is certified by the Commission.

*History Note:* Authority G.S. 17C-6;  
Temporary Adoption Eff. April 15, 2003;  
Eff. April 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,  
2019;  
Amended Eff. October 1, 2022.

**12 NCAC 09B .0117 MINIMUM STANDARDS FOR JUVENILE JUSTICE OFFICERS**

(a) Every Juvenile Justice Officer employed by the North Carolina Department of Juvenile Justice and Delinquency Prevention shall:

- (1) be a citizen of the United States;
- (2) be at least 20 years of age;
- (3) be a high school graduate or the equivalent as defined in 12 NCAC 09B .0106;
- (4) have been fingerprinted by the employing agency in the manner provided in 12 NCAC 09B .0103;
- (5) have had a medical examination as required by 12 NCAC 09B .0104;
- (6) have produced a negative results on a drug screen as described in 12 NCAC 09C .0310;
- (7) have been administered a psychological screening examination in accordance with G.S. 17C-10(c). The psychological screening examination shall be valid for a period of one year from the date on which it was administered.
- (8) have been interviewed as described in 12 NCAC 09B .0105;
- (9) have a documented background investigation conducted by the agency using the method the agency deems most appropriate to its needs in accordance with the Commission form. However, the Commission's Mandated Background Investigation Form (F-8) must be used as a guide of minimum information to be collected and recorded by the investigator for all other law enforcement officer applicants that are regulated by the Commission;
- (10) not have committed or been convicted of a crime or crimes as specified in 12 NCAC 09B .0111;
- (11) be of good moral character as defined in : In re Willis 288 N.C. 1, 215 S.E. 2d 771 appeal dismissed 423 U.S. 976 (1975); State v. Harris, 216 N.C. 746, 6 S.E. 2d 854 (1940); In re Legg, 325 N.C. 658, 386 S.E. 2d 174(1989); in re Applicants for License, 143 N.C. 1, 55 S.E. 635 (1906); In re Dillingham, 188 N.C. 162, 124 S.E. 130 (1924); State v. Benbow, 309 N.C. 538, 308 S.E. 2d 647 (1983); and later court decisions,
- (12) Make the following notifications:
  - (A) within five days of the qualifying event, notify the Standards Division and the appointing agency head in writing of all criminal offenses for which the officer is charged or arrested. This shall include traffic offenses identified in the Class B Misdemeanor Manual and offenses of driving under the influence (DUI) or driving while impaired (DWI);
  - (B) within five days of the qualifying event, notify the Standards Division and the appointing agency head in writing of all criminal offenses for which the officer pleads no contest, pleads guilty or of which the officer is found guilty. This shall include traffic offenses identified in the Class B Misdemeanor Manual and offenses of driving under the influence (DUI) or driving while impaired (DWI);
  - (C) within five days of service, officers shall notify the Standards Division of all Domestic Violence Protective Order (G.S. 50B) and Civil No Contact Orders (G.S. 50C) that are issued by a judicial official against the officer;
  - (D) within five days of the date the case was disposed of in court, the agency head, provided he or she has knowledge of the officer's arrests or criminal charges and final dispositions, shall also notify the Standards Division of arrests or criminal charges and final disposition;
  - (E) within five days of the issuance of all Domestic Violence Protective Orders (G.S. 50B) and Civil No Contact Orders (G.S. 50C), the agency head, provided he or she has knowledge of the order, shall also notify the Standards Division of these orders.
- (13) The required notifications in this Rule shall be in writing and shall specify the nature of the offense or order, the court in which the case was handled, the date of the arrest, criminal charge, or service of the order, and the final disposition. The notification shall include a certified copy of the order or court documentation and final disposition from the Clerk of Court in the county of adjudication. The requirements of this Item shall be applicable at all times during which the officer is employed and certified by the Commission and shall also apply to all applicants for certification. Receipt by the Standards Division of a single notification, from the officer or the agency head, shall be sufficient notice for compliance with this Subparagraph.

(b) The requirements of this Rule shall apply to all applicants for certification and shall also apply at all times during which the law enforcement officer is certified by the Commission.

*History Note: Authority G.S. 17C-2; 17C-6; 17C-10;  
Temporary Adoption Eff. April 15, 2003;  
Eff. April 1, 2004;  
Amended Eff. November 1, 2015;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,  
2019;  
Amended Eff. October 1, 2022.*



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 or deny the certification of a criminal justice officer when the Commission finds  
5 that the officer has committed or been convicted of: [of: by a local, state, federal, or military court of any offense as  
6 outlined in 12 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 (1) a felony offense; or

13 (2) a criminal offense for which the authorized punishment included imprisonment for more than two  
14 years.

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

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

19 (2) fails to meet or maintain one or more of the minimum employment standards required by 12 NCAC  
20 09B .0100 for the category of the officer's certification or fails to meet or maintain one or more of  
21 the minimum training standards required by 12 NCAC 09B .0200 or 12 NCAC 09B .0400 for the  
22 category of the officer's certification;

23 (3) has ~~committed~~ committed, as defined in 12 NCAC 09A .0103(5), or been convicted of:

24 (A) ~~a criminal offense or unlawful act defined in 12 NCAC 09A .0103 as a Class B~~  
25 ~~misdemeanor; misdemeanor, as defined in 12 NCAC 09A .0103, within the five-year~~  
26 ~~period prior to the date of application for certification; or~~

27 (B) four or more ~~criminal offenses or unlawful acts defined in 12 NCAC 09A .0103 as a Class~~  
28 ~~A misdemeanor, misdemeanors, unless the last conviction or commission occurred more~~  
29 ~~than two years prior to the date of appointment each of which occurred after the date of~~  
30 ~~initial certification; or~~

31 (C) a Class B misdemeanor, as defined in 12 NCAC 09A .0103, which occurred after  
32 appointment; or

33 (D) four or more Class B misdemeanors, as defined in 12 NCAC 09A .0103, regardless of the  
34 date of commission or conviction; or

35 (E) any combination of four or more Class A misdemeanors and Class B misdemeanors, as  
36 defined in 12 NCAC 09A .0103, regardless of the date of commission or conviction  
37 provided that at least one misdemeanor is a Class B misdemeanor.

- 1 (4) has been discharged by a criminal justice agency for commission or conviction of:
- 2 (A) a motor vehicle offense requiring the revocation of the officer's driver's license; or
- 3 (B) any other offense involving moral turpitude;
- 4 (5) has been discharged by a criminal justice agency because the officer lacks the mental or physical
- 5 capabilities to properly fulfill the responsibilities of a criminal justice officer;
- 6 (6) has knowingly made a material misrepresentation of any information required for certification or
- 7 accreditation;
- 8 (7) has knowingly and willfully, by **any** means of false pretense, deception, defraudation,
- 9 misrepresentation or cheating whatsoever, obtained or attempted to obtain credit, training or
- 10 certification from the Commission;
- 11 (8) has knowingly and willfully, by **any** means of false pretense, deception, defraudation,
- 12 misrepresentation or cheating whatsoever, aided another person in obtaining or attempting to obtain
- 13 credit, training or certification from the Commission;
- 14 (9) has failed to make **either of the** notifications as required by 12 NCAC 09B .0101(8); **[.0101(13);**
- 15 **.0101, .0114, .0116, or .0117;**
- 16 (10) has been removed from office by decree of the Superior Court in accord with the provisions of G.S.
- 17 128-16 or has been removed from office by sentence of the court in accord with the provisions of
- 18 G.S. 14-230;
- 19 (11) fails to **satisfactorily** complete the minimum in-service training requirements as prescribed in 12
- 20 NCAC 09E;
- 21 (12) has refused to submit to an **applicant or applicant,** lateral transferee **or in-service** drug screen as
- 22 required by the rules in this **Chapter, or has refused to submit to an in-service drug screen pursuant**
- 23 **to the guidelines set forth in the Drug Screening Implementation Guide as required by the agency**
- 24 **through which the officer is certified;** **Chapter;**
- 25 (13) has produced a positive result on a drug screen reported to the Commission as specified in 12 NCAC
- 26 09C .0310, **where the positive result cannot be explained to the Commission's satisfaction; and there**
- 27 **is no finding by the Commission that the positive result on the drug screen was the result of:**
- 28 **(A) use pursuant to and in compliance with a valid prescription;**
- 29 **(B) involuntary consumption of the controlled substance; or**
- 30 **(C) unknowing consumption of the controlled substance based upon a reasonable belief of the**
- 31 **officer;**
- 32 (14) has been denied certification or had certification suspended or revoked by the North Carolina
- 33 Sheriffs' Education and Training Standards **Commission, Commission;** the North Carolina Criminal
- 34 Justice Education and Training Standards Commission; the North Carolina Company/Campus
- 35 Police Program; or a similar North Carolina, out of state or federal approving, certifying or licensing
- 36 agency;

1 (15) has performed activities or duties for which certification by the Commission is required without  
2 having first obtained the appropriate certification; or

3 (16) has been convicted of any offense proscribed by 18 USC 922(g)(8) that would prohibit possession  
4 of a firearm or ammunition.

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

8  
9 *History Note: Authority G.S. 17C-6; 17C-10;*  
10 *Eff. January 1, 1981;*  
11 *Amended Eff. November 1, 2024; April 1, 2009; February 1, 2006; August 1, 2001; August 1, 1995;*  
12 *November 1, 1993; March 1, 1992; July 1, 1990;*  
13 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*  
14 *2019.*  
15 *Amended Eff. November 1, 2024.*  
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