

## Burgos, Alexander N

---

**Subject:** FW: [External] Final Rule for RRC Review

---

**From:** Schilling, Michelle <mschilling@ncdoj.gov>  
**Sent:** Monday, June 12, 2023 9:52 AM  
**To:** Ascher, Seth M <seth.ascher@oah.nc.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** RE: [External] Final Rule for RRC Review

**CAUTION:** External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Thank you, sir.



**MICHELLE SCHILLING**  
Deputy Director  
Criminal Justice Standards Division  
Office: (919) 779-8205  
Fax: (919) 779-8210  
[MSchilling@ncdoj.gov](mailto:MSchilling@ncdoj.gov)  
1700 Tryon Park Drive  
Raleigh, NC 27602-0149  
ncdoj.gov

Please note messages to or from this address may be public records.

---

**From:** Ascher, Seth M <[seth.ascher@oah.nc.gov](mailto:seth.ascher@oah.nc.gov)>  
**Sent:** Monday, June 12, 2023 9:48 AM  
**To:** Schilling, Michelle <[mschilling@ncdoj.gov](mailto:mschilling@ncdoj.gov)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
**Subject:** RE: [External] Final Rule for RRC Review

Michelle,

Thank you for your timely update. At this point, I anticipate recommending that the RRC approve this rule.

**Seth Ascher**  
Counsel to the North Carolina Rules Review Commission  
Office of Administrative Hearings  
(984) 236-1934

---

**From:** Schilling, Michelle <[mschilling@ncdoj.gov](mailto:mschilling@ncdoj.gov)>  
**Sent:** Saturday, May 20, 2023 2:54 PM  
**To:** Rules, Oah <[oah.rules@oah.nc.gov](mailto:oah.rules@oah.nc.gov)>  
**Cc:** Ascher, Seth M <[seth.ascher@oah.nc.gov](mailto:seth.ascher@oah.nc.gov)>; Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
**Subject:** [External] Final Rule for RRC Review

**CAUTION:** External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Good afternoon,

An extension was approved on April 20, 2023 for the resubmission of the attached rule for RRC review. Please see the attached draft rule and responses to the request for changes.

Michelle



**MICHELLE SCHILLING**  
Deputy Director  
Criminal Justice Standards Division  
Office: (919) 779-8205  
Fax: (919) 779-8210  
[MSchilling@ncdoj.gov](mailto:MSchilling@ncdoj.gov)  
1700 Tryon Park Drive  
Raleigh, NC 27602-0149  
ncdoj.gov

Please note messages to or from this address may be public records.

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

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09E .0107

Recommended Change #1: *"In paragraph (a) what is the agency's authority to enforce requirements established by another agency?"*

Response: Rule language changed to delete requirement of standards established by another agency.

Recommended Change #2: *"Paragraphs (b) and (c) reference Forms F-9B and F-9C. Are the contents or substantive requirements of those forms prescribed by rule or statute?"*

Response: Yes. N.C.G.S § 17C-6(14) authorizes the North Carolina Criminal Justice Education and Training Standards Commission to *"establish minimum standards for in-service training for criminal justice officers"*. G.S. § 17C-10(c) give us the authority to require that certain information be provided so that we can made minimum standards **determinations**.

Recommended Change #3: *"On line 27, is it the agency's intent to require completion within the same year as the suspension? As written, someone suspended in November 2023 would have to complete the training before January 1<sup>st</sup>, 2024."*

Response: Yes. Per 12 NCAC 09E .0103(2), agency heads are required to submit an annual in-service compliance report to the Criminal Justice Standards Divison by January 15<sup>th</sup> of each year. This report lists certified law enforcement officers, employed by the agency as of December 31<sup>st</sup> of the preceding year, who have failed to complete mandatory in-service training requirements. Officers who do not receive requested medical or military waivers, are issued summary suspension notices. These notices are sent to the suspended officers by March 15<sup>th</sup> of each year to allow sufficient opportunity to complete required in-service training.

1 **12 NCAC 09E .0107 is amended as published in 37:06 NCR 443-444**

2  
3 **12 NCAC 09E .0107 FAILURE TO QUALIFY: ANNUAL IN-SERVICE FIREARMS TRAINING**

4 (a) Where an officer is employed with an agency that establishes a higher standard for annual in-service firearms  
5 training than those specified in this Subchapter and the officer has failed to meet the requirements of the employing  
6 agency as of December 31 of each calendar year, such officer shall meet the requirements of this Rule ~~and the higher~~  
7 ~~standard of the employing agency~~ for continued ~~employment.~~ certification. Prior to transfer to another agency, the  
8 officer shall meet the requirements of this Rule. ~~Rule and the requirements of the subsequent agency, if the subsequent~~  
9 ~~agency requires a higher standard for annual in-service firearms training than those required in 12 NCAC 09E .0105(1)~~  
10 ~~and .0106.~~

11 (b) Upon notification to the Division via Form F-9B 'Report of Non-Compliance of Mandatory In-Service Training'  
12 that an officer has failed to meet the requirements for in-service firearms training and qualification as specified in 12  
13 NCAC 09E .0106(a) of this Subchapter, the law enforcement officer's certification shall be suspended. Form F-9B is  
14 located on the Commission's website: [https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-](https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/#91-112-wpfd-in-service-p2)  
15 publications/#91-112-wpfd-in-service-p2.

16 (c) The Division shall rescind the suspension indicated in Paragraph (b) of this rule upon receipt from an agency  
17 representative of Form F-9C 'Return to Duty Request', indicating the suspended officer has completed the in-service  
18 firearms training and qualification pursuant to 12 NCAC 09E .0106(a) and (b). Form F-9C is located on the  
19 Commission's website: [https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/#91-](https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/#91-112-wpfd-in-service-p2)  
20 [112-wpfd-in-service-p2.](https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/#91-112-wpfd-in-service-p2)

21 (d) The suspended officer shall be granted limited enrollment in a presentation of the "Basic Law Enforcement  
22 Training" course to complete the ~~firearms training topic.~~ training pursuant to 12 NCAC 09B .0205(b)(5)(B). Such  
23 enrollment and successful completion must occur within the calendar year of the suspension of law enforcement  
24 officer certification.

25 ~~(d) Such enrollment and successful completion must occur within the 12-month period following suspension of law~~  
26 ~~enforcement officer certification.~~

27 (e) Failure to enroll and successfully complete the ~~firearms training topic in a "Basic Law Enforcement Training"~~  
28 ~~course pursuant to 12 NCAC 09B .0205(b)(5)(B) within the prescribed 12-month period~~ calendar year of the  
29 suspension of certification shall subject the officer to training evaluation as specified in 12 NCAC 09B .0403.

30 (f) ~~No officer suspended under Paragraph (b) of this Rule may work as a certified law enforcement officer until:~~

- 31 (1) ~~the department head or designated representative forwards to the Commission documentary~~  
32 ~~evidence verifying that the officer has successfully completed the firearms training topic during a~~  
33 ~~limited enrollment in a Basic Law Enforcement Training Course within the 12-month period~~  
34 ~~following suspension of law enforcement officer certification, and has successfully qualified with a~~  
35 ~~duty weapon as required in 12 NCAC 09E .0106(a) and (b).~~

1           ~~(2) — the department head or designated representative and the officer receive from the Commission~~  
2           ~~documentation that the Commission has terminated the suspension and reissued law enforcement~~  
3           ~~certification to the suspended officer.~~

4  
5   *History Note:*    *Authority G.S. 17C-6; 17C-10;*  
6                    *Eff. July 1, 1989;*  
7                    *Amended Eff: January 1, 2005; August 1, 2000; March 1, 1992; March 1, 1990;*  
8                    *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*  
9                    *2019.*  
10                    *Amended Eff. May 1, 2023/*  
11                    *Amended Eff. July 1, 2023*  
12

## Burgos, Alexander N

---

**Subject:** FW: [External] RE: Extension Letter: 12 NCAC 09E .0107

---

**From:** Schilling, Michelle <mschilling@ncdoj.gov>  
**Sent:** Monday, May 15, 2023 2:33 PM  
**To:** Ascher, Seth M <seth.ascher@oah.nc.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** RE: [External] RE: Extension Letter: 12 NCAC 09E .0107

**CAUTION:** External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

No sir. We will be discussing this rule at our May 17 and May 19 Commission meetings. Once the language has been approved by the Commission, I will submit it for the June 15, 2023 RRC meeting.

Michelle



**MICHELLE SCHILLING**  
Deputy Director  
Criminal Justice Standards Division  
Office: (919) 779-8205  
Fax: (919) 779-8210  
[MSchilling@ncdoj.gov](mailto:MSchilling@ncdoj.gov)  
1700 Tryon Park Drive  
Raleigh, NC 27602-0149  
ncdoj.gov

Please note messages to or from this address may be public records.

---

**From:** Ascher, Seth M <[seth.ascher@oah.nc.gov](mailto:seth.ascher@oah.nc.gov)>  
**Sent:** Monday, May 15, 2023 2:28 PM  
**To:** Schilling, Michelle <[mschilling@ncdoj.gov](mailto:mschilling@ncdoj.gov)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
**Subject:** RE: [External] RE: Extension Letter: 12 NCAC 09E .0107

Michelle,

Please confirm that CJETS has not submitted an update to 12 NCAC 09E .0107 for the May 18, 2023, RRC meeting. Or, if I have missed something please let me know.

**Seth Ascher**  
Counsel to the North Carolina Rules Review Commission  
Office of Administrative Hearings  
(984) 236-1934

---

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

## **Burgos, Alexander N**

---

**From:** Ascher, Seth M  
**Sent:** Thursday, April 20, 2023 1:07 PM  
**To:** Schilling, Michelle  
**Cc:** Burgos, Alexander N  
**Subject:** Extension Letter: 12 NCAC 09E .0107  
**Attachments:** 05.2023 CJETS Extension Letter.docx

Michelle,

Attached is a letter memorializing the extension approved by the RRC at today's meeting.

Please submit the updated rules by the Friday before the meeting you would like them considered at. That would be May 12 for the May 18 meeting, or June 9 for the June 15 meeting. Feel free to submit them earlier or let me know if you have any questions.

**Seth Ascher**

Counsel to the North Carolina Rules Review Commission  
Office of Administrative Hearings  
(984) 236-1934

---

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.



## Burgos, Alexander N

---

**Subject:** FW: [External] Final Rules for RRC  
**Attachments:** 12 NCAC 09G .0505 Period of Suspension- Revocation or Denial-FINAL.docx

---

**From:** Schilling, Michelle <mschilling@ncdoj.gov>  
**Sent:** Tuesday, April 18, 2023 4:43 PM  
**To:** Ascher, Seth M <seth.ascher@oah.nc.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Smythe, John J <jsmythe@NCDOJ.GOV>; Robert Hassell <Robert.hassell@rockymountnc.gov>; GRAZIANO, JOSEPH <jgraziano@NCDOJ.GOV>; Smythe, John J <jsmythe@NCDOJ.GOV>  
**Subject:** RE: [External] Final Rules for RRC

**CAUTION:** External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Thank you for your assistance and guidance.

09G .0505 is attached.

Michelle



**MICHELLE SCHILLING**  
Deputy Director  
Criminal Justice Standards Division  
Office: (919) 779-8205  
Fax: (919) 779-8210  
[MSchilling@ncdoj.gov](mailto:MSchilling@ncdoj.gov)  
1700 Tryon Park Drive  
Raleigh, NC 27602-0149  
ncdoj.gov

Please note messages to or from this address may be public records.

---

**From:** Ascher, Seth M <[seth.ascher@oah.nc.gov](mailto:seth.ascher@oah.nc.gov)>  
**Sent:** Tuesday, April 18, 2023 4:38 PM  
**To:** Schilling, Michelle <[mschilling@ncdoj.gov](mailto:mschilling@ncdoj.gov)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>; Smythe, Jeffrey <[jsmythe@NCDOJ.GOV](mailto:jsmythe@NCDOJ.GOV)>; Robert Hassell <[Robert.hassell@rockymountnc.gov](mailto:Robert.hassell@rockymountnc.gov)>; Graziano, Joseph <[jgraziano@NCDOJ.GOV](mailto:jgraziano@NCDOJ.GOV)>; Smythe, Jeffrey <[jsmythe@NCDOJ.GOV](mailto:jsmythe@NCDOJ.GOV)>  
**Subject:** RE: [External] Final Rules for RRC

Michelle,

In reviewing these, I caught one last typo that we both missed on line 6 of 12 NCAC 09G .0505. "felongy" should read "felony". Please update and resend that one rule.

At this point, I anticipate recommending that the Commission approve the rules package with the exception of 12 NCAC 09E .0107, for which the agency is requesting an extension that I am also recommending be granted.

Thanks for all the thorough work on these.

**Seth Ascher**

Counsel to the North Carolina Rules Review Commission  
Office of Administrative Hearings  
(984) 236-1934

---

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

---

**From:** Schilling, Michelle <[mschilling@ncdoj.gov](mailto:mschilling@ncdoj.gov)>  
**Sent:** Tuesday, April 18, 2023 3:56 PM  
**To:** Ascher, Seth M <[seth.ascher@oah.nc.gov](mailto:seth.ascher@oah.nc.gov)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>; Smythe, John J <[jsmythe@NCDOJ.GOV](mailto:jsmythe@NCDOJ.GOV)>; Robert Hassell <[Robert.hassell@rockymountnc.gov](mailto:Robert.hassell@rockymountnc.gov)>; GRAZIANO, JOSEPH <[jgraziano@NCDOJ.GOV](mailto:jgraziano@NCDOJ.GOV)>; Smythe, John J <[jsmythe@NCDOJ.GOV](mailto:jsmythe@NCDOJ.GOV)>  
**Subject:** [External] Final Rules for RRC

**CAUTION:** External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Good afternoon,

Attached are the FINAL drafts for rule changes for RRC review.

Michelle



**MICHELLE SCHILLING**  
Deputy Director  
Criminal Justice Standards Division  
Office: (919) 779-8205  
Fax: (919) 779-8210  
[MSchilling@ncdoj.gov](mailto:MSchilling@ncdoj.gov)  
1700 Tryon Park Drive  
Raleigh, NC 27602-0149  
ncdoj.gov

Please note messages to or from this address may be public records.

1 12 NCAC 09G .0505 is amended with changes as published in 37:04 NCR 318-319 as follows:

2  
3 12 NCAC 09G .0505 PERIOD OF SUSPENSION: REVOCATION: OR DENIAL

4 (a) When the Commission revokes or denies the certification of a corrections officer pursuant to 12 NCAC 09G .0504  
5 of this Section, the period of the sanction shall be permanent where the cause of the sanction is the commission or  
6 conviction of a felony offense, and shall be 10 years where the cause of sanction is:

7 ~~(1)~~ commission or conviction of a felony offense;

8 ~~(2)~~(1) the second suspension of an officer's certification for any of the causes requiring a three- year  
9 period

10 of suspension; or

11 ~~(3)~~(2) revocation or denial of certification by the North Carolina Sheriffs' Education and Training Standards  
12 Commission based on grounds that would constitute a violation of this Subchapter.

13 (b) When the Commission suspends or denies the certification of a corrections officer pursuant to 12 NCAC 09G  
14 .0504 of this Section, the period of sanction shall be not less than three years; however, the Commission may [either]  
15 reduce or suspend the period of sanction or substitute a period of probation in lieu of suspension of certification, or  
16 impose a combination of reduction, suspension, or probation as determined on a case-by-case basis following a consent  
17 order or an administrative hearing, where the cause of sanction is: [under Paragraph (c) of this Rule or substitute a  
18 period of probation in lieu of suspension of certification following an administrative hearing, where the cause of  
19 sanction is]:

20 ~~(1)~~ conviction of a Class B misdemeanor as defined in 12 NCAC 09G .0102(10)(b), for a three year  
21 period prior to the date of application, or completion of any corrections supervision imposed by the  
22 courts for such crimes within three years of issuance of certification;

23 ~~(1)~~(2) commission or conviction of a Class B misdemeanor as defined in 12 NCAC 09G .0102(10)(b),  
24 after certification;

25 ~~(2)~~(3) discharge by the North Carolina Department of [Public Safety, Division of] Adult Correction and  
26 Juvenile Justice pursuant to 12 NCAC 09G .0504(b)(4) and (b)(5) of this Section;

27 ~~(3)~~(4) refusal to submit to the applicant drug screen required by the Rules in this Subchapter;

28 ~~(4)~~(5) production of a positive result on a drug screen reported to the Commission under 12 NCAC 09G  
29 .0206-0205, where the positive result cannot be explained to the Commission's satisfaction. For the  
30 purposes of this Rule, "to the Commission's satisfaction" shall be determined on a case-by-case  
31 basis, and the use of a prescribed drug shall be satisfactory;

32 ~~(5)~~(6) the applicant has knowingly made a material misrepresentation of any information required for  
33 certification or accreditation;

34 ~~(6)~~(7) the applicant has knowingly and willfully obtained, attempted to obtain, aided another person to  
35 obtain, or aided another person attempt to obtain credit, training or certification by any means of  
36 false pretense, deception, defraudation, misrepresentation or cheating;

37 ~~(7)~~(8) failure to make either of the notifications as required by 12 NCAC 09G -0302; .0208 or .0209

1           ~~(8)~~ (9) removal from office under the provisions of G.S. 128-16 or the provisions of G.S. 14-230; or

2           ~~(9)~~ (10) certification revoked or denied by the North Carolina Sheriffs' Education and Training Standards  
3                   Commission, if such certification was revoked or denied based on grounds that would constitute a  
4                   violation of Section 09G of these Rules.

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

8           (1) failure to meet or satisfy relevant basic training requirements;

9           (2) failure to meet or maintain the minimum standards for certification; or

10          (3) discharge from the North Carolina Department of **Adult** Correction for impairment of physical  
11                   or mental capabilities.

12  
13 *History Note: Authority G.S. 17C-6; 17C-10;*

14 *Temporary Adoption Eff. January 1, 2001;*

15 *Eff. August 1, 2002;*

16 *Amended Eff. December 1, 2018; December 1, 2004;*

17 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*  
18 *2019; Amended Eff. May 1, 2023.*

19  
20

1 **12 NCAC 09C .0311 is adopted as published in 37:11 NCR 784-791 as follows:**

2  
3 **12 NCAC 09C .0311 RECERTIFICATION FOLLOWING SEPARATION**

4 (a) Previously certified juvenile court counselors, Chief Court Counselors, and juvenile justice officers with a  
5 minimum of one year of service who have been separated from the North Carolina Department of Public Safety for  
6 less than three years may have their certification reinstated following a reverification of employment standards as  
7 outlined in 12 NCAC 09B .0116 and .0117, but are exempt from the job appropriate basic training course as described  
8 in 12 NCAC 09B ~~.0200~~, .0235 and .0236.

9 (b) Previously certified juvenile court counselors, Chief Court Counselors, and juvenile justice officers with less than  
10 one year of service who have been separated from the North Carolina Department of Public Safety for less than two  
11 years may have their certification reinstated following a reverification of employment standards as outlined in 12  
12 NCAC 09B .0116 and .0117, and shall complete the job appropriate basic training course as described in 12 NCAC  
13 09B ~~.0200~~, .0235 and .0236.

14 (c) Previously certified juvenile court counselors, Chief Court Counselors, and juvenile justice officers who have  
15 been separated from the North Carolina Department of Public Safety for more than three years, upon their return shall  
16 complete the verification of employment standards as outlined in 12 NCAC 09B .0116 and .0117 and shall complete  
17 the job appropriate basic training course described in 12 NCAC 09B ~~.0200~~, .0235 and .0236.

18  
19 *History Note: Authority G.S. 17C-2; 17C-6; 17C-10;*  
20 *Eff. May 1, 2023*

1 12 NCAC 09G .0102 is amended with changes as published in 37:11 NCR 784-791 as follows

2  
3 **12 NCAC 09G .0102 DEFINITIONS**

4 The following definitions apply throughout this Subchapter only:

5 (1) "Agency" means those state and local agencies identified in G.S. 17C-2(2).

6 (2) "Commisson" means the North Carolina Criminal Justice Education and Training Standards  
7 Commission identified in G.S. 17C.

8 (3) "Commission of an offense" means a finding by the North Carolina Criminal Justice Education and  
9 Training Standards Commission or an administrative body that a person performed the acts  
10 necessary to satisfy the elements of a specified offense.

11 (4) "Convicted" or "Conviction" means, the entry of:

12 (a) a plea of guilty;

13 (b) a verdict or finding of guilt by a jury, judge, magistrate, or other duly constituted,  
14 established adjudicating body, tribunal, or official, either civilian or military; or

15 (c) a plea of no contest, nolo contendere, or the equivalent.

16 (5) "Correctional Officer" means an employee of the North Carolina Department of Public Safety,  
17 Division of Adult Correction and Juvenile Justice, responsible for the custody of inmates or  
18 offenders.

19 (6) "Corrections Officer" means either or both of the two classes of officers employed by the North  
20 Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice:  
21 correctional officer or probation/parole officer.

22 (7) "Criminal Justice System" means the whole of the State and local criminal justice agencies including  
23 the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice.

24 (8) "Director" means the Director of the Criminal Justice Standards Division of the North Carolina  
25 Department of Justice.

26 (9) "Educational Points" means points earned toward the State Correction Officers' Professional  
27 Certificate Program for studies completed, with passing scores achieved, for semester hour or  
28 quarter hour credit awarded from colleges or universities accredited by the Department of Education  
29 of the state in which the institution is located, from an accredited body recognized by either the U.S.  
30 Department of Education or the Council for Higher Education Accreditation, or from the state  
31 university of the state in which the institution is located ~~at a regionally accredited institution of~~  
32 ~~higher education~~. Each semester hour of college credit equals one educational point and each quarter  
33 hour of college credit equals two-thirds of an educational point.

34 (10) "High School" means a high school that meets the compulsory attendance requirements in the  
35 jurisdiction in which the school is located.

36 (11) "In-Service Training Coordinator" means a person designated by a Criminal Justice Agency head to  
37 administer the agency's In-Service Training program.

1 ~~(10)~~(12) "Misdemeanor" ~~for corrections officers~~ means those criminal offenses not classified under the laws,  
2 statutes, or ordinances as felonies. Misdemeanor offenses ~~for corrections officers~~ are classified by  
3 the Commission as the following as set forth in G.S. or other state or federal law: follows:

4 (a) "Class A Misdemeanor" means a misdemeanor committed or omitted in violation of any  
5 common law, duly-enacted ordinance, or criminal statute of this State that is not classified  
6 as a Class B Misdemeanor pursuant to Sub-item ~~(24)~~(12)(b) of this Rule. Class A  
7 Misdemeanor also includes any act committed or omitted in violation of any common law,  
8 duly enacted ordinance, criminal statute, or criminal traffic code of any jurisdiction other  
9 than North Carolina, either civil or military, for which the maximum punishment allowable  
10 for the designated offense under the laws, statutes, or ordinances of the jurisdiction in  
11 which the offense occurred includes imprisonment for a term of not more than six months.  
12 Excluded from "Class A Misdemeanor" criminal offenses for jurisdictions other than North  
13 Carolina are motor vehicle or traffic offenses designated as misdemeanors under the laws  
14 of other jurisdictions or duly enacted ordinances of an authorized governmental entity, with  
15 the exception of the offense of impaired driving that is included herein as a Class A  
16 Misdemeanor if the offender could have been sentenced for a term of not more than six  
17 months. Also included herein as a Class A Misdemeanor is the offense of impaired driving,  
18 if the offender was sentenced under punishment level three G.S. 20-179(i), level four G.S.  
19 20-179(j), or level five G.S. 20-179(k). Class A Misdemeanor shall also include acts  
20 committed or omitted in North Carolina prior to October 1, 1994, in violation of any  
21 common law, duly enacted ordinance, or criminal statute of this State for which the  
22 maximum punishment allowable for the designated offense included imprisonment for a  
23 term of not more than six months.

24 (b) "Class B Misdemeanor" means an act committed or omitted in violation of any common  
25 law, criminal statute, or criminal traffic code of this State that is classified as a Class B  
26 Misdemeanor as set forth in the Department of Adult Correction section of the Class B  
27 Misdemeanor Manual as published by the North Carolina Department of Justice,  
28 incorporated herein by reference, and shall include any later amendments and editions of  
29 the incorporated material as provided by G.S. 150B-21.6. The publication is available from  
30 the Commission's website: [http://www.ncdoj.gov/getdoc/60bb12ca-47c0-48cb-a0e3-](http://www.ncdoj.gov/getdoc/60bb12ca-47c0-48cb-a0e3-6095183c4c2a/Class-B-Misdemeanor-Manual-2005.aspx)  
31 6095183c4c2a/Class-B-Misdemeanor-Manual-2005.aspx. Class B Misdemeanor also  
32 includes any act committed or omitted in violation of any common law, duly enacted  
33 ordinance, criminal statute, or criminal traffic code of any jurisdiction other than North  
34 Carolina, either civil or military, for which the maximum punishment allowable for the  
35 designated offense under the laws, statutes, or ordinances of the jurisdiction in which the  
36 offense occurred includes imprisonment for a term of more than six months but not more  
37 than two years. Excluded from this grouping of "Class B Misdemeanor" criminal offenses

1 for jurisdictions other than North Carolina, are motor vehicle or traffic offenses designated  
2 as being misdemeanors under the laws of other jurisdictions with the following exceptions:

3 Class B Misdemeanor includes the following:

- 4 (i) either first or subsequent offenses of driving while impaired if the maximum  
5 allowable punishment is for a term of more than six months but not more than two  
6 years;  
7 (ii) driving while license permanently revoked or permanently suspended;  
8 (iii) those traffic offenses occurring in other jurisdictions which are comparable to the  
9 traffic offenses specifically listed in the Class B Misdemeanor Manual; and  
10 (iv) an act committed or omitted in North Carolina prior to October 1, 1994, in  
11 violation of any common law, duly enacted ordinance, criminal statute, or  
12 criminal traffic code of this State for which the maximum punishment allowable  
13 for the designated offense included imprisonment for a term of more than six  
14 months but not more than two years.

- 15 ~~(a) 14 2.5 Punishment for attempt (offenses that are Class A 1 misdemeanor)~~  
16 ~~(b) 14 32.1(f) Simple Assault on handicapped persons~~  
17 ~~(c) 14 33(b)(9) Assault, battery against sports official~~  
18 ~~(d) 14 33(e) Assault, battery with circumstances~~  
19 ~~(e) 14 34 Assault by pointing a gun~~  
20 ~~(f) 14 72 Larceny of property; receiving stolen goods etc.; not more than one~~  
21 ~~thousand dollars (\$1000.00)(14 72(a))~~  
22 ~~(g) 14 72.1 Concealment of merchandise (14 72.1(e); third or subsequent offense)~~  
23 ~~(h) 14 76 Larceny, mutilation, or destruction of public records/papers~~  
24 ~~(i) CH 14 Art. 19A False/fraudulent use of credit device (14 113.6)~~  
25 ~~(j) CH 14 Art. 19B Financial transaction card crime~~  
26 ~~(k) 14 114(a) Fraudulent disposal of personal property on which there is a security~~  
27 ~~interest~~  
28 ~~(l) 14 118 Blackmailing~~  
29 ~~(m) 14 118.2 Obtaining academic credit by fraudulent means (14 118.2(b))~~  
30 ~~(n) 14 122.1 Falsifying documents issued by a school (14 122.1(e))~~  
31 ~~(o) 14 127 Willful and wanton injury to real property~~  
32 ~~(p) 14 160 Willful and wanton injury to personal property greater than two~~  
33 ~~hundred dollars (\$200.00)(14 160(b))~~  
34 ~~(q) 14 190.5 Preparation of obscene photographs~~  
35 ~~(r) 14 190.9 Indecent Exposure~~  
36 ~~(s) 14 190.14 Displaying material harmful to minors (14 190.14(b))~~  
37 ~~(t) 14 190.15 Disseminating harmful material to minors (14 190.15(d))~~



- 1 (u) — 14 202.2 — Indecent liberties between children
- 2 (v) — 14 204 — Prostitution
- 3 (w) — 14 223 — Resisting officers
- 4 (x) — 14 225(a) — False, etc., reports to law enforcement agencies or officers
- 5 (y) — 14 230 — Willfully failing to discharge duties
- 6 (z) — 14 231 — Failing to make reports and discharge other duties
- 7 (aa) — 14 232 — Swearing falsely to official records
- 8 (bb) — 14 239 — Allowing prisoners to escape; punishment
- 9 (cc) — 14 255 — Escape of working prisoners from custody
- 10 (dd) — 14 256 — Prison breach and escape
- 11 (ee) — 14 258.1(b) — Furnishing certain contraband to inmates
- 12 (ff) — 14 259 — Harboring or aiding certain persons; misdemeanants
- 13 (gg) — CH 14 Art. 34 — Persuading inmates to escape; harboring fugitives (14 268)
- 14 (hh) — 14 269.2 — Weapons on campus or other educational property (14 269.2(d), (e) and
- 15 ————— (f))
- 16 (ii) — 14 269.3(a) — Weapons where alcoholic beverages are sold and consumed
- 17 (jj) — 14 269.4 — Weapons on state property and in courthouses
- 18 (kk) — 14 269.6 — Possession and sale of spring loaded projectile knives prohibited (14-
- 19 269.6(b))
- 20 (ll) — 14 277 — Impersonation of a law enforcement or other public officer verbally, by
- 21 displaying a badge or insignia, or by operating a red light (14 277 (d1)
- 22 and (e))
- 23 (mm) — 14 277.2(a) — Weapons at parades, etc., prohibited
- 24 (nn) — 14 277.3A — Stalking
- 25 (oo) — 14 288.2(b) — Riot
- 26 (pp) — 14 288.2(d) — Inciting to riot
- 27 (qq) — 14 288.6(a) — Looting; trespassing during emergency
- 28 (rr) — 14 315(a) — Selling or giving weapons to minors
- 29 (ss) — 14 315.1 — Storage of firearms to protect minors
- 30 (tt) — 14 316.1 — Contributing to delinquency
- 31 (uu) — 14 318.2 — Child abuse
- 32 (vv) — 14 360(a) — Cruelty to animals
- 33 (ww) — 14 361 — Instigating or promoting cruelty to animals
- 34 (xx) — 14 401.14 — Ethnic intimidation; teaching any technique to be used for
- 35 (yy) — 14 454(a) or (b) — Accessing computers less than \$1000 in damages
- 36 (zz) — 14 458 — Computer trespass (Damage less than two thousand five
- 37 hundred dollars)(\$2500.00)



special assistance; political mailing list (108A-80(e))

~~(ffff) 113-290.1(a)(2) Criminally negligent hunting; no bodily disfigurement~~

~~(gggg) 113-290.1(a)(3) Criminally negligent hunting; bodily disfigurement~~

~~(hhhh) 113-290.1(a)(4) Criminally negligent hunting; death results~~

~~(iiii) 113-290.1(d) Criminally negligent hunting; person convicted/suspended license~~

~~(jjjj) 143-58.1(a) Use of public purchase or contract for private benefit (143-58.1(e))~~

~~(kkkk) 148-45(d) Aiding escape or attempted escape from prison~~

~~(llll) 162-55 Injury to prisoner by jailer~~

~~(mmmm) Common Law misdemeanors:~~

~~(i) Going Armed to the Terror of the People~~

~~(ii) Common Law Mayhem~~

~~(iii) False Imprisonment~~

~~(iv) Common Law Robbery~~

~~(v) Common Law Forgery~~

~~(vi) Common Law Uttering of Forged paper~~

~~(vii) Foreible Trespass~~

~~(viii) Unlawful Assembly~~

~~(ix) Common Law Obstruction of Justice~~

~~(nnnn) Those offenses occurring in other jurisdictions that are comparable to the offenses specifically listed in (a) through (rrr) of this Rule.~~

~~(oooo) Any offense proscribed by 18 U.S.C. 922 (1996), (<http://www.gpo.gov/fdsys/pkg/USCODE-2011-title18/pdf/USCODE-2011-title18-partI-chap44-sec922.pdf>), that would prohibit possessing a firearm or ammunition.~~

**(11)(13)** "Pilot Courses" means those courses approved by the Education and Training Committee, consistent with 12 NCAC 09G .0404, which are used to develop new training course curricula.

**(12)(14)** "Probation/Parole Officer" means an employee of the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice, whose duties include supervising, evaluating, or otherwise instructing offenders placed on probation, parole, post release supervision, or assigned to any other community-based program operated by the Division of Adult Correction and Juvenile Justice.

**(13)(15)** "Qualified Assistant" means an additional staff person designated as such by the School Director to assist in the administration of a course when a certified institution or agency assigns additional responsibilities to the certified School Director during the planning, development, and implementation of a certified course.

**(14)(16)** "School" means an institution, college, university, academy, or agency that offers penal or corrections training for correctional officers or probation/parole officers. "School" includes the corrections training course curricula, instructors, and facilities.

1 ~~(15)~~(17) "School Director" means the person designated by the Secretary of the North Carolina Department  
2 of Public Safety, Division of Adult Correction and Juvenile Justice to administer the School.

3 ~~(16)~~(18) "Standards Division" means the Criminal Justice Standards Division of the North Carolina  
4 Department of Justice.

5 ~~(17)~~(19) "State Corrections Training Points" means points earned toward the State Corrections Officers'  
6 Professional Certificate Program by completion of Commission-approved corrections training  
7 courses. Twenty classroom hours of Commission-approved corrections training equals one State  
8 Corrections training point.

9  
10 *History Note: Authority G.S. 17C-2; 17C-6; 17C-10; 153A-217;*  
11 *Temporary Adoption Eff. January 1, 2001;*  
12 *Eff. August 1, 2002;*  
13 *Amended Eff. December 1, 2018; January 1, 2017; January 1, 2015; April 1, 2009; August 1, 2004;*  
14 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*  
15 *2019.*  
16 *Amended Eff. May 1, 2023*  
17

1 12 NCAC 09G .0204 is amended with changes as published in 36:24 NCR 1939-1942 follows:

2  
3 12 NCAC 09G .0204 ~~EDUCATION~~ DOCUMENTATION OF EDUCATIONAL REQUIREMENTS

4  
5 (a) ~~Every person employed as a correctional officer by the North Carolina Department of Public Safety, Division of~~  
6 ~~Adult Correction and Juvenile Justice shall be a high school, college, or university graduate or have received a high~~  
7 ~~school equivalency credential as recognized by the issuing state.~~

8 (b) ~~Every person employed as a probation and parole officer by the North Carolina Department of Public Safety,~~  
9 ~~Division of Adult Correction and Juvenile Justice shall be a graduate of a regionally accredited college or university~~  
10 ~~and have attained the baccalaureate degree.~~

11 (c) ~~Each applicant for employment as a corrections officer shall furnish to the North Carolina Department of Public~~  
12 ~~Safety, Division of Adult Correction and Juvenile Justice with documentary evidence that the applicant has met the~~  
13 ~~educational requirements for the corrections field of expected employment.~~

14 (1) ~~Documentary evidence of educational requirements shall consist of official transcripts of courses~~  
15 ~~completed or diplomas received from a school that meets the requirements of the Division of Non-~~  
16 ~~Public Instruction of the North Carolina Department of Public Instruction, a comparable out of state~~  
17 ~~agency, or is a regionally accredited college or university. High school diplomas earned through~~  
18 ~~correspondence enrollment in an entity that charges a fee and requires the individual to complete~~  
19 ~~little or no education or coursework to obtain a high school diploma shall not be recognized toward~~  
20 ~~these minimum educational requirements.~~

21 (2) ~~Documentary evidence of high school equivalency shall be satisfied by a certified copy of a high~~  
22 ~~school equivalency credential as recognized by the issuing state.~~

23 (a) Each applicant for certification as a correctional officer or probation/parole officer shall furnish documentary  
24 evidence of high school, college or university graduation to the employing agency. Documentary evidence of high  
25 school graduation consists of diplomas or transcripts from public schools or private schools which meet standards  
26 adopted by either the North Carolina Department of Public Instruction, the Division of Non-Public Instruction, or a  
27 comparable out of state agency; or such documentation as described in Paragraphs (b), (c), (d), (e) of this Rule.  
28 Documentary evidence of college or university graduation consists of diplomas or transcripts from colleges or  
29 universities accredited as such by the Department of Education of the state in which the institution is located, an  
30 accredited body recognized by either the U.S. Department of Education or Council for Higher Education  
31 Accreditation, or the state university of the state in which the institution is located.

32 (b) High school diplomas earned through home school programs must be accompanied by a true and accurate or  
33 certified transcript and **the program** must meet the requirements of Part 3 of Article 39 of Chapter 115C of the North  
34 Carolina General Statutes, or a comparable out-of-state statute.

35 (c) Diplomas earned from high school or equivalent institutions outside of the United States must be translated into  
36 English and be accompanied by an authentic transcript. [**Transcripts shall be evaluated**] **The Criminal Justice**  
37

1 Standards Division (Division) staff shall evaluate the transcripts to ensure they are scholastically comparable to  
2 United States curriculum requirements.

3 (d) High school diplomas earned through on line or correspondence courses shall be evaluated on a case by case  
4 basis] The Division's staff shall evaluate high school diplomas earned through on-line or correspondence courses  
5 on a case by case basis. Such ] to ensure such diplomas must meet state and local requirements for the jurisdiction  
6 from which the diploma was issued.

7 (e) Documentary evidence of having earned a High School Equivalency (HSE) diploma shall be satisfied by a  
8 certified copy of a high school equivalency credential or an adult high school diploma, both of which must be  
9 recognized by the U.S. Department of Education, or educational agency that is authorized in the state to issue High  
10 School Equivalency (HSE) diplomas.

11 (f) Documentary evidence of the attainment of satisfactory scores on any military high school equivalency  
12 examination is acceptable as evidence of high school graduation if verified by a true copy of the veteran's DD214  
13 Certificate of Release from Active Duty.

14  
15  
16  
17 *History Note: Authority G.S. 17C-6; 17C-10;; Temporary Adoption Eff. January 1, 2001; Eff. August 1, 2002;*  
18 *Amended Eff. April 1, 2018; February 1, 2016; November 1, 2015; January 1, 2015; August 1,*  
19 *2004; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May*  
20 *25, 2019; Amended Eff Date: May 1, 2023.*

1 12 NCAC 09G .0205 is amended with changes as published in **36:24 NCR** 1938-1942 as follows:

2  
3 **12 NCAC 09G .0205      ~~PHYSICAL AND MENTAL STANDARDS~~ MEDICAL EXAMINATION**

4 ~~(a) Every person employed as a correctional officer or probation/parole officer by the North Carolina Department of~~  
5 ~~Public Safety, Division of Adult Correction and Juvenile Justice shall have been examined and certified within one~~  
6 ~~year prior to employment with the North Carolina Department of Public Safety, Division of Adult Correction and~~  
7 ~~Juvenile Justice by a physician licensed in North Carolina, physician's assistant, or nurse practitioner to meet the~~  
8 ~~physical requirements to fulfill the officer's particular responsibilities as stated in the essential job functions.~~

9 ~~(b) Every person employed as a correctional officer or probation/parole officer by the North Carolina Department of~~  
10 ~~Public Safety, Division of Adult Correction and Juvenile Justice shall have been administered a psychological~~  
11 ~~screening examination in accordance with G.S. 17C-10(e). The psychological screening shall be valid for a period of~~  
12 ~~one year prior to the criminal justice officer's initial appointment and applies to any criminal justice officer seeking~~  
13 ~~initial or probationary certification.~~

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

20 (b) Prior to being examined, the applicant shall provide the examining surgeon, physician, physician's assistant, or  
21 nurse practitioner with: ~~[conducting the examination, the surgeon, physician, physician's assistant, or nurse~~  
22 practitioner shall:]

23 ~~[(1) — read the “Medical Screening Guidelines for the Certification of Criminal Justice Officers in North~~  
24 ~~Carolina” as published by the North Carolina Department of Justice. Copies of this publication —~~  
25 ~~may be obtained at no cost at <https://ncdoj.gov/law-enforcement-training/criminal-justice/>;~~

26 ~~[(2)] (1) ~~[read, sign, and date]~~ the Medical History Statement Form (F-1) which must be read, completed,~~  
27 ~~and signed; and~~

28 ~~[(3)] (2) ~~[read]~~ the Instructions to Agency and Examiner for Completion of Medical Examination Report (F-~~  
29 ~~2A) Form attached to the Medical Examination Report Form (F-2). ~~The Instructions to Agency and~~~~  
30 ~~Examiner for Completion of Medical Examination Report (F-2A) Form shall notify the examining~~  
31 ~~surgeon, physician, physician's assistant, or nurse practitioner that the “Medical Screening Guidelines~~  
32 ~~for the Certification of Criminal Justice Officers in North Carolina” as published by the North~~  
33 ~~Carolina Department of Justice is available at not cost at [https://ncdoj.gov/law-enforcement-](https://ncdoj.gov/law-enforcement-training/criminal-justice/)~~  
34 ~~[training/criminal-justice/](https://ncdoj.gov/law-enforcement-training/criminal-justice/).~~

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

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

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

5 (1) the applicant's beginning the basic correctional officer or basic probation/parole officer training  
6 course, and,

7 (2) [the agency] an agency's submission of application for certification to the Commission.

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

10 ~~(1) the drug screen shall be a urine test consisting of an initial screening test using an immunoassay~~  
11 ~~method and a confirmatory test on an initial positive result using a gas chromatography/mass spectrometry~~  
12 ~~(GC/MS) or other initial and confirmatory test authorized or mandated by the Department of Health and~~  
13 ~~Human Services for Federal Workplace Drug Testing Programs;~~

14 ~~(2) a chain of custody shall be maintained on the specimen from collection to the eventual discarding~~  
15 ~~of the specimen;~~

16 ~~(3) the drug screen shall test for the presence of at least cannabis, cocaine, phenylethylamine (PCP),~~  
17 ~~opiates, and amphetamines or their metabolites;~~

18 ~~(4) the test threshold values meet the requirements established by the Department of Health and~~  
19 ~~Human Services for Federal Workplace Drug Testing Programs, as found in 82 FR 7920 (2017)~~  
20 ~~incorporated by reference, including later amendments and editions found at no cost at~~  
21 ~~[https://federalregister.gov/documents/2017/01/23/2017-00979/mandatory-guidelines-for-federal-](https://federalregister.gov/documents/2017/01/23/2017-00979/mandatory-guidelines-for-federal)~~  
22 ~~[workplace-drug-testing-programs;](https://federalregister.gov/documents/2017/01/23/2017-00979/mandatory-guidelines-for-federal-)~~

23 ~~(5) conduct the test within 90 days of certification;~~

24 ~~(6) the laboratory conducting the test shall be certified for federal workplace drug testing programs,~~  
25 ~~and shall adhere to applicable federal rules, regulations, and guidelines pertaining to the handling, testing,~~  
26 ~~storage, and preservation of samples.~~

27 ~~(f) Each agency shall report in writing to the Criminal Justice Standards Division all refusals and all positive results~~  
28 ~~of required drug screenings obtained from applicants and lateral transfers. If the positive results were explained to the~~  
29 ~~satisfaction of the agency's medical review officer, who shall be a licensed physician, then the positive results are not~~  
30 ~~required to be reported.~~

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

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



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

4  
5 *History Note: Authority G.S. 17C-6; 17C-10; Temporary Adoption Eff. January 1, 2001; Eff. August 1, 2002;*  
6 *Amended Eff. January 1, 2015; April 1, 2009; August 1, 2004; Pursuant to G.S. 150B-21.3A, rule*  
7 *is necessary without substantive public interest Eff. May 25, 2019; Temporary Amendment Eff.*  
8 *February 15, 2022; Amended Eff. October 1, 2022; August 23, 2022*  
9 *Amended Eff. Date: May 1, 2023.*

1 **12 NCAC 09G .0206 as published in 36:24 NCR 1938-1942 is repealed.**

2  
3 **~~12 NCAC 09G .0206 — MORAL CHARACTER~~**

4 ~~Every person employed as a correctional officer as defined in 12 NCAC 09G .0102(3) or probation/parole officer as~~  
5 ~~defined in 12 NCAC 09G .0102(12) by the Department of Public Safety, Division of Adult Correction and Juvenile~~  
6 ~~Justice shall demonstrate good moral character as evidenced by the following:~~

- 7 (1) ~~for correctional officers, not having been convicted of a felony;~~  
8 (2) ~~for probation/parole officers, not having committed or having been convicted of a felony;~~  
9 (3) ~~for correctional officers, not having been convicted of a misdemeanor as defined in 12 NCAC 09G~~  
10 ~~.0102(10) for three years or the completion of any corrections supervision imposed by the courts,~~  
11 ~~whichever is later;~~  
12 (4) ~~for probation/parole officers, not having committed or having been convicted of a misdemeanor as~~  
13 ~~defined in 12 NCAC 09G .0102 for a three years period prior to the date of application for~~  
14 ~~employment;~~  
15 (5) ~~not having been convicted of an offense that, under 18 U.S.C. 922, which is hereby incorporated by~~  
16 ~~reference with subsequent amendments and editions and can be accessed at no cost at~~  
17 ~~[https://www.govinfo.gov/content/pkg/USCODE-2011-title18/pdf/USCODE-2011-title18-partI-](https://www.govinfo.gov/content/pkg/USCODE-2011-title18/pdf/USCODE-2011-title18-partI-chap44-sec922.pdf)~~  
18 ~~[ch44-sec922.pdf](https://www.govinfo.gov/content/pkg/USCODE-2011-title18/pdf/USCODE-2011-title18-partI-chap44-sec922.pdf), would prohibit the possession of a firearm or ammunition;~~  
19 (6) ~~having submitted to and produced a negative result on a drug test within 60 days of employment or~~  
20 ~~any in service drug screening required by the Department of Public Safety, Division of Adult~~  
21 ~~Correction and Juvenile Justice that meets the certification standards of the Department of Health~~  
22 ~~and Human Services for Federal Workplace Drug Testing Programs. A list of certified drug testing~~  
23 ~~labs that meet this requirement may be obtained, at no cost, at~~  
24 ~~<https://www.samhsa.gov/workplace/resources/drug-testing/certified-lab-list>;~~  
25 (7) ~~submitting to a background investigation consisting of the following:~~  
26 (a) ~~verification of age;~~  
27 (b) ~~verification of education; and~~  
28 (c) ~~criminal history check of local, state, and national files;~~  
29 (8) ~~being truthful in providing information to the Department of Public Safety, Division of Adult~~  
30 ~~Correction and Juvenile Justice and to the Standards Division for the purpose of obtaining~~  
31 ~~probationary or general certification;~~  
32 (9) ~~not having pending or outstanding felony charges that, if convicted of such charges, would~~  
33 ~~disqualify the applicant from holding such certification, pursuant to G.S. 17C-13; and~~  
34 (10) ~~not engage in any conduct that brings into question the truthfulness or credibility of the officer, or~~  
35 ~~involves "moral turpitude." "Moral Turpitude" is conduct that is contrary to justice, honesty, or~~  
36 ~~morality, including conduct as defined In re Willis, 288 N.C. 1, 215 S.E. 2d 771 appeal dismissed~~  
37 ~~423 U.S. 976 (1975); In State v. Harris, 216 N.C. 746, 6 S.E.2d 854 (1940); In re Legg, 325 N.C.~~

1 658, 386 S.E. 2d 174(1989); ~~In re Applicants for License~~, 143 N.C. 1, 55 S.E. 635 (1906); ~~In re~~  
2 ~~Dillingham~~, 188 N.C. 162, 124 S.E. 130 (1924); ~~State v. Benbow~~, 309 N.C. 538, 308 S.E. 2d 647  
3 (1983); and later court decisions that cite these as authority.

4  
5 ~~History Note: Authority G.S. 17C-6; 17C-10;~~

6 ~~Temporary Adoption Eff. January 1, 2001;~~

7 ~~Eff. August 1, 2002;~~

8 ~~Amended Eff. October 1, 2017; April 1, 2017; January 1, 2015; June 1, 2012; April 1, 2009; August~~  
9 ~~1, 2004;~~

10 ~~Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,~~  
11 ~~2019;~~

12 ~~Amended Eff. August 1, 2021; Repealed Eff. May 1, 2023.~~

13

1 **12 NCAC 09G .0207** is adopted as published in 36:24 NCR 1938-1942 as follows:

2

3 **12 NCAC 09G .0207 FINGERPRINT CRIMINAL HISTORY RECORD CHECK**

4

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

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

9 (c) The employing agency will receive a report of the results of the criminal history check utilizing fingerprints against  
10 state and federal files. The employing agency shall retain the results of the criminal history record check utilizing  
11 fingerprints in compliance with the North Carolina Department of Natural and Cultural Resources Retention and  
12 Disposition ~~Schedule~~ Schedule, General Records Schedule: Local Government Agencies, established pursuant to  
13 G.S. Chapter 121 and G.S. Chapter 132. The employing agency shall include the results of the fingerprint criminal  
14 history record check with the applications submitted to the Commission.

15 (d) An applicant for certification as a correctional officer or probation/parole officer may not be employed or placed  
16 in a position requiring certification by the Commission prior to the date on which the employing agency and Standards  
17 Division receive the report of the results of the criminal history record check utilizing fingerprints.

18

19

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

21 *Eff. Date: May 1, 2023.*

22

23

1 12 NCAC 09G .0208 is adopted with changes as published in 37:04 NCR 314-319 as follows:

3 12 NCAC 09G. 0208 MINIMUM STANDARDS FOR CORRECTIONAL OFFICERS

5 (a) The requirements of this Rule shall apply to all applicants for certification and shall also apply at all times during  
6 which the correctional officer is certified by the Commission.

7 (b) Every correctional officer employed by the North Carolina Department of [Public Safety, Division of] Adult  
8 Correction shall:

- 9 (1) be a citizen of the United States;
- 10 (2) be at least 20 years of age;
- 11 (3) be a high school graduate, or the equivalent as defined in 12 NCAC 09G .0204;
- 12 (4) have been fingerprinted by the employing agency in the manner provided in 12 NCAC 09G .0207;
- 13 (5) have had a medical examination as required by 12 NCAC 09G .0205;
- 14 (6) have produced a negative result on a drug screen as described in 12 NCAC 09G .[0205] 0211;
- 15 (7) have been administered a psychological screening examination in accordance with G.S. 17C-  
16 10(c). The psychological screening examination shall be valid for a period of one year from the  
17 date on which it was administered;
- 18 (8) have a background investigation conducted by the[Division] Department of Adult Correction,  
19 including a personal interview[~~interview.~~] as described in 12 NCAC 09G .0210;
- 20 (9) not have committed or been convicted of a crime or crimes as specified in 12 NCAC 09G . 0302;
- 21 (10) for personnel who are authorized to carry a firearm in the execution of their duties, satisfactorily  
22 Complete the [Division] Department of Adult Correction’s departmental firearms training program  
23 as prescribed in 12 NCAC 09G .0411. Such firearms training compliance must have occurred  
24 within one year of the date of employment and by using the department approved service  
25 handgun(s); ~~and~~
- 26 (11) be of good moral ~~character~~ character, including possessing the characteristics of honesty, maturity,  
27 discipline, attention to detail, and respect for the rights of others, as more fully discussed and  
28 interpreted as defined in: In re Willis 288 N.C. 1.215 S.E. 2d 771 appeal dismissed 423 U.S. 976  
29 (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  
30 174 (1989); in re Applicants for License, 143 N.C.1, 55 S.E. 635 (1906); In re Dillingham, 188 N.C.  
31 162, 124 S.E. 130 (1924); State v. Benbow, 309 N.C. 538, 308 S.E. 2d 47 (1983); and later court  
32 decisions; and
- 33 (12) ~~Make~~ make the following notifications:
  - 34 (a) within 30 days of the qualifying event, notify the Criminal Justice Standards Division  
35 (Divison) and the appointing agency head in writing of all criminal offenses for which  
36 the officer is charged or arrested. This shall include traffic offenses identified in the  
37 Department of Adult Correction section of the Class B Misdemeanor Manual (~~correctional~~  
38 ~~officers section~~) and offenses of driving under the influence (DUI) or driving while

1 impaired (DWI);

- 2 (b) within 30 days of the qualifying event, notify the [Standards] Division and the  
3 appointing agency head in writing of all criminal offenses for which the officer pleads no  
4 contest, pleads guilty, or of which the officer is found guilty. This shall include traffic  
5 offenses identified in the Class B Misdemeanor Manual (correctional officers section)  
6 and offense of driving under the influence (DUI) or driving while impaired (DWI);
- 7 (c) within 30 days of service, officers shall notify the Standards Division of all Domestic  
8 Violence Protective Orders (G.S. 50B) and Civil No Contact Orders (G.S. 50C) that are  
9 issued by a judicial official against the officer;
- 10 (d) within 30 days of the date the case was disposed of in court, the agency head, provided he  
11 or she has knowledge of the officer's arrests or criminal charges and final dispositions,  
12 shall also notify the Standards Division of arrests or criminal charges and final  
13 disposition;
- 14 (e) within 30 days of the issuance of all Domestic Violence Protective Orders (G.S. 50B) and  
15 Civil No Contact Orders (G.S. 50C), the agency head, provided he or she has knowledge  
16 of the order, shall also notify the Standard Division of these orders; and
- 17 (f) The required notifications in this Rule shall be in writing and shall specify the nature of  
18 the offense or order, the court in which the case as handled, the date of the arrest,  
19 criminal charge, or service of the order, and the final disposition. The notification shall  
20 include a certified copy of the order or court documentation and final disposition from the  
21 Clerk of Court in the county of adjudication. The requirements of this Item shall be  
22 applicable at all times during which the officer is employed and certified by the  
23 Commission and shall also apply to all applicants for certification. Receipt by the  
24 Standards Division of a single notification, for the officer or the agency head, shall be  
25 sufficient notice for compliance with this Item.

26 ~~(13) — The requirements of this Rule shall apply to all applicants for certification and shall also apply at —~~  
27 ~~all times during which the correctional officer is certified by the Commission.~~

28  
29 *History Note: Authority G.S.; 17C-6; 17C-10*  
30 *Eff. May 1, 2023*  
31  
32  
33  
34  
35

1 **12 NCAC 09G .0209 is adopted with changes as published in 37:04 NCR 314-319 as follows:**

2  
3 **12 NCAC 09G. 0209 MINIMUM STANDARDS FOR PROBATION/PAROLE OFFICERS**

4 (a) The requirements of this Rule shall apply to all applicants for certification and shall also apply at all items during  
5 which the ~~correctional~~ probation/parole officer is certified by the Commission.

6 (b) Every probation/parole officer employed by the North Carolina Department of ~~Public Safety, Division of Adult~~  
7 Correction shall:

- 8 (1) be a citizen of the United States
- 9 (2) be at least 20 years of age
- 10 (3) have attained a bachelor's degree ~~from a regionally accredited institution of higher learning as~~  
11 described in 12 NCAC 09G .0204;
- 12 (4) have been fingerprinted by the employing agency in the manner provided in 12 NCAC 09G .0207;
- 13 (5) have had a medical examination as required by 12 NCAC 09G .0205;
- 14 (6) have produced a negative result on a drug screen as described in 12 NCAC 09G .~~0205~~ 0211;
- 15 (7) have been administered a psychological screening examination in accordance with G.S. 17C-  
16 10(c). The psychological screening examination shall be valid for a period of one year from the  
17 date on which it was administered;
- 18 (8) have a background investigation conducted by the ~~Division~~ Department of Adult Correction,  
19 including a personal ~~interview,~~ interview as described in 12 NCAC 09G .0210;
- 20 (9) not have committed or been convicted of a crime or crimes as specified in 12 NCAC 09G . 0302;
- 21 (10) for personnel who are authorized to carry a firearm in the execution of their duties, satisfactorily  
22 Complete the ~~Division~~ Department of Adult Correction's departmental firearms training program  
23 as prescribed in 12 NCAC 09G .0412. Such firearms training compliance must have occurred  
24 within one year of the date of employment and by using the department approved service  
25 handgun(s); and,
- 26 (11) be of good moral ~~character~~ character, including possessing the characteristics of honesty, maturity,  
27 discipline, attention to detail, and respect for the rights of others as more fully discussed and  
28 interpreted as defined in: In re Willis 288 N.C. 1.215 S.E. 2d 771 appeal dismissed 423 U.S. 976  
29 (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  
30 174 (1989); in re Applicants for License, 143 N.C.1, 55 S.E. 635 (1906); In re Dillingham, 188 N.C.  
31 162, 124 S.E. 130 (1924); State v. Benbow, 309 N.C. 538, 308 S.E. 2d 47 (1983); and later court  
32 decisions; and
- 33 (12) ~~Make~~ make the following notifications:
  - 34 (a) within 30 days of the qualifying event, notify the Standards Division and the appointing  
35 agency head in writing of all criminal offenses for which the officer is charged or  
36 arrested. This shall include traffic offenses identified in the Class B Misdemeanor

1 Manual and offenses of driving under the influence (DUI) or driving while impaired  
2 (DWI);

3 (b) within 30 days of the qualifying event, notify the Standards Division and the appointing  
4 agency head in writing of all criminal offenses for which the officer pleads no contest,  
5 pleads guilty, or of which the officer is found guilty. This shall include traffic offenses  
6 identified in the Department of Adult Correction section of the Class B Misdemeanor  
7 Manual (~~DAC offenses section~~) and offense of driving under the influence (DUI) or  
8 driving while impaired (DWI);

9 (c) within 30 days of service, officers shall notify the Standards Division of all Domestic  
10 Violence Protective Orders (G.S. 50B) and Civil No Contact Orders (G.S. 50C) that are  
11 issued by a judicial official against the officer;

12 (d) within 30 days of the date the case was disposed of in court, the agency head, provided he  
13 or she has knowledge of the officer's arrests or criminal charges and final dispositions,  
14 shall also notify the Standards Division of arrests or criminal charges and final  
15 disposition;

16 (e) within 30 days of the issuance of all Domestic Violence Protective Orders (G.S. 50B) and  
17 Civil No Contact Orders (G.S. 50C), the agency head, provided he or she has knowledge  
18 of the order, shall also notify the Standard Division of these orders; and

19 (f) The required notifications in this Rule shall be in writing and shall specify the nature of  
20 the offense or order, the court in which the case as handled, the date of the arrest,  
21 criminal charge, or service of the order, and the final disposition. The notification shall  
22 include a certified copy of the order or court documentation and final disposition from the  
23 Clerk of Court in the county of adjudication. The requirements of this Item shall be  
24 applicable at all times during which the officer is employed and certified by the  
25 Commission and shall also apply to all applicants for certification. Receipt by the  
26 Standards Division of a single notification, for the officer or the agency head, shall be  
27 sufficient notice for compliance with this Item.

28 ~~(13) The requirements of this Rule shall apply to all applicants for certification and shall also apply at all~~  
29 ~~items during which the correctional probation/parole officer is certified by the Commission.~~

31  
32 *History Note: Authority G.S; 17C-6; 17C-10*  
33 *Eff. January 1, 2023*  
34 *Eff. May 1, 2023*



1 “12 NCAC 09G .0210 is adopted with changes as published in 37:11 NCR 784-791 as follows:

2

3 **12 NCAC 09G .0210 BACKGROUND INVESTIGATION**

4 (a) ~~Prior to employment, employing an applicant,~~ the North Carolina Department of Adult Correction shall complete  
5 a background investigation on all applicants that applicant for certification. The investigation shall examine the  
6 applicant's character traits and habits relevant to performance as a correctional officer or probation/parole officer and  
7 shall determine whether the applicant is of good moral character.

8 (b) The background investigation will consist of the following:

9 (1) verification of age;

10 (2) verification of education; ~~and~~

11 (3) criminal history check of local, state, and national files; and

12 (4) personal interview. ~~interview;~~

13 (c) The employing agency shall include a signed and notarized Release Authorization Form that authorizes the  
14 Criminal Justice Standards Division staff to obtain documents and records pertaining to the applicant for certification  
15 that may be required in order to determine whether certification may be granted.

16

17

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

19 *Eff. May 1, 2023*

1 12 NCAC 09G .0211 is adopted as published in 37:11 NCR 784-791 as follows:

2  
3 **12 NCAC 09G .0211 AGENCY REPORTING OF DRUG SCREENING RESULTS**

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

6 (1) the drug screen shall be a urine test consisting of an initial screening test using an immunoassay  
7 method and a confirmatory test on an initial positive result using a gas chromatography/mass  
8 spectrometry (GC/MS) or other initial and confirmatory tests authorized or mandated by the  
9 Department of Health and Human Services for Federal Workplace Drug Testing Programs;

10 (2) a chain of custody shall be maintained on the specimen from collection to the eventual discarding  
11 of the specimen. If the specimen is handled only by a medical professional or a third party provider  
12 and the laboratory utilizes federally mandated chain of custody procedures, then the agency does  
13 not need an inter-agency chain of custody procedure. If agency staff will be handling the urine  
14 specimen at any point, then the agency needs a firmly established chain of custody  
15 procedure;

16 (3) the drug screen shall test for the presence of at least cannabis, cocaine, phencyclidine (PCP), opiates,  
17 and amphetamines or their metabolites; and

18 (4) the test threshold values meet the requirements established by the Department of Health and Human  
19 Services for Federal Workplace Drug Testing Programs, as found in 82 FR 7920 (2017) incorporated  
20 by reference, including later amendments and editions found at no cost at  
21 [https://www.federalregister.gov/documents/2017/01/23/2017-00979/mandatory-guidelines-for-](https://www.federalregister.gov/documents/2017/01/23/2017-00979/mandatory-guidelines-for-federal-workplace-drug-testing-programs)  
22 [federal-workplace-drug-testing-programs](https://www.federalregister.gov/documents/2017/01/23/2017-00979/mandatory-guidelines-for-federal-workplace-drug-testing-programs);

23 (5) conduct the test within 90 days of certification;

24 (6) the laboratory conducting the test shall be certified for federal workplace drug testing programs, and  
25 shall adhere to applicable federal rules, regulations, and guidelines pertaining to the handling,  
26 testing, storage, and preservation of samples.

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

31 (c) The agency, if it conducts a drug screen for in-service officers, shall report in writing positive results or refusals to  
32 submit to an in-service drug screening to the Criminal Justice Standards Division within 30 days of the positive result  
33 or refusal, unless the officer has explained the positive result to the satisfaction of the agency's Medical Review  
34 Officer, who shall be a licensed physician, to the extent the drug screen conducted conforms to the specifications of  
35 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. May 1, 2023*

1 12 NCAC 09G .0302 amended with changes as published in 37:04 NCR 317 as follows:

2  
3 12 NCAC 09G .0302 ~~NOTIFICATION OF CRIMINAL CHARGES/CONVICTIONS~~ CRIMINAL  
4 HISTORY RECORD

5 (a) ~~Every person employed and certified as a correctional officer or probation/parole officer shall make the following~~  
6 ~~notifications:~~

7 (1) ~~within 30 days of the qualifying event notify the Standards Division and the appointing department~~  
8 ~~head in writing of all criminal offenses for which the officer is charged or arrested;~~

9 (2) ~~within 30 days of the qualifying event notify the Standards Division and the appointing department~~  
10 ~~head in writing of all criminal offenses for which the officer pleads no contest, pleads guilty, or of~~  
11 ~~which the officer is found guilty. This shall include traffic offenses identified in the Class B~~  
12 ~~Misdemeanor Manual and offenses of driving under the influence (DUI) or driving while impaired~~  
13 ~~(DWT);~~

14 (3) ~~within 30 days of service, officers shall notify the Standards Division of all Domestic Violence~~  
15 ~~Protective Order (G.S. 50B) and Civil No Contact Orders (G.S. 50C) that are issued by a judicial~~  
16 ~~official against the officer;~~

17 (b) ~~The Department Head shall make the following notifications:~~

18 (1) ~~within 30 days of the date the case was disposed of in court, the department head, provided he or~~  
19 ~~she has knowledge of the officer's arrests or criminal charges and final dispositions, shall also notify~~  
20 ~~the Standards Division of arrests or criminal charges and final disposition; and~~

21 (2) ~~within 30 days of the issuance of a Domestic Violence Protective Orders (G.S. 50B) and Civil No~~  
22 ~~Contact Orders (G.S. 50C), the department head, provided he or she has knowledge of the order,~~  
23 ~~shall also notify the Standards Division of these orders.~~

24 (c) ~~The required notifications in this Rule shall be in writing and shall specify the nature of the offense or order, the~~  
25 ~~court in which the case was handled, the date of the arrest, criminal charge, or service of the order, and the final~~  
26 ~~disposition. The notification shall include a certified copy of the order or court documentation and final disposition~~  
27 ~~from the Clerk of Court in the county of adjudication. The requirements of this subparagraph shall be applicable at~~  
28 ~~all times during which the officer is employed and certified by the Commission and shall also apply to all applicants~~  
29 ~~for certification. Receipt by the Standards Division of a single notification, from the officer or the department head,~~  
30 ~~shall be sufficient notice for compliance with this Rule.~~

31 (a) Consistent with and subject to the requirements of 12 NCAC 09G .0504, every correctional officer applicant,  
32 in North Carolina shall not have been convicted by a local, state, federal or military court of:

33 (1) a felony;

34 (2) a crime or unlawful act constituting a Class B misdemeanor as defined in [12 NCAC 09G  
35 .0102(10) or having completed any corrections supervision imposed by the courts for such crimes  
36 within three years of issuance of certification, whichever is later;] 12 NCAC 09G .0102(10), if the  
37 conviction took place within three years prior to issuance of certification or if the person was under

1 any corrections supervision imposed by the court as a result of the conviction within three years  
2 prior to the issuance of certification; or

3 (3) for personnel who are authorized to carry a firearm in the execution of their duties, an offense that,  
4 pursuant to 18 USC 922(g)(8) would prohibit the possession of a firearm or ammunition;

5 (b) Consistent with and subject to the requirements of 12 NCAC 09G .0504, every correctional officer  
6 probation/parole officer applicant, and probation/parole officer employed or certified in North Carolina shall not have  
7 committed or been convicted by a local, state, federal or military court of:

8 (1) a felony;

9 (2) [a crime or unlawful act constituting a misdemeanor as defined in 12 NCAC 09G .0102(10) or  
10 having completed any corrections supervision imposed by the courts for such crimes within three  
11 years of issuance of certification, whichever is later; or]

12 a crime or unlawful act constituting a Class B misdemeanor as defined in 12 NCAC 09G .0102(10),  
13 if the conviction took place within three years prior to issuance of certification or if the person was  
14 under any corrections supervision imposed by the court as a result of the conviction within three  
15 years prior to the issuance of certification; or

16 (3) an offense that, pursuant to 18 USC 922(g) would prohibit the possession of a firearm or  
17 ammunition;

18  
19 *History Note: Authority G.S. 17C-6;*  
20 *Temporary Adoption Eff. January 1, 2001;*  
21 *Eff. August 1, 2002;*  
22 *Amended Eff. January 1, 2015; August 1, 2004;*  
23 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*  
24 *2019;*  
25 *Amended Eff. May 1, 2023; October 1, 2020, [Amended Eff. January 1, 2023]*  
26  
27

1 **12 NCAC 09G .0304 is amended with changes as published in 36:24 NCR 1938-1942 as follows:**

2  
3 **12 NCAC 09G .0304 GENERAL CERTIFICATION**

4 (a) The Commission shall grant an officer General Certification when evidence is received by the Standards Division  
5 that an officer has completed the training requirements of 12 NCAC 09G .0410, .0411, .0412, ~~or .0413~~ within the  
6 officer's probationary period and the officer has met all requirements for General Certification as specified in Rules  
7 .0202, .0203, .0204, .0205, ~~.0206, .0302,~~ and .0303 of this Subchapter.

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

12 (c) Certified officers who, through promotional opportunities, move into non-certified positions within the  
13 Department, may have their certification reinstated without re-completion of the basic training requirements of 12  
14 NCAC 09G .0410, .0411, .0412, or .0413, and are exempted from reverification of employment standards of 12 NCAC  
15 09G .0202, through .0206, .0205, .0208 (except 12 NCAC .0208(4), and .0209 (except 12 NCAC .0209(4)) when  
16 returning to a position requiring certification if they have maintained employment within the Department.

17 (d) Documentation of General Certification shall be maintained with the officer's personnel records with the North  
18 Carolina Department of **[Public Safety, Division of]** Adult Correction **[and Juvenile Justice]** and the Commission.

19 (e) Upon transfer of a certified officer from one type of corrections officer position to another, the North Carolina  
20 Department of **[Public Safety, Division of]** Adult Correction **[and Juvenile Justice]** shall submit a Notice of Transfer  
21 to the Standards Division.

22 (1) Upon receipt of the Notice of Transfer, the Standards Division shall cancel the officer's current  
23 General Certification and upon receipt of documentary evidence that the officer has met the requisite  
24 standards for the specified type of corrections officer certification, the Commission shall issue  
25 Probationary Certification reflecting the officer's new corrections position.

26 (2) The Commission shall grant an officer General Certification as the new type of corrections officer  
27 when evidence is received by the Standards Division that an officer has completed the training  
28 requirements of 12 NCAC 09G .0410, .0411, .0412, or .0413 within the officer's probationary period  
29 and the officer has met all other requirements for General Certification.

30  
31 *History Note:* Authority G.S. 17C-2; 17C-6; 17C-10; Temporary Adoption Eff. January 1, 2001; Eff. August 1,  
32 2002; Amended Eff. January 1, 2015; August 1, 2004; Pursuant to G.S. 150B-21.3A, rule is  
33 necessary without substantive public interest Eff. May 25, 2019; **Amended Eff. May 1, 2023.**

1 **12 NCAC 09G .0305 is amended with changes as published in 36:24 NCR 1938-1942 as follows:**

2  
3 **12 NCAC 09G .0305 RECERTIFICATION FOLLOWING SEPARATION**

4 (a) Previously certified corrections officers, with a minimum of one year of service who have been separated from  
5 the North Carolina Department of **Adult** Correction for less than [~~two~~] **three** years, may have their certification  
6 reinstated following a reverification of employment standards in 12 NCAC 09G .0202, .0203, and ~~.0206 (excluding~~  
7 ~~12 NCAC 09G .0206(4)(b))~~ .0208 (excluding 12 NCAC 09G .0208(4) and .0209 (excluding 12 NCAC 09G .0209(4)),  
8 but are exempt from the job appropriate basic training course described in 12 NCAC 09G [~~.0400~~] **.0411**.

9 (b) Previously certified corrections officers with less than one year of service who have been separated from the North  
10 Carolina Department of **Adult** Correction for less than two years, may have their certification reinstated following a  
11 reverification of employment standards 12 NCAC 09G .0202, .0203, and ~~.0206 (excluding 12 NCAC 09G .0206(d)(2))~~  
12 ~~.0208 (excluding 12 NCAC 09G .0208(5) and .0209 (excluding 12 NCAC 09G .0209(5))~~, and shall complete the job  
13 appropriate basic training course described in 12 NCAC 09G [~~.0400~~] **.0411**.

14 (c) Previously certified corrections officers who have been separated from the North Carolina Department of **Adult**  
15 Correction for more than [~~two~~] **three** years, upon their return shall complete the verification of employment standards  
16 and shall complete the job appropriate basic training course described in 12 NCAC 09G [~~.0400~~] **.0411**.

17  
18 *History Note: Authority G.S. 17C-2; 17C-6; 17C-10; Temporary Adoption Eff. January 1, 2001; Eff. August 1, 2002;*  
19 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*  
20 *2019; Amended Eff. May 1, 2023.*

1 **12 NCAC 09G .0504 IS IS amended with changes as published in 37:04 NCR 317-318 as follows**

2  
3 **12 NCAC 09G .0504 SUSPENSION: REVOCATION: OR DENIAL OF CERTIFICATION**

4 (a) The Commission shall revoke the certification of a correctional officer or probation/parole officer when the  
5 Commission finds that the officer has committed or been convicted of a felony offense.

6 (b) The Commission shall deny the certification of a correctional officer when the Commission finds the officer has  
7 been convicted of a felony.

8 (c) The Commission shall deny the certification of a probation/parole officer when the Commission finds the  
9 officer has committed or been convicted of a felony offense.

10 (d) The Commission may, based on the evidence for each case, suspend, revoke, or deny the certification of a  
11 corrections officer, as defined in 12 NCAC 09G .0102(4) when the Commission finds that the applicant for  
12 certification or the certified officer:

13 (1) has not enrolled in and completed with passing scores the required basic training course in its  
14 entirety in time periods prescribed in 12 NCAC 09G .0400 applicable to a specified position or job  
15 title;

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

19 ~~(3)~~ for correctional officers as defined in 12 NCAC 09G .0102(3), have been convicted of a Class B  
20 misdemeanor as defined in 12 NCAC 09G .0102~~(4)~~ (10)(b) within a three year period prior to the  
21 date of application for employment or have completed any corrections supervision imposed by the  
22 courts for such crimes within three years of issuance of certification, whichever is later;

23 ~~(3)~~ (4) for correctional officers as defined in 12 NCAC 09G .0102(3), have committed or been  
24 convicted of a Class B misdemeanor as defined in 12 NCAC 09G .0102(10)(b) after certification;

25 ~~(4)~~ (5) for probation/parole officers as defined in 12 NCAC 09G .0102(12), have committed or been  
26 convicted of a Class B misdemeanor as defined in 12 NCAC 09G .0102(10)(b) for a three year  
27 period prior to the date of application for employment or after certification have completed any  
28 corrections supervision imposed by the courts for such crimes [for a] within three years of issuance  
29 of certification;

30 ~~(5)~~ (6) has been discharged by the North Carolina Department [of Public Safety, Division] of Adult  
31 Correction and Juvenile Justice for:

32 (A) commission or conviction of a motor vehicle offense requiring the revocation of the  
33 officer's drivers license; or

34 (B) lack of good moral character as defined in 12 NCAC 09G .0206;

35 ~~(6)~~ (7) has been discharged by the North Carolina Department of Public Safety, Division of Adult  
36 Correction and Juvenile Justice because the officer lacks the mental or physical capabilities to fulfill  
37 the responsibilities of a corrections officer;



1           ~~(7)~~ (8) has knowingly made a material misrepresentation of any information required for certification or  
2           accreditation;

3           ~~(8)~~ (9) has knowingly and willfully, by any means of false pretense, deception, fraud, misrepresentation, or  
4           cheating whatsoever, obtained or attempted to obtain credit, training, or certification from the  
5           Commission;

6           ~~(9)~~ (10) has knowingly and willfully, by any means of false pretense, deception, fraud, misrepresentation, or  
7           cheating whatsoever, aided another person in obtaining or attempting to obtain credit, training, or  
8           certification from the Commission;

9           ~~(10)~~ (11) has failed to notify the Standards Division of all criminal charges or convictions as required by 12  
10           NCAC 09G ~~.0302; .0208~~ or .0209;

11           ~~(11)~~ (12) has been removed from office by decree of the Superior Court in accord with the provisions of G.S.  
12           128-16 or has been removed from office by sentence of the court in accord with the provisions of  
13           G.S. 14-230;

14           ~~(12)~~ (13) has refused to submit to an applicant drug screen as required by 12 NCAC 09G .0206; or has  
15           refused to submit to an in-service drug screen pursuant to the guidelines set forth in the Drug  
16           Screening Implementation Guide as required by the Department of Public Safety, Division of Adult  
17           Correction and Juvenile Justice;

18           ~~(13)~~ (14) has produced a positive result on a drug screen reported to the Commission as specified in 12 NCAC  
19           09G .0206, where the positive result cannot be explained to the Commission's satisfaction. For the  
20           purposes of this Rule, "to the Commission's satisfaction" shall be determined on a case-by-case  
21           basis, and the use of a prescribed drug shall be satisfactory; or

22           ~~(14)~~ (15) has been denied certification or had such certification suspended or revoked by a previous action  
23           of the North Carolina Criminal Justice Education and Training Standards Commission, the North  
24           Carolina Company Police Program, the North Carolina Campus Police Program, the North Carolina  
25           Sheriffs' Education and Training Standards Commission, or a similar North Carolina, out of state,  
26           or federal approving, certifying, or licensing agency whose function is the same or similar to the  
27           agencies if the certification was denied, suspended, or revoked based on grounds that would  
28           constitute a violation of this Subchapter.

29           (e) Following suspension, revocation, or denial of the person's certification, the person shall not remain employed or  
30           appointed as a corrections officer and the person shall not exercise any authority of a corrections officer during a  
31           period for which the person's certification is suspended, revoked, or denied.

32  
33           *History Note: Authority G.S. 17C-6; 17C-10;*

34           *Temporary Adoption Eff. January 1, 2001;*

35           *Eff. August 1, 2002;*

36           *Amended Eff. May 1, 2023; December 1, 2018; January 1, 2015; April 1, 2009; December 1, 2004;*

37           *August 1, 2004;*

1  
2  
3  
4

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019;*  
*Amended Eff. May 1, 2023; August 1, 2021.*

1 12 NCAC 09G .0505 is amended with changes as published in 37:04 NCR 318-319 as follows:

2  
3 12 NCAC 09G .0505 PERIOD OF SUSPENSION: REVOCATION: OR DENIAL

4 (a) When the Commission revokes or denies the certification of a corrections officer pursuant to 12 NCAC 09G .0504  
5 of this Section, the period of the sanction shall be permanent where the cause of the sanction is the commission or  
6 conviction of a felony offense, and shall be 10 years where the cause of sanction is:

7 ~~(1)~~ commission or conviction of a felony offense;

8 ~~(2)~~(1) the second suspension of an officer's certification for any of the causes requiring a three- year  
9 period

10 of suspension; or

11 ~~(3)~~ (2) revocation or denial of certification by the North Carolina Sheriffs' Education and Training Standards  
12 Commission based on grounds that would constitute a violation of this Subchapter.

13 (b) When the Commission suspends or denies the certification of a corrections officer pursuant to 12 NCAC 09G  
14 .0504 of this Section, the period of sanction shall be not less than three years; however, the Commission may [either]  
15 reduce or suspend the period of sanction or substitute a period of probation in lieu of suspension of certification, or  
16 impose a combination of reduction, suspension, or probation as determined on a case-by-case basis following a consent  
17 order or an administrative hearing, where the cause of sanction is: [under Paragraph (c) of this Rule or substitute a  
18 period of probation in lieu of suspension of certification following an administrative hearing, where the cause of  
19 sanction is]:

20 (1) conviction of a Class B misdemeanor as defined in 12 NCAC 09G .0102(10)(b), for a three year  
21 period prior to the date of application, or completion of any corrections supervision imposed by the  
22 courts for such crimes within three years of issuance of certification;

23 ~~(1)~~(2) commission or conviction of a Class B misdemeanor as defined in 12 NCAC 09G .0102(10)(b),  
24 after certification;

25 ~~(2)~~ (3) discharge by the North Carolina Department of [Public Safety, Division of] Adult Correction and  
26 Juvenile Justice pursuant to 12 NCAC 09G .0504(b)(4) and (b)(5) of this Section;

27 ~~(3)~~ (4) refusal to submit to the applicant drug screen required by the Rules in this Subchapter;

28 ~~(4)~~ (5) production of a positive result on a drug screen reported to the Commission under 12 NCAC 09G  
29 .0206-0205, where the positive result cannot be explained to the Commission's satisfaction. For the  
30 purposes of this Rule, "to the Commission's satisfaction" shall be determined on a case-by-case  
31 basis, and the use of a prescribed drug shall be satisfactory;

32 ~~(5)~~ (6) the applicant has knowingly made a material misrepresentation of any information required for  
33 certification or accreditation;

34 ~~(6)~~ (7) the applicant has knowingly and willfully obtained, attempted to obtain, aided another person to  
35 obtain, or aided another person attempt to obtain credit, training or certification by any means of  
36 false pretense, deception, defraudation, misrepresentation or cheating;

37 ~~(7)~~ (8) failure to make either of the notifications as required by 12 NCAC 09G -0302; .0208 or .0209

1           ~~(8)~~ (9) removal from office under the provisions of G.S. 128-16 or the provisions of G.S. 14-230; or

2           ~~(9)~~ (10) certification revoked or denied by the North Carolina Sheriffs' Education and Training Standards  
3                   Commission, if such certification was revoked or denied based on grounds that would constitute a  
4                   violation of Section 09G of these Rules.

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

8           (1) failure to meet or satisfy relevant basic training requirements;

9           (2) failure to meet or maintain the minimum standards for certification; or

10          (3) discharge from the North Carolina Department of **Adult** Correction for impairment of physical  
11                   or mental capabilities.

12  
13 *History Note: Authority G.S. 17C-6; 17C-10;*

14 *Temporary Adoption Eff. January 1, 2001;*

15 *Eff. August 1, 2002;*

16 *Amended Eff. December 1, 2018; December 1, 2004;*

17 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*  
18 *2019; Amended Eff. May 1, 2023.*

19  
20

## **Burgos, Alexander N**

---

**Subject:** FW: [External] RE: CJETS April RFC (Email #1)

---

**From:** Ascher, Seth M <seth.ascher@oah.nc.gov>

**Sent:** Monday, April 17, 2023 4:27 PM

**To:** Schilling, Michelle <mschilling@ncdoj.gov>; Welty, Jeffrey B <Welty@sog.unc.edu>

**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>

**Subject:** RE: [External] RE: CJETS April RFC (Email #1)

Michelle and Jeff,

Thank you for taking the time to talk this afternoon. I am writing follow up about next steps beyond what we have already emailed about:

1. I reviewed the language change in 12 NCAC 09B .0305. It looked good.
2. For 12 NCAC 09G .0208 and .0209, you were going to draft some language providing more clarity on the meaning of "good moral character" and resubmit.
3. For 12 NCAC 09G .0205, you were going to edit or move paragraph (c) to indicate that the applicant is providing or notifying the examiner of the Guidelines.

As we discussed, it would be ideal if you could get me the final rules by the end of Tuesday. Otherwise, I may need to move forward on a staff opinion, particularly on the "good moral character" issue. Michelle plans to submit a complete package of the final rules for Commission review.

Let me know if I missed anything or that is incorrect.

### **Seth Ascher**

Counsel to the North Carolina Rules Review Commission  
Office of Administrative Hearings  
(984) 236-1934

---

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

## Burgos, Alexander N

---

**Subject:** FW: [External] RE: CJETS April RFC (Email #1)  
**Attachments:** 12 NCAC 09B .0305 Terms and Conditions of Specialized Instructor Certification.docx

---

**From:** Schilling, Michelle <mschilling@ncdoj.gov>  
**Sent:** Monday, April 17, 2023 3:19 PM  
**To:** Ascher, Seth M <seth.ascher@oah.nc.gov>; Welty, Jeffrey B <Welty@sog.unc.edu>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** RE: [External] RE: CJETS April RFC (Email #1)

**CAUTION:** External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Good afternoon,

The Codifier did not approve the waiver for 12 NCAC 09B .0305. I have adjusted the draft accordingly. It is attached for your review and our discussion this afternoon.

Michelle



**MICHELLE SCHILLING**  
Deputy Director  
Criminal Justice Standards Division  
Office: (919) 779-8205  
Fax: (919) 779-8210  
[MSchilling@ncdoj.gov](mailto:MSchilling@ncdoj.gov)  
1700 Tryon Park Drive  
Raleigh, NC 27602-0149  
ncdoj.gov

Please note messages to or from this address may be public records.

1 12 NCAC 09B .0305 is amended with changes as published in 37:11 NCR 784-791

2  
3 **12 NCAC 09B .0305 TERMS AND CONDITIONS OF SPECIALIZED INSTRUCTOR**  
4 **CERTIFICATION**

5 (a) An applicant meeting the requirements for Specialized Instructor Certification as set forth in Rule .0304 of this  
6 Section shall be issued a certification to expire three years from the date of issuance. The applicant shall apply for  
7 certification as a Specialized Instructor within 60 days after the date the applicant achieved a passing score on the state  
8 comprehensive exam for the respective Specialized Instructor training course.

9 (b) Where certification for both General Probationary Instructor as set forth in Rule .0303 of this Section and  
10 Specialized Instructor Certification are issued on the same date, the instructor is required to instruct, within three years  
11 after certification, a minimum of 12 hours in each of the topics for which Specialized Instructor Certification was  
12 granted, and that instruction was provided in a Commission-accredited basic training, Specialized Instructor Training,  
13 Commission-recognized in-service training course, or training course delivered pursuant to 12 NCAC 10B .0601,  
14 .1302, or .2005. The instructor may satisfy the teaching requirement for the General Probationary Instructor  
15 certification by teaching any specialized topic for which certification has been issued.

16 (c) When Specialized Instructor Certification is issued during an existing period of General Probationary Instructor  
17 Certification, the specialized instructor may satisfy the teaching requirement for the General Probationary Certification  
18 by teaching the specialized subject for which certification has been issued.

19 (d) The term of certification as a specialized instructor shall be three years. An application for renewal shall contain,  
20 in addition to the requirements listed in Rule .0304 of this Section, documentary evidence that the applicant has  
21 remained active in the instructional process during the previous three-year period. Such documentary evidence shall  
22 include the following:

23 (1) proof that the applicant has, within the three-year period preceding application for renewal,  
24 instructed at least 12 hours in each of the topics for which Specialized Instructor Certification was  
25 granted, and that instruction was provided in a Commission-accredited basic training, Specialized  
26 Instructor Training, Commission-recognized in-service training course, or training course delivered  
27 pursuant to 12 NCAC 10B .0601, .1302, or .2005. Acceptable documentary evidence shall include  
28 official Commission records submitted by School Directors or In-Service Training Coordinators and  
29 written certification from a School Director or In-Service Training Coordinator;

30 (2) proof that the applicant has, within the three-year period preceding application for renewal, attended  
31 and completed all instructor updates that have been issued by the Commission. Acceptable  
32 documentary evidence shall include official Commission records submitted by School Directors or  
33 In-Service Training Coordinators, or copies of certificates of completion issued by the institution  
34 which provided the instructor updates; and

35 (A) a favorable written recommendation from a School Director or In-Service Training  
36 Coordinator completed on a Commission **[Renewal of] Application for** Instructor and  
37 Professional Lecturer Certification Form (Form F-12 A) stating the instructor taught at

1 least 12 hours in each of the topics for which Specialized Instructor Certification was  
2 granted. The teaching shall have been provided in a Commission-accredited basic training,  
3 Specialized Instructor Training course, pursuant to Rule 12 NCAC 09C .0401,  
4 Commission-recognized in-service training course, or training course delivered pursuant  
5 to 12 NCAC 09F .0101, 12 NCAC 09H, 12 NCAC 10B .0601, .1302, or .2005;

6 (B) a favorable written evaluation by a School Director, Qualified Assistant, In-Service  
7 Training Coordinator, or another Specialized Instructor certified in the same specialized  
8 subject, based on an on-site classroom evaluation of a presentation by the instructor in a  
9 Commission-accredited basic training, Specialized Instructor Training, Commission-  
10 recognized in-service training course, or in-service training course delivered pursuant to  
11 12 NCAC 10B .0601, .1302, or .2005 during the three-year period of Specialized Instructor  
12 Certification. Such evaluation shall be certified on a Criminal Justice Instructor Evaluation  
13 Form F-16, located on the agency's website: [http://www.ncdoj.gov/getdoc/c2eba6aa-12bc-  
14 4303-bf4b-5fa0431ef5a1/F-16-6-11.aspx](http://www.ncdoj.gov/getdoc/c2eba6aa-12bc-4303-bf4b-5fa0431ef5a1/F-16-6-11.aspx);

15 (C) proof that the applicant has met the requirement set forth in Rule .0303(d) of this Section;

16 (D) proof that the individual applying for renewal as a Specialized Firearms Instructor has  
17 achieved a minimum score of 92 on the day and night Basic Law Enforcement Training  
18 firearms qualification courses, administered by a certified Specialized Firearms Instructor,  
19 within the three-year period preceding the application for renewal;

20 (E) proof that the individual applying for renewal as a Specialized Physical Fitness Instructor  
21 has passed the Basic Law Enforcement Training Police Officer Physical Abilities Test,  
22 administered by a certified Specialized Physical Fitness Instructor, within the three-year  
23 period preceding the application for renewal.

24 (F) proof that the individual applying for renewal as a Specialized Driver Instructor has  
25 achieved the following minimum scores in accordance with the procedural and evaluative  
26 requirements listed in the “Course Description Packet (CDP) for Driver Instructor  
27 Certification Renewal” as published by the North Carolina Justice Academy within the  
28 three-year period preceding the application for [renewal:] renewal. The individual  
29 applying for renewal must achieve a minimum score of 85 on two out of three attempts for  
30 the “Off-Set Lane Maneuver” and “Serpentine” courses during the daytime, a minimum  
31 score of 85 on two out of three attempts for the “Precision” course during both day and  
32 night evaluation, a score of “Pass” on two out of three attempts for each command for the  
33 “Evasive Action/Maneuver” course during the daytime, and a score of Pass on two out of  
34 three attempts in each direction for the “Fixed Radius Curve” course during the daytime.  
35 Evaluations will be administered by a certified Specialized Driving Instructor.  
36  
37



- 1 ~~[(1) minimum score of 85 on two out of three attempts for the “Off Set Lane Maneuver”~~  
2 ~~and “Serpentine” courses during the daytime;~~  
3 ~~(2) a minimum score of 85 on two out of three attempts for the “Precision” course during~~  
4 ~~both day and night evaluation;~~  
5 ~~(3) a score of “Pass” on two out of three attempts for each command for the “Evasive~~  
6 ~~Action/Maneuver” course during the daytime;~~  
7 ~~(4) a score of Pass on two out of three attempts in each direction for the “Fixed Radius~~  
8 ~~Curve” course during the daytime, and;~~  
9 ~~(5) evaluations will be administered by a certified Specialized Driving Instructor.]~~

10 (G) proof that the individual applying for renewal as a Specialized [SCAT] Subject Control

11 Arrest Techniques Instructor has satisfactorily completed the technique evaluations skills of the Basic Law  
12 Enforcement Training SCAT courses, administered by a certified Specialized SCAT Instructor, within the three-year  
13 period preceding the application for renewal.

14 (e) Certification as a Specialized Instructor in the First Responder, Physical Fitness, Explosive and Hazardous  
15 Materials, and Juvenile Justice Medical Emergencies topic areas as outlined in Rule .0304(d)(1), (g)(2), (i)(1), and  
16 (j)(1) of this Section shall remain in effect for 36 months from the date of issuance. During the 36 month term all  
17 non-Commission certificates required in Rule .0304(d)(1), (g)(2), (i)(1), and (j)(1) for Specialized Instructor  
18 certification in the First Responder, Physical Fitness, Explosive and Hazardous Materials, and Juvenile Justice  
19 Medical Emergencies topical areas shall be maintained.

20 (f) Those individuals who have previously held Specialized Instructor Certification and have not exceeded a three  
21 year time period from when his or her Specialized Instructor Certification expired are eligible to reapply for re-  
22 issuance of the previously held Specialized Instructor Certification. An application for re-issuance shall contain  
23 documentation that the applicant:

- 24 (1) holds a current General Instructor certification;  
25 (2) has completed all pre-qualification requirements for that specialty;  
26 (3) has passed the state examination for that specialty with a minimum score of 75;  
27 (4) has completed eight hours of evaluated instruction in the specialty where re-issuance of certification  
28 is taught, as documented on an F-16 located on the agency's website: [https://ncdoj.gov/law-](https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/)  
29 [enforcement training/criminal-justice/forms-and-publications/](https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/). The eight hours of instruction shall  
30 be taught within 60 days of the Specialized Instructor Certification being reissued and evaluated by  
31 a Specialized Instructor certified in that specialty. Failure to complete the required eight hours of  
32 evaluated instruction will result in the reissued Specialized Instructor Certification being revoked;  
33 and  
34 (5) has maintained non-Commission certificates required in Rule .0304(d)(1), (g)(2), (i)(1), and (j)(1)  
35 for Specialized Instructor certification in the First Responder, Physical Fitness, Explosive and  
36 Hazardous Materials, and Juvenile Justice Medical Emergencies topical areas.

1 (g) Applicants for re-issuance of the Specialized Instructor Certification shall have one opportunity to pass the  
2 prequalification skills assessment and the state examination for that specialty. Should an applicant not achieve a  
3 passing score on either the prequalification skills assessment or the state examination for that specialty, the applicant  
4 shall complete the specific Specialized Instructor Course in its entirety.

5 (h) Applicants whose Specialized Instructor Certification is suspended or revoked shall not qualify for re-issuance.  
6 The applicant shall complete the specific Specialized Instructor Course in its entirety.

7 (i) The use of guest participants in a delivery of the "Basic Law Enforcement Training Course" shall be permissible.  
8 However, such guest participants are subject to the on-site supervision of a Commission-certified instructor and shall  
9 be authorized by the School Director. A guest participant shall be used only to complement the primary certified  
10 instructor of the block of instruction and shall not replace the primary instructor.

11  
12 *History Note: Authority G.S. 17C-6;*  
13 *Eff. January 1, 1981;*  
14 *Amended Eff. January 1, 2017; February 1, 2016; August 1, 2015; May 1, 2014; June 1, 2012;*  
15 *November 1, 2007; January 1, 2006; December 1, 2004; August 1, 2004; August 1, 2000; July 1,*  
16 *1991; July 1, 1989; December 1, 1987; February 1, 1987;*  
17 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*  
18 *2019;*  
19 *Amended Eff. May 1, 2023; January 1, 2022; January 1, 2020; August 1, 2019.*  
20

## Burgos, Alexander N

---

**Subject:** FW: [External] RE: CJETS April RFC (Email #1)

---

**From:** Schilling, Michelle <mschilling@ncdoj.gov>  
**Sent:** Monday, April 17, 2023 12:59 PM  
**To:** Ascher, Seth M <seth.ascher@oah.nc.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** RE: [External] RE: CJETS April RFC (Email #1)

**CAUTION:** External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Once we've had a chance to talk this afternoon I can send you the rules marked FINAL if that works. We did this the past several meetings.

Michelle



**MICHELLE SCHILLING**  
Deputy Director  
Criminal Justice Standards Division  
Office: (919) 779-8205  
Fax: (919) 779-8210  
[MSchilling@ncdoj.gov](mailto:MSchilling@ncdoj.gov)  
1700 Tryon Park Drive  
Raleigh, NC 27602-0149  
ncdoj.gov

Please note messages to or from this address may be public records.

---

**From:** Ascher, Seth M <[seth.ascher@oah.nc.gov](mailto:seth.ascher@oah.nc.gov)>  
**Sent:** Monday, April 17, 2023 12:38 PM  
**To:** Schilling, Michelle <[mschilling@ncdoj.gov](mailto:mschilling@ncdoj.gov)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
**Subject:** RE: [External] RE: CJETS April RFC (Email #1)

Michelle,

There shouldn't be a problem with the rules you've sent me going before the Commission this week. I've held off on having them uploaded until after we talk in case there are further adjustments.

Here are a couple of small things I saw going through your responses and changes:

12 NCAC 09G .0102: agency is defined as North Carolina Department of Adult Correction. However, in several of your rules "agency" seems to refer to more than one possible agency. See, E.g., 12 NCAC 09G .0211. Would something like the definition in 12 NCAC 09A .0103(2) or G.S. 17C-2(2) make more sense?

12 NCAC 09B. 0305: On p. 2, lines 29 through 37, rules cannot be broken into subparts. Under 26 NCAC 02C .0205, only three levels of subdivision are permitted. Page 41 of the style guide is a helpful resource to see this visually. Reformat accordingly or request a waiver from the codifier. I mistakenly put this comment on the wrong rule before.

12 NCAC 09G .0210: On line 4, "employment," should be struck through.

I'll see you (via teams) at 3:30.

**Seth Ascher**

Counsel to the North Carolina Rules Review Commission  
Office of Administrative Hearings  
(984) 236-1934

---

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

## Burgos, Alexander N

---

**Subject:** FW: [External] RE: CJETS April RFC Email #2  
**Attachments:** 12 NCAC 09G .0209 Minimum Standards for Probation-Parole Officers.docx; 12 NCAC 09G .0209 Responses.docx; 12 NCAC 09G .0208 Minimal Standards for Correctional Officers.docx; 12 NCAC 09B .0305 Terms and Conditions of Specialized Instructor Certification.docx; 12 NCAC 09G .0208 Responses.docx; 12 NCAC 09B. 0305 Responses.docx; 12 NCAC 09G .0204 Documentation of Educational Requirements.docx; 12 NCAC 09G .0204 Responses.docx; 12 NCAC 09G .0505 Period of Suspension- Revocation or Denial.docx; 12 NCAC 09G .0505 Responses.docx; 12 NCAC 09G .0205 Medical Examination.docx; 12 NCAC 09G .0205 Responses.docx; 12 NCAC 09G .0207 Responses.docx; 12 NCAC 09G .0207 Fingerprint Criminal History Record.docx

---

**From:** Schilling, Michelle <mschilling@ncdoj.gov>  
**Sent:** Friday, April 14, 2023 5:00 PM  
**To:** Ascher, Seth M <seth.ascher@oah.nc.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** [External] RE: CJETS April RFC Email #2

**CAUTION:** External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [Report Spam](#).

Second email.

Respectfully,

Michelle



**MICHELLE SCHILLING**  
Deputy Director  
Criminal Justice Standards Division  
Office: (919) 779-8205  
Fax: (919) 779-8210  
[MSchilling@ncdoj.gov](mailto:MSchilling@ncdoj.gov)  
1700 Tryon Park Drive  
Raleigh, NC 27602-0149  
ncdoj.gov

Please note messages to or from this address may be public records.

1 12 NCAC 09B .0305 is amended with changes as published in 37:11 NCR 784-791

2  
3 **12 NCAC 09B .0305 TERMS AND CONDITIONS OF SPECIALIZED INSTRUCTOR**  
4 **CERTIFICATION**

5 (a) An applicant meeting the requirements for Specialized Instructor Certification as set forth in Rule .0304 of this  
6 Section shall be issued a certification to expire three years from the date of issuance. The applicant shall apply for  
7 certification as a Specialized Instructor within 60 days after the date the applicant achieved a passing score on the state  
8 comprehensive exam for the respective Specialized Instructor training course.

9 (b) Where certification for both General Probationary Instructor as set forth in Rule .0303 of this Section and  
10 Specialized Instructor Certification are issued on the same date, the instructor is required to instruct, within three years  
11 after certification, a minimum of 12 hours in each of the topics for which Specialized Instructor Certification was  
12 granted, and that instruction was provided in a Commission-accredited basic training, Specialized Instructor Training,  
13 Commission-recognized in-service training course, or training course delivered pursuant to 12 NCAC 10B .0601,  
14 .1302, or .2005. The instructor may satisfy the teaching requirement for the General Probationary Instructor  
15 certification by teaching any specialized topic for which certification has been issued.

16 (c) When Specialized Instructor Certification is issued during an existing period of General Probationary Instructor  
17 Certification, the specialized instructor may satisfy the teaching requirement for the General Probationary Certification  
18 by teaching the specialized subject for which certification has been issued.

19 (d) The term of certification as a specialized instructor shall be three years. An application for renewal shall contain,  
20 in addition to the requirements listed in Rule .0304 of this Section, documentary evidence that the applicant has  
21 remained active in the instructional process during the previous three-year period. Such documentary evidence shall  
22 include the following:

23 (1) proof that the applicant has, within the three-year period preceding application for renewal,  
24 instructed at least 12 hours in each of the topics for which Specialized Instructor Certification was  
25 granted, and that instruction was provided in a Commission-accredited basic training, Specialized  
26 Instructor Training, Commission-recognized in-service training course, or training course delivered  
27 pursuant to 12 NCAC 10B .0601, .1302, or .2005. Acceptable documentary evidence shall include  
28 official Commission records submitted by School Directors or In-Service Training Coordinators and  
29 written certification from a School Director or In-Service Training Coordinator;

30 (2) proof that the applicant has, within the three-year period preceding application for renewal, attended  
31 and completed all instructor updates that have been issued by the Commission. Acceptable  
32 documentary evidence shall include official Commission records submitted by School Directors or  
33 In-Service Training Coordinators, or copies of certificates of completion issued by the institution  
34 which provided the instructor updates; and

35 (A) a favorable written recommendation from a School Director or In-Service Training  
36 Coordinator completed on a Commission **[Renewal of] Application for** Instructor and  
37 Professional Lecturer Certification Form (Form F-12 A) stating the instructor taught at

1 least 12 hours in each of the topics for which Specialized Instructor Certification was  
2 granted. The teaching shall have been provided in a Commission-accredited basic training,  
3 Specialized Instructor Training course, pursuant to Rule 12 NCAC 09C .0401,  
4 Commission-recognized in-service training course, or training course delivered pursuant  
5 to 12 NCAC 09F .0101, 12 NCAC 09H, 12 NCAC 10B .0601, .1302, or .2005;

6 (B) a favorable written evaluation by a School Director, Qualified Assistant, In-Service  
7 Training Coordinator, or another Specialized Instructor certified in the same specialized  
8 subject, based on an on-site classroom evaluation of a presentation by the instructor in a  
9 Commission-accredited basic training, Specialized Instructor Training, Commission-  
10 recognized in-service training course, or in-service training course delivered pursuant to  
11 12 NCAC 10B .0601, .1302, or .2005 during the three-year period of Specialized Instructor  
12 Certification. Such evaluation shall be certified on a Criminal Justice Instructor Evaluation  
13 Form F-16, located on the agency's website: <http://www.ncdoj.gov/getdoc/c2eba6aa-12bc-4303-bf4b-5fa0431ef5a1/F-16-6-11.aspx>;

14 (C) proof that the applicant has met the requirement set forth in Rule .0303(d) of this Section;

15 (D) proof that the individual applying for renewal as a Specialized Firearms Instructor has  
16 achieved a minimum score of 92 on the day and night Basic Law Enforcement Training  
17 firearms qualification courses, administered by a certified Specialized Firearms Instructor,  
18 within the three-year period preceding the application for renewal;

19 (E) proof that the individual applying for renewal as a Specialized Physical Fitness Instructor  
20 has passed the Basic Law Enforcement Training Police Officer Physical Abilities Test,  
21 administered by a certified Specialized Physical Fitness Instructor, within the three-year  
22 period preceding the application for renewal.

23 (F) proof that the individual applying for renewal as a Specialized Driver Instructor has  
24 achieved the following minimum scores in accordance with the procedural and evaluative  
25 requirements listed in the “Course Description Packet (CDP) for Driver Instructor  
26 Certification Renewal” as published by the North Carolina Justice Academy within the  
27 three-year period preceding the application for [renewal:] renewal:

28 (1) minimum score of 85 on two out of three attempts for the “Off-Set Lane Maneuver”  
29 and “Serpentine” courses during the daytime;

30 (2) a minimum score of 85 on two out of three attempts for the “Precision” course during  
31 both day and night evaluation;

32 (3) a score of “Pass” on two out of three attempts for each command for the “Evasive  
33 Action/Maneuver” course during the daytime;

34 (4) a score of Pass on two out of three attempts in each direction for the “Fixed Radius  
35 Curve” course during the daytime, and;

36 (5) evaluations will be administered by a certified Specialized Driving Instructor.  
37

1 (G) proof that the individual applying for renewal as a Specialized [SCAT] Subject Control  
2 Arrest Techniques Instructor has satisfactorily completed the technique evaluations skills of the Basic Law  
3 Enforcement Training SCAT courses, administered by a certified Specialized SCAT Instructor, within the three-year  
4 period preceding the application for renewal.

5 (e) Certification as a Specialized Instructor in the First Responder, Physical Fitness, Explosive and Hazardous  
6 Materials, and Juvenile Justice Medical Emergencies topic areas as outlined in Rule .0304(d)(1), (g)(2), (i)(1), and  
7 (j)(1) of this Section shall remain in effect for 36 months from the date of issuance. During the 36 month term all  
8 non-Commission certificates required in Rule .0304(d)(1), (g)(2), (i)(1), and (j)(1) for Specialized Instructor  
9 certification in the First Responder, Physical Fitness, Explosive and Hazardous Materials, and Juvenile Justice  
10 Medical Emergencies topical areas shall be maintained.

11 (f) Those individuals who have previously held Specialized Instructor Certification and have not exceeded a three  
12 year time period from when his or her Specialized Instructor Certification expired are eligible to reapply for re-  
13 issuance of the previously held Specialized Instructor Certification. An application for re-issuance shall contain  
14 documentation that the applicant:

- 15 (1) holds a current General Instructor certification;
- 16 (2) has completed all pre-qualification requirements for that specialty;
- 17 (3) has passed the state examination for that specialty with a minimum score of 75;
- 18 (4) has completed eight hours of evaluated instruction in the specialty where re-issuance of certification  
19 is taught, as documented on an F-16 located on the agency's website: [https://ncdoj.gov/law-](https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/)  
20 [enforcement training/criminal-justice/forms-and-publications/](https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/). The eight hours of instruction shall  
21 be taught within 60 days of the Specialized Instructor Certification being reissued and evaluated by  
22 a Specialized Instructor certified in that specialty. Failure to complete the required eight hours of  
23 evaluated instruction will result in the reissued Specialized Instructor Certification being revoked;  
24 and
- 25 (5) has maintained non-Commission certificates required in Rule .0304(d)(1), (g)(2), (i)(1), and (j)(1)  
26 for Specialized Instructor certification in the First Responder, Physical Fitness, Explosive and  
27 Hazardous Materials, and Juvenile Justice Medical Emergencies topical areas.

28 (g) Applicants for re-issuance of the Specialized Instructor Certification shall have one opportunity to pass the  
29 prequalification skills assessment and the state examination for that specialty. Should an applicant not achieve a  
30 passing score on either the prequalification skills assessment or the state examination for that specialty, the applicant  
31 shall complete the specific Specialized Instructor Course in its entirety.

32 (h) Applicants whose Specialized Instructor Certification is suspended or revoked shall not qualify for re-issuance.  
33 The applicant shall complete the specific Specialized Instructor Course in its entirety.

34 (i) The use of guest participants in a delivery of the "Basic Law Enforcement Training Course" shall be permissible.  
35 However, such guest participants are subject to the on-site supervision of a Commission-certified instructor and shall  
36 be authorized by the School Director. A guest participant shall be used only to complement the primary certified  
37 instructor of the block of instruction and shall not replace the primary instructor.



1  
2  
3  
4  
5  
6  
7  
8  
9  
10

*History Note: Authority G.S. 17C-6;*  
*Eff. January 1, 1981;*  
*Amended Eff. January 1, 2017; February 1, 2016; August 1, 2015; May 1, 2014; June 1, 2012;*  
*November 1, 2007; January 1, 2006; December 1, 2004; August 1, 2004; August 1, 2000; July 1,*  
*1991; July 1, 1989; December 1, 1987; February 1, 1987;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*  
*2019;*  
*Amended Eff. May 1, 2023; January 1, 2022; January 1, 2020; August 1, 2019.*

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

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09B .0305

Recommended Change #1: *“In part (d)(2)(A), does Form F-12 require information beyond what is specified in this part? If so, what rule or statute prescribes the contents or substantive requirements of the form?”*

Response: No. The Form F-12 is the application for initial or renewal instructor certification and requires the recommendation and signature of a School Director or In-Service Training Coordinator that the individual applying for initial or renewal instructor certification has met certifying requirements.

N.C.G.S § 17C-6(7) authorizes the North Carolina Criminal Justice Education and Training Standards Commission to *“certify and recertify, suspend, revoke, or deny; pursuant to the standards that it has established for the purpose, criminal justice instructors and school directors who participate in programs or courses of instruction that are required by this Article or are required and approved by their respective criminal justice agency to include those certified under Chapter 17E of an educational institution accredited by the Commission.”*

Recommended Change #2: *“In part(d)(2)(F), have the “procedural and evaluative requirements listed in the ‘Course Description Packet’ “ (p.2, lines 25-26) gone through rulemaking?”*

Response: No. The procedural and evaluative requirements are set by the North Carolina Justice Academy. The Commission does not set those requirements and so there is not need for them to go through the Commission’s rule making process.

All recommended technical changes have been made.

1 12 NCAC 09G .0204 is amended with changes as published in 36:24 NCR 1939-1942 follows:

2  
3 12 NCAC 09G .0204 ~~EDUCATION~~ DOCUMENTATION OF EDUCATIONAL REQUIREMENTS

4  
5 (a) ~~Every person employed as a correctional officer by the North Carolina Department of Public Safety, Division of~~  
6 ~~Adult Correction and Juvenile Justice shall be a high school, college, or university graduate or have received a high~~  
7 ~~school equivalency credential as recognized by the issuing state.~~

8 (b) ~~Every person employed as a probation and parole officer by the North Carolina Department of Public Safety,~~  
9 ~~Division of Adult Correction and Juvenile Justice shall be a graduate of a regionally accredited college or university~~  
10 ~~and have attained the baccalaureate degree.~~

11 (c) ~~Each applicant for employment as a corrections officer shall furnish to the North Carolina Department of Public~~  
12 ~~Safety, Division of Adult Correction and Juvenile Justice with documentary evidence that the applicant has met the~~  
13 ~~educational requirements for the corrections field of expected employment.~~

14 (1) ~~Documentary evidence of educational requirements shall consist of official transcripts of courses~~  
15 ~~completed or diplomas received from a school that meets the requirements of the Division of Non-~~  
16 ~~Public Instruction of the North Carolina Department of Public Instruction, a comparable out of state~~  
17 ~~agency, or is a regionally accredited college or university. High school diplomas earned through~~  
18 ~~correspondence enrollment in an entity that charges a fee and requires the individual to complete~~  
19 ~~little or no education or coursework to obtain a high school diploma shall not be recognized toward~~  
20 ~~these minimum educational requirements.~~

21 (2) ~~Documentary evidence of high school equivalency shall be satisfied by a certified copy of a high~~  
22 ~~school equivalency credential as recognized by the issuing state.~~

23 (a) Each applicant for certification as a correctional officer or probation/parole officer shall furnish documentary  
24 evidence of high school, college or university graduation to the employing agency. Documentary evidence of high  
25 school graduation consists of diplomas or transcripts from public schools or private schools which meet standards  
26 adopted by either the North Carolina Department of Public Instruction, the Division of Non-Public Instruction, or a  
27 comparable out of state agency; or such documentation as described in Paragraphs (b), (c), (d), (e) of this Rule.  
28 Documentary evidence of college or university graduation consists of diplomas or transcripts from colleges or  
29 universities accredited as such by the Department of Education of the state in which the institution is located, an  
30 accredited body recognized by either the U.S. Department of Education or Council for Higher Education  
31 Accreditation, or the state university of the state in which the institution is located.

32 (b) High school diplomas earned through home school programs must be accompanied by a true and accurate or  
33 certified transcript and **the program** must meet the requirements of Part 3 of Article 39 of Chapter 115C of the North  
34 Carolina General Statutes, or a comparable out-of-state statute.

35 (c) Diplomas earned from high school or equivalent institutions outside of the United States must be translated into  
36 English and be accompanied by an authentic transcript. [**Transcripts shall be evaluated**] **The Criminal Justice**  
37

1 Standards Division (Division) staff shall evaluate the transcripts to ensure they are scholastically comparable to  
2 United States curriculum requirements.

3 (d) High school diplomas earned through on-line or correspondence courses shall be evaluated on a case by case  
4 basis] The Division's staff shall evaluate high school diplomas earned through on-line or correspondence courses  
5 on a case by case basis. Such ] to ensure such diplomas must meet state and local requirements for the jurisdiction  
6 from which the diploma was issued.

7 (e) Documentary evidence of having earned a High School Equivalency (HSE) diploma shall be satisfied by a  
8 certified copy of a high school equivalency credential or an adult high school diploma, both of which must be  
9 recognized by the U.S. Department of Education, or educational agency that is authorized in the state to issue High  
10 School Equivalency (HSE) diplomas.

11 (f) Documentary evidence of the attainment of satisfactory scores on any military high school equivalency  
12 examination is acceptable as evidence of high school graduation if verified by a true copy of the veteran's DD214  
13 Certificate of Release from Active Duty.

14  
15  
16  
17 *History Note: Authority G.S. 17C-6; 17C-10;; Temporary Adoption Eff. January 1, 2001; Eff. August 1, 2002;*  
18 *Amended Eff. April 1, 2018; February 1, 2016; November 1, 2015; January 1, 2015; August 1,*  
19 *2004; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May*  
20 *25, 2019; Amended Eff Date: May 1, 2023.*

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

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09G .0204

Recommended Change #1: *“As written, paragraph (b) requires ‘High School diplomas earned through home school programs...must meet the requirements of Part 3 of Article 39 of Chapter 115C.’ Article 39 puts requirements on schools and does not appear to have any requirements for diplomas. Rewrite to make sure the requirements are clear.”*

Response: Language clarified.

Recommended Change #2: *“On line 34, who determines if an out-of-state statute is comparable? Consider similar language as to what is in paragraph (c), p. 1 line 36 to p. 2 39.”*

Response: Language clarified.

Recommended Change #3: *“In paragraph (d), by what standard are staff evaluating on-line and correspondence course diplomas? To determine if they meet the standards from the issuing jurisdiction? Or if they meet an equivalent standard in NC?”*

Response: Language clarified.

All recommended technical corrections have been made.

1 12 NCAC 09G .0205 is amended with changes as published in **36:24 NCR** 1938-1942 as follows:

2  
3 **12 NCAC 09G .0205      ~~PHYSICAL AND MENTAL STANDARDS~~ MEDICAL EXAMINATION**

4 ~~(a) Every person employed as a correctional officer or probation/parole officer by the North Carolina Department of~~  
5 ~~Public Safety, Division of Adult Correction and Juvenile Justice shall have been examined and certified within one~~  
6 ~~year prior to employment with the North Carolina Department of Public Safety, Division of Adult Correction and~~  
7 ~~Juvenile Justice by a physician licensed in North Carolina, physician's assistant, or nurse practitioner to meet the~~  
8 ~~physical requirements to fulfill the officer's particular responsibilities as stated in the essential job functions.~~

9 ~~(b) Every person employed as a correctional officer or probation/parole officer by the North Carolina Department of~~  
10 ~~Public Safety, Division of Adult Correction and Juvenile Justice shall have been administered a psychological~~  
11 ~~screening examination in accordance with G.S. 17C-10(e). The psychological screening shall be valid for a period of~~  
12 ~~one year prior to the criminal justice officer's initial appointment and applies to any criminal justice officer seeking~~  
13 ~~initial or probationary certification.~~

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

20 (b) Prior to being examined, the applicant shall provide the examining surgeon, physician, physician's assistant, or  
21 nurse practitioner with: ~~[conducting the examination, the surgeon, physician, physician's assistant, or nurse~~  
22 ~~practitioner shall:]~~

23       ~~[(1) — read the “Medical Screening Guidelines for the Certification of Criminal Justice Officers in North~~  
24       ~~Carolina” as published by the North Carolina Department of Justice. Copies of this publication —~~  
25       ~~may be obtained at no cost at <https://ncdoj.gov/law-enforcement-training/criminal-justice/>]~~

26       ~~[(2)]~~ (1) ~~[read, sign, and date]~~ the Medical History Statement Form (F-1) which must be read, completed,  
27       and signed; and

28       ~~[(3)]~~ (2) ~~[read]~~ the Instructions to Agency and Examiner for Completion of Medical Examination Report (F-  
29       2A) Form attached to the Medical Examination Report Form (F-2).

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

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

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

1 (1) the applicant's beginning the basic correctional officer or basic probation/parole officer training  
2 course, and,

3 (2) [the agency] an agency's submission of application for certification to the Commission.

4 ~~[(e) Every correctional officer and probation/parole officer shall have produced a negative result on a drug screen~~  
5 ~~administered according to the following specifications:~~

6 ~~(1) the drug screen shall be a urine test consisting of an initial screening test using an immunoassay~~  
7 ~~method and a confirmatory test on an initial positive result using a gas chromatography/mass spectrometry~~  
8 ~~(GC/MS) or other initial and confirmatory test authorized or mandated by the Department of Health and~~  
9 ~~Human Services for Federal Workplace Drug Testing Programs;~~

10 ~~(2) a chain of custody shall be maintained on the specimen from collection to the eventual discarding~~  
11 ~~of the specimen;~~

12 ~~(3) the drug screen shall test for the presence of at least cannabis, cocaine, phenacyclidine (PCP),~~  
13 ~~opiates, and amphetamines or their metabolites;~~

14 ~~(4) the test threshold values meet the requirements established by the Department of Health and~~  
15 ~~Human Services for Federal Workplace Drug Testing Programs, as found in 82 FR 7920 (2017)~~  
16 ~~incorporated by reference, including later amendments and editions found at no cost at~~  
17 ~~<https://federalregister.gov/documents/2017/01/23/2017-00979/mandatory-guidelines-for-federal>~~  
18 ~~workplace drug testing programs;~~

19 ~~(5) conduct the test within 90 days of certification;~~

20 ~~(6) the laboratory conducting the test shall be certified for federal workplace drug testing programs,~~  
21 ~~and shall adhere to applicable federal rules, regulations, and guidelines pertaining to the handling, testing,~~  
22 ~~storage, and preservation of samples.~~

23 ~~(f) Each agency shall report in writing to the Criminal Justice Standards Division all refusals and all positive results~~  
24 ~~of required drug screenings obtained from applicants and lateral transfers. If the positive results were explained to the~~  
25 ~~satisfaction of the agency's medical review officer, who shall be a licensed physician, then the positive results are not~~  
26 ~~required to be reported.~~

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

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

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

37

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



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

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09G .0205

Recommended Change #1: *“This rule references forms F-1, F-2, and F-2A. Are the contents or substantive requirements of those forms prescribed by rule or statute?”*

Response: Yes. G.S. § 17C-10(c) give us the authority to require that certain information be provided so that we can made minimum standards **determinations**.

Recommended Change #2: *“Paragraph (c) is not a rule. It identifies where a document “may” be located but does not describe any requirement. Not if the intents is to require the guidelines to be followed, those guidelines would also need to go through rulemaking”.*

Response: This is the same language as in 12 NCAC 09B .0104(c) which was approved by the RRC on Septemer 15, 2022.

All recommended technical changes have been made.

1 **12 NCAC 09G .0207** is adopted as published in 36:24 NCR 1938-1942 as follows:

2  
3 **12 NCAC 09G .0207 FINGERPRINT CRIMINAL HISTORY RECORD CHECK**  
4

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

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

9 (c) The employing agency will receive a report of the results of the criminal history check utilizing fingerprints against  
10 state and federal files. The employing agency shall retain the results of the criminal history record check utilizing  
11 fingerprints **in** compliance with the North Carolina Department of Natural and Cultural Resources Retention and  
12 Disposition Schedule **Schedule, General Records Schedule: Local Government Agencies**, established pursuant to  
13 G.S. Chapter 121 and G.S. Chapter 132. The employing agency shall include the results of the fingerprint criminal  
14 history record check with the applications submitted to the Commission.

15 (d) An applicant for certification as a correctional officer or probation/parole officer may not be employed or placed  
16 in a position requiring certification by the Commission prior to the date on which the employing agency and Standards  
17 Division receive the report of the results of the criminal history record check utilizing fingerprints.  
18  
19

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

21 *Eff. Date: May 1, 2023.*  
22  
23

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

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09G .0207

Recommended Change #1: Add a cross reference to the appropriate discussion schedule in line 12.

Response: Cross reference added.

Recommended technical changes have been made.

1 12 NCAC 09G .0208 is adopted with changes as published in 37:04 NCR 314-319 as follows:  
2

3 12 NCAC 09G. 0208 MINIMUM STANDARDS FOR CORRECTIONAL OFFICERS  
4

5 (a) The requirements of this Rule shall apply to all applicants for certification and shall also apply at all times during  
6 which the correctional officer is certified by the Commission.

7 (b) Every correctional officer employed by the North Carolina Department of [Public Safety, Division of] Adult  
8 Correction shall:

- 9 (1) be a citizen of the United States;
- 10 (2) be at least 20 years of age;
- 11 (3) be a high school graduate, or the equivalent as defined in 12 NCAC 09G .0204;
- 12 (4) have been fingerprinted by the employing agency in the manner provided in 12 NCAC 09G .0207;
- 13 (5) have had a medical examination as required by 12 NCAC 09G .0205;
- 14 (6) have produced a negative result on a drug screen as described in 12 NCAC 09G .~~0205~~ 0211;
- 15 (7) have been administered a psychological screening examination in accordance with G.S. 17C-  
16 10(c). The psychological screening examination shall be valid for a period of one year from the  
17 date on which it was administered;
- 18 (8) have a background investigation conducted by the~~[Division]~~ Department of Adult Correction,  
19 including a personal interview~~[interview.]~~ as described in 12 NCAC 09G .0210;
- 20 (9) not have committed or been convicted of a crime or crimes as specified in 12 NCAC 09G . 0302;
- 21 (10) for personnel who are authorized to carry a firearm in the execution of their duties, satisfactorily  
22 Complete the ~~[Division]~~ Department of Adult Correction's departmental firearms training program  
23 as prescribed in 12 NCAC 09G .0411. Such firearms training compliance must have occurred  
24 within one year of the date of employment and by using the department approved service  
25 handgun(s); ~~and~~
- 26 (11) be of good moral character as defined in: In re Willis 288 N.C. 1.215 S.E. 2d 771 appeal dismissed  
27 423 U.S. 976 (1975); State v. Harris, 216 N.C. 746, 6 S.E. 2d 854 (1940); In re Legg, 325 N.C.  
28 658, 386 S.E. 2d 174 (1989); in re Applicants for License, 143 N.C.1, 55 S.E. 635 (1906); In  
29 re Dillingham, 188 N.C. 162, 124 S.E. 130 (1924); State v. Benbow, 309 N.C. 538, 308 S.E. 2d 47  
30 (1983); and later court decisions; and
- 31 (12) ~~Make~~ make the following notifications:
  - 32 (a) within 30 days of the qualifying event, notify the Criminal Justice Standards Division  
33 (Divison) and the appointing agency head in writing of all criminal offenses for which  
34 the officer is charged or arrested. This shall include traffic offenses identified in the  
35 Department of Adult Correction section of the Class B Misdemeanor Manual (~~correctional~~  
36 ~~officers section~~) and offenses of driving under the influence (DUI) or driving while  
37 impaired (DWI);
  - 38 (b) within 30 days of the qualifying event, notify the ~~[Standards]~~ Division and the

1 appointing agency head in writing of all criminal offenses for which the officer pleads no  
2 contest, pleads guilty, or of which the officer is found guilty. This shall include traffic  
3 offenses identified in the Class B Misdemeanor Manual (correctional officers section)  
4 and offense of driving under the influence (DUI) or driving while impaired (DWI);

5 (c) within 30 days of service, officers shall notify the Standards Division of all Domestic  
6 Violence Protective Orders (G.S. 50B) and Civil No Contact Orders (G.S. 50C) that are  
7 issued by a judicial official against the officer;

8 (d) within 30 days of the date the case was disposed of in court, the agency head, provided he  
9 or she has knowledge of the officer's arrests or criminal charges and final dispositions,  
10 shall also notify the Standards Division of arrests or criminal charges and final  
11 disposition;

12 (e) within 30 days of the issuance of all Domestic Violence Protective Orders (G.S. 50B) and  
13 Civil No Contact Orders (G.S. 50C), the agency head, provided he or she has knowledge  
14 of the order, shall also notify the Standard Division of these orders; and

15 (f) The required notifications in this Rule shall be in writing and shall specify the nature of  
16 the offense or order, the court in which the case as handled, the date of the arrest,  
17 criminal charge, or service of the order, and the final disposition. The notification shall  
18 include a certified copy of the order or court documentation and final disposition from the  
19 Clerk of Court in the county of adjudication. The requirements of this Item shall be  
20 applicable at all times during which the officer is employed and certified by the  
21 Commission and shall also apply to all applicants for certification. Receipt by the  
22 Standards Division of a single notification, for the officer or the agency head, shall be  
23 sufficient notice for compliance with this Item.

24 ~~(13) The requirements of this Rule shall apply to all applicants for certification and shall also apply at~~  
25 ~~all times during which the correctional officer is certified by the Commission.~~

26  
27 *History Note: Authority G.S; 17C-6; 17C-10*  
28 *Eff. May 1, 2023*  
29

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

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09G .0208

Recommended Change #1: What is the definition of “good moral character” referenced in item 11 (lines 23 through 27)? Those cases contain discussions of the term, but I am not certain what you intend to serve as the definition.

Response: Good moral character is a concept that is not explicitly defined in law, rather, is a result of compilation of many years of case law that have developed through the courts. This concept continues to be defined on an ongoing basis by the courts and therefore it is important to allow reference to the changing legal landscape so that the Commission can always makes its decisions on this issue within the bounds of the law.

Please note that this language is not new. It has existed in the code since the beginning and the RRC has never taken issue with it before. It is hard to understand how it is now, all of a sudden, a problem. We are happy to discuss with you. Changing this now would upend years of Commission decisions and precedent.

Additionally, it is important for this to remain in this rule in full, as this rule regulates different staff (local confinement personnel) than 12 NCAC 09B .0101 (law enforcement officers). We try very hard to make our standards as clear as possible to the people we regulate. Having the local confinement personnel refer back to a rule that does not apply to them makes it overly complicated for them to understand how they will be governed.

Recommended Change: On lines 32 and 27, what is the “Class B Misdemeanor Manual (correctional officers section)”?

Response: The Class B Misdemeanor manual identifies those misdemeanors offenses that are more serious and so have a more significant impact on an officer’s certification. The Department of Adult Correction section of the Manual lists the offenses that personnel certified as correctional officers working for the Department of Adult Correction must report to the Criminal Justice Standards Division.

Recommended technical corrections have been made.

1 **12 NCAC 09G .0209 is adopted with changes as published in 37:04 NCR 314-319 as follows:**

2  
3 **12 NCAC 09G. 0209 MINIMUM STANDARDS FOR PROBATION/PAROLE OFFICERS**

4 (a) The requirements of this Rule shall apply to all applicants for certification and shall also apply at all items during  
5 which the ~~correctional~~ probation/parole officer is certified by the Commission.

6 (b) Every probation/parole officer employed by the North Carolina Department of ~~Public Safety, Division of Adult~~  
7 Correction shall:

- 8 (1) be a citizen of the United States
- 9 (2) be at least 20 years of age
- 10 (3) have attained a bachelor's degree ~~from a regionally accredited institution of higher learning as~~  
11 described in 12 NCAC 09G .0204;
- 12 (4) have been fingerprinted by the employing agency in the manner provided in 12 NCAC 09G .0207;
- 13 (5) have had a medical examination as required by 12 NCAC 09G .0205;
- 14 (6) have produced a negative result on a drug screen as described in 12 NCAC 09G .~~0205~~ 0211;
- 15 (7) have been administered a psychological screening examination in accordance with G.S. 17C-  
16 10(c). The psychological screening examination shall be valid for a period of one year from the  
17 date on which it was administered;
- 18 (8) have a background investigation conducted by the ~~Division~~ Department of Adult Correction,  
19 including a personal ~~interview,~~ interview as described in 12 NCAC 09G .0210;
- 20 (9) not have committed or been convicted of a crime or crimes as specified in 12 NCAC 09G . 0302;
- 21 (10) for personnel who are authorized to carry a firearm in the execution of their duties, satisfactorily  
22 Complete the ~~Division~~ Department of Adult Correction's departmental firearms training program  
23 as prescribed in 12 NCAC 09G .0412. Such firearms training compliance must have occurred  
24 within one year of the date of employment and by using the department approved service  
25 handgun(s); and,
- 26 (11) be of good moral character as defined in: In re Willis 288 N.C. 1.215 S.E. 2d 771 appeal dismissed  
27 423 U.S. 976 (1975); State v. Harris, 216 N.C. 746, 6 S.E. 2d 854 (1940); In re Legg, 325 N.C.  
28 658, 386 S.E. 2d 174 (1989); in re Applicants for License, 143 N.C.1, 55 S.E. 635 (1906); In re  
29 Dillingham, 188 N.C. 162, 124 S.E. 130 (1924); State v. Benbow, 309 N.C. 538, 308 S.E. 2d 47  
30 (1983); and later court decisions; and
- 31 (12) ~~Make~~ make the following notifications:
  - 32 (a) within 30 days of the qualifying event, notify the Standards Division and the appointing  
33 agency head in writing of all criminal offenses for which the officer is charged or  
34 arrested. This shall include traffic offenses identified in the Class B Misdemeanor  
35 Manual and offenses of driving under the influence (DUI) or driving while impaired  
36 (DWI);

- 1 (b) within 30 days of the qualifying event, notify the Standards Division and the appointing  
2 agency head in writing of all criminal offenses for which the officer pleads no contest,  
3 pleads guilty, or of which the officer is found guilty. This shall include traffic offenses  
4 identified in the Department of Adult Correction section of the Class B Misdemeanor  
5 Manual (DAC offenses section) and offense of driving under the influence (DUI) or  
6 driving while impaired (DWI);
- 7 (c) within 30 days of service, officers shall notify the Standards Division of all Domestic  
8 Violence Protective Orders (G.S. 50B) and Civil No Contact Orders (G.S. 50C) that are  
9 issued by a judicial official against the officer;
- 10 (d) within 30 days of the date the case was disposed of in court, the agency head, provided he  
11 or she has knowledge of the officer's arrests or criminal charges and final dispositions,  
12 shall also notify the Standards Division of arrests or criminal charges and final  
13 disposition;
- 14 (e) within 30 days of the issuance of all Domestic Violence Protective Orders (G.S. 50B) and  
15 Civil No Contact Orders (G.S. 50C), the agency head, provided he or she has knowledge  
16 of the order, shall also notify the Standard Division of these orders; and
- 17 (f) The required notifications in this Rule shall be in writing and shall specify the nature of  
18 the offense or order, the court in which the case as handled, the date of the arrest,  
19 criminal charge, or service of the order, and the final disposition. The notification shall  
20 include a certified copy of the order or court documentation and final disposition from the  
21 Clerk of Court in the county of adjudication. The requirements of this Item shall be  
22 applicable at all times during which the officer is employed and certified by the  
23 Commission and shall also apply to all applicants for certification. Receipt by the  
24 Standards Division of a single notification, for the officer or the agency head, shall be  
25 sufficient notice for compliance with this Item.

26 ~~(13) The requirements of this Rule shall apply to all applicants for certification and shall also apply at all~~  
27 ~~items during which the correctional probation/parole officer is certified by the Commission.~~

28  
29  
30 *History Note: Authority G.S.; 17C-6; 17C-10*  
31 *Eff. January 1, 2023*  
32 *Eff. May 1, 2023*  
33  
34



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

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09G .0209

Recommended Change #1: *“What is the definition of “good moral character” reference in item 11 (lines 24 through 28)? Those cases contain discussions of the term, but I am not certain what you intend to serve as the definition.”*

Response: Response: Good moral character is a concept that is not explicitly defined in law, rather, is a result of compilation of many years of case law that have developed through the courts. This concept continues to be defined on an ongoing basis by the courts and therefore it is important to allow reference to the changing legal landscape so that the Commission can always makes its decisions on this issue within the bounds of the law.

Please note that this language is not new. It has existed in the code since the beginning and the RRC has never taken issue with it before. It is hard to understand how it is now, all of a sudden, a problem. We are happy to discuss with you. Changing this now would upend years of Commission decisions and precedent.

Recommended Change #2: On p.1 lines 32-33 and p.2 line 38, what is the “Class B Misdemeanor Manual (DAC offenses section)”?

Response: The Class B Misdemeanor manual identifies those misdemeanors offenses that are more serious and so have a more significant impact on an officer’s certification. The Department of Adult Correction section of the Manual lists the offenses that personnel certified as correctional officers working for the Department of Adult Correction must report to the Criminal Justice Standards Division.

All recommended technical corrections have been made.

1 12 NCAC 09G .0505 is amended with changes as published in 37:04 NCR 318-319 as follows:

2  
3 12 NCAC 09G .0505 PERIOD OF SUSPENSION: REVOCATION: OR DENIAL

4 (a) When the Commission revokes or denies the certification of a corrections officer pursuant to 12 NCAC 09G .0504  
5 of this Section, the period of the sanction shall be permanent where the cause of the sanction is the commission or  
6 conviction of a felony offense, and shall be 10 years where the cause of sanction is:

7 ~~(1)~~ commission or conviction of a felony offense;

8 ~~(2)~~(1) the second suspension of an officer's certification for any of the causes requiring a three- year  
9 period

10 of suspension; or

11 ~~(3)~~(2) revocation or denial of certification by the North Carolina Sheriffs' Education and Training Standards  
12 Commission based on grounds that would constitute a violation of this Subchapter.

13 (b) When the Commission suspends or denies the certification of a corrections officer pursuant to 12 NCAC 09G  
14 .0504 of this Section, the period of sanction shall be not less than three years; however, the Commission may [either]  
15 reduce or suspend the period of sanction or substitute a period of probation in lieu of suspension of certification, or  
16 impose a combination of reduction, suspension, or probation as determined on a case-by-case basis following a consent  
17 order or an administrative hearing, where the cause of sanction is: [under Paragraph (c) of this Rule or substitute a  
18 period of probation in lieu of suspension of certification following an administrative hearing, where the cause of  
19 sanction is]:

20 ~~(1)~~ conviction of a Class B misdemeanor as defined in 12 NCAC 09G .0102(10)(b), for a three year  
21 period prior to the date of application, or completion of any corrections supervision imposed by the  
22 courts for such crimes within three years of issuance of certification;

23 ~~(1)~~(2) commission or conviction of a Class B misdemeanor as defined in 12 NCAC 09G .0102(10)(b),  
24 after certification;

25 ~~(2)~~(3) discharge by the North Carolina Department of [Public Safety, Division of] Adult Correction and  
26 Juvenile Justice pursuant to 12 NCAC 09G .0504(b)(4) and (b)(5) of this Section;

27 ~~(3)~~(4) refusal to submit to the applicant drug screen required by the Rules in this Subchapter;

28 ~~(4)~~(5) production of a positive result on a drug screen reported to the Commission under 12 NCAC 09G  
29 .0206-0205, where the positive result cannot be explained to the Commission's satisfaction. For the  
30 purposes of this Rule, "to the Commission's satisfaction" shall be determined on a case-by-case  
31 basis, and the use of a prescribed drug shall be satisfactory;

32 ~~(5)~~(6) the applicant has knowingly made a material misrepresentation of any information required for  
33 certification or accreditation;

34 ~~(6)~~(7) the applicant has knowingly and willfully obtained, attempted to obtain, aided another person to  
35 obtain, or aided another person attempt to obtain credit, training or certification by any means of  
36 false pretense, deception, defraudation, misrepresentation or cheating;

37 ~~(7)~~(8) failure to make either of the notifications as required by 12 NCAC 09G -0302; .0208 or .0209

1           ~~(8)~~ (9) removal from office under the provisions of G.S. 128-16 or the provisions of G.S. 14-230; or

2           ~~(9)~~ (10) certification revoked or denied by the North Carolina Sheriffs' Education and Training Standards  
3                   Commission, if such certification was revoked or denied based on grounds that would constitute a  
4                   violation of Section 09G of these Rules.

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

8           (1) failure to meet or satisfy relevant basic training requirements;

9           (2) failure to meet or maintain the minimum standards for certification; or

10          (3) discharge from the North Carolina Department of **Adult** Correction for impairment of physical  
11                   or mental capabilities.

12  
13 *History Note: Authority G.S. 17C-6; 17C-10;*

14 *Temporary Adoption Eff. January 1, 2001;*

15 *Eff. August 1, 2002;*

16 *Amended Eff. December 1, 2018; December 1, 2004;*

17 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*  
18 *2019; Amended Eff. May 1, 2023.*

19  
20

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

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09G .0505

Recommended Change #1: *“.0505(a)(1) seems to conflict with .0504(a), (b), (c). .0504(a), (b), and (c) indicate that felons cannot be certified officers. But .0505(a)(1) indicates that the suspension for committing a felony is 10 years. Which is correct? Make the rules consistent.”*

Response:

Rules made consistent.

Recommended technical corrections have been made.

## Burgos, Alexander N

---

**Subject:** FW: [External] RE: CJETS April RFC (Email #1)  
**Attachments:** 12 NCAC 09G .0302 Responses.docx; 12 NCAC 09G .0302 Criminal History Record.docx

---

**From:** Schilling, Michelle <mschilling@ncdoj.gov>  
**Sent:** Friday, April 14, 2023 5:27 PM  
**To:** Ascher, Seth M <seth.ascher@oah.nc.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** RE: [External] RE: CJETS April RFC (Email #1)

**CAUTION:** External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [Report Spam](#).

Good afternoon, Seth:

Please let me know if this last rule won't make RRC in April so I can schedule for May.

Additionally, I am requesting an extension for 12 NCAC 09E .0107. Our attorney and I would like to review the proposed changes for this rule and provide additional clarification. This additional clarification will require additional research.

I will send you an Teams invite for Monday at 3:30.

Thank you for your continued support.

Michelle



**MICHELLE SCHILLING**  
Deputy Director  
Criminal Justice Standards Division  
Office: (919) 779-8205  
Fax: (919) 779-8210  
[MSchilling@ncdoj.gov](mailto:MSchilling@ncdoj.gov)  
1700 Tryon Park Drive  
Raleigh, NC 27602-0149  
ncdoj.gov

Please note messages to or from this address may be public records.

1 12 NCAC 09G .0302 amended with changes as published in 37:04 NCR 317 as follows:

2  
3 12 NCAC 09G .0302 ~~NOTIFICATION OF CRIMINAL CHARGES/CONVICTIONS~~ CRIMINAL  
4 HISTORY RECORD

5 (a) ~~Every person employed and certified as a correctional officer or probation/parole officer shall make the following~~  
6 ~~notifications:~~

7 (1) ~~within 30 days of the qualifying event notify the Standards Division and the appointing department~~  
8 ~~head in writing of all criminal offenses for which the officer is charged or arrested;~~

9 (2) ~~within 30 days of the qualifying event notify the Standards Division and the appointing department~~  
10 ~~head in writing of all criminal offenses for which the officer pleads no contest, pleads guilty, or of~~  
11 ~~which the officer is found guilty. This shall include traffic offenses identified in the Class B~~  
12 ~~Misdemeanor Manual and offenses of driving under the influence (DUI) or driving while impaired~~  
13 ~~(DWT);~~

14 (3) ~~within 30 days of service, officers shall notify the Standards Division of all Domestic Violence~~  
15 ~~Protective Order (G.S. 50B) and Civil No Contact Orders (G.S. 50C) that are issued by a judicial~~  
16 ~~official against the officer;~~

17 (b) ~~The Department Head shall make the following notifications:~~

18 (1) ~~within 30 days of the date the case was disposed of in court, the department head, provided he or~~  
19 ~~she has knowledge of the officer's arrests or criminal charges and final dispositions, shall also notify~~  
20 ~~the Standards Division of arrests or criminal charges and final disposition; and~~

21 (2) ~~within 30 days of the issuance of a Domestic Violence Protective Orders (G.S. 50B) and Civil No~~  
22 ~~Contact Orders (G.S. 50C), the department head, provided he or she has knowledge of the order,~~  
23 ~~shall also notify the Standards Division of these orders.~~

24 (c) ~~The required notifications in this Rule shall be in writing and shall specify the nature of the offense or order, the~~  
25 ~~court in which the case was handled, the date of the arrest, criminal charge, or service of the order, and the final~~  
26 ~~disposition. The notification shall include a certified copy of the order or court documentation and final disposition~~  
27 ~~from the Clerk of Court in the county of adjudication. The requirements of this subparagraph shall be applicable at~~  
28 ~~all times during which the officer is employed and certified by the Commission and shall also apply to all applicants~~  
29 ~~for certification. Receipt by the Standards Division of a single notification, from the officer or the department head,~~  
30 ~~shall be sufficient notice for compliance with this Rule.~~

31 (a) Consistent with and subject to the requirements of 12 NCAC 09G .0504, every correctional officer applicant,  
32 in North Carolina shall not have been convicted by a local, state, federal or military court of:

33 (1) a felony;

34 (2) a crime or unlawful act constituting a Class B misdemeanor as defined in [12 NCAC 09G  
35 .0102(10) or having completed any corrections supervision imposed by the courts for such crimes  
36 within three years of issuance of certification, whichever is later;] 12 NCAC 09G .0102(10), if the  
37 conviction took place within three years prior to issuance of certification or if the person was under

1 any corrections supervision imposed by the court as a result of the conviction within three years  
2 prior to the issuance of certification; or

3 (3) for personnel who are authorized to carry a firearm in the execution of their duties, an offense that,  
4 pursuant to 18 USC 922(g)(8) would prohibit the possession of a firearm or ammunition;

5 (b) Consistent with and subject to the requirements of 12 NCAC 09G .0504, every correctional officer  
6 probation/parole officer applicant, and probation/parole officer employed or certified in North Carolina shall not have  
7 committed or been convicted by a local, state, federal or military court of:

8 (1) a felony;

9 (2) [a crime or unlawful act constituting a misdemeanor as defined in 12 NCAC 09G .0102(10) or  
10 having completed any corrections supervision imposed by the courts for such crimes within three  
11 years of issuance of certification, whichever is later; or]

12 a crime or unlawful act constituting a Class B misdemeanor as defined in 12 NCAC 09G .0102(10),  
13 if the conviction took place within three years prior to issuance of certification or if the person was  
14 under any corrections supervision imposed by the court as a result of the conviction within three  
15 years prior to the issuance of certification; or

16 (3) an offense that, pursuant to 18 USC 922(g) would prohibit the possession of a firearm or  
17 ammunition;

18  
19 *History Note:* *Authority G.S. 17C-6;*  
20 *Temporary Adoption Eff. January 1, 2001;*  
21 *Eff. August 1, 2002;*  
22 *Amended Eff. January 1, 2015; August 1, 2004;*  
23 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*  
24 *2019;*  
25 *Amended Eff. May 1, 2023; October 1, 2020, [Amended Eff. January 1, 2023]*  
26  
27

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

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09G .0302

Recommended Change #1: *“The second half of (a)(2) (lines 35 and 36) does not make sense with the introduction of the list. Courts do not “convict...of...having completed any corrections supervision...”. Consider if the second half of (a)(2) is necessary. Doesn’t the imposition of corrections supervision require a conviction already?”*

Response: Language clarified.

Recommended Change #2: *“The second half of (b)(2) (lines 44 and 45) does not make sense with the introduction of the list. Courts do not “convict...of...having completed any corrections supervision...”. Consider if the second half of (a)(2) is necessary. Doesn’t the imposition of corrections supervision require a conviction already?”*

Response: Language clarified.

Recommended technical corrections have been made.



## **Burgos, Alexander N**

---

**Subject:** FW: [External] RE: CJETS April RFC (Email #1)

---

**From:** Ascher, Seth M <seth.ascher@oah.nc.gov>  
**Sent:** Friday, April 14, 2023 4:54 PM  
**To:** Schilling, Michelle <mschilling@ncdoj.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** RE: [External] RE: CJETS April RFC (Email #1)

Michelle,

I'd be available to meet Monday afternoon after 3:00.

Note that I do not appear to have received a second email. You may need to resend that.

**Seth Ascher**  
Counsel to the North Carolina Rules Review Commission  
Office of Administrative Hearings  
(984) 236-1934

---

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

## Burgos, Alexander N

---

**Subject:** FW: [External] RE: CJETS April RFC (Email #1)  
**Attachments:** 12 NCAC 09G .0304 General Certification.docx; 12 NCAC 09G .0304 Responses.docx; 12 NCAC 09G .0305 Recertification Following Separation.docx; 12 NCAC 09G .0305 Responses.docx; 12 NCAC 09G .0504 Responses.docx; 12 NCAC 09C .0311 Recertification Following Separation.docx; 12 NCAC 09C .0311 Responses.docx; 12 NCAC 09G .0102 Definitions.docx; 12 NCAC 09G .0102 Responses.docx; 12 NCAC 09G .0210 Background Investigation.docx; 12 NCAC 09G .0210 Responses.docx; 12 NCAC 09G .0206 REPEALED.docx; 12 NCAC 09G .0206 Responses.docx; 12 NCAC 09G .0504 Suspension-Revocation or Denial of Certification.docx; 12 NCAC 09G .0211 Agency Reporting of Drug Screening Results.docx; 12 NCAC 09G .0211 Responses.docx

---

**From:** Schilling, Michelle <mschilling@ncdoj.gov>  
**Sent:** Friday, April 14, 2023 4:20 PM  
**To:** Ascher, Seth M <seth.ascher@oah.nc.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** [External] RE: CJETS April RFC (Email #1)

**CAUTION:** External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [Report Spam](#).

Good afternoon, Seth:

The attachments are for your review and use. Would you be available for a Teams meeting with our attorney, Jeff Welty and I on Monday 4/17 after 2:30pm or on Wednesday, 4/19 in the morning to discuss any questions you have regarding our submitted rules?

Due to the number of rules and responses being forwarded, I will send in two emails.

Michelle



**MICHELLE SCHILLING**  
Deputy Director  
Criminal Justice Standards Division  
Office: (919) 779-8205  
Fax: (919) 779-8210  
[MSchilling@ncdoj.gov](mailto:MSchilling@ncdoj.gov)  
1700 Tryon Park Drive  
Raleigh, NC 27602-0149  
ncdoj.gov

Please note messages to or from this address may be public records.

1 **12 NCAC 09C .0311 is adopted as published in 37:11 NCR 784-791 as follows:**

2  
3 **12 NCAC 09C .0311 RECERTIFICATION FOLLOWING SEPARATION**

4 (a) Previously certified juvenile court counselors, Chief Court Counselors, and juvenile justice officers with a  
5 minimum of one year of service who have been separated from the North Carolina Department of Public Safety for  
6 less than three years may have their certification reinstated following a reverification of employment standards as  
7 outlined in 12 NCAC 09B .0116 and .0117, but are exempt from the job appropriate basic training course as described  
8 in 12 NCAC 09B ~~.0200~~, .0235 and .0236.

9 (b) Previously certified juvenile court counselors, Chief Court Counselors, and juvenile justice officers with less than  
10 one year of service who have been separated from the North Carolina Department of Public Safety for less than two  
11 years may have their certification reinstated following a reverification of employment standards as outlined in 12  
12 NCAC 09B .0116 and .0117, and shall complete the job appropriate basic training course as described in 12 NCAC  
13 09B ~~.0200~~, .0235 and .0236.

14 (c) Previously certified juvenile court counselors, Chief Court Counselors, and juvenile justice officers who have  
15 been separated from the North Carolina Department of Public Safety for more than three years, upon their return shall  
16 complete the verification of employment standards as outlined in 12 NCAC 09B .0116 and .0117 and shall complete  
17 the job appropriate basic training course described in 12 NCAC 09B ~~.0200~~, .0235 and .0236.

18  
19 *History Note: Authority G.S. 17C-2; 17C-6; 17C-10;*  
20 *Eff. May 1, 2023*

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

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09C .0311

Recommended Change #1: *"On line 8, specify which rules in .0200 do not apply."*

Response: Draft rule changed to reflect specific applicable rules.

Recommended Change #2: *"On line 13, specify which rules in .0200 do not apply."*

Response: Draft rule changed to reflect specific applicable rules.

Recommended Change #3: *"On line 17, specify which rules in .0200 do not apply."*

Response: Draft rule changed to reflect specific applicable rules.

1 12 NCAC 09G .0102 is amended with changes as published in 37:11 NCR 784-791 as follows

2  
3 **12 NCAC 09G .0102 DEFINITIONS**

4 The following definitions apply throughout this Subchapter only:

5 (1) "Agency" means the North Carolina Department of Adult Correction identified in G.S. 17C-3(3).

6 (2) "Commisson" means the North Carolina Criminal Justice Education and Training Standards  
7 Commission identified in G.S. 17C.

8 (4)(3) "Commission of an offense" means a finding by the North Carolina Criminal Justice Education and  
9 Training Standards Commission or an administrative body that a person performed the acts  
10 necessary to satisfy the elements of a specified offense.

11 (2)(4) "Convicted" or "Conviction" means, the entry of:

12 (a) a plea of guilty;

13 (b) a verdict or finding of guilt by a jury, judge, magistrate, or other duly constituted,  
14 established adjudicating body, tribunal, or official, either civilian or military; or

15 (c) a plea of no contest, nolo contendere, or the equivalent.

16 (3)(5) "Correctional Officer" means an employee of the North Carolina Department of Public Safety,  
17 Division of Adult Correction and Juvenile Justice, responsible for the custody of inmates or  
18 offenders.

19 (4)(6) "Corrections Officer" means either or both of the two classes of officers employed by the North  
20 Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice:  
21 correctional officer or probation/parole officer.

22 (5)(7) "Criminal Justice System" means the whole of the State and local criminal justice agencies including  
23 the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice.

24 (6)(8) "Director" means the Director of the Criminal Justice Standards Division of the North Carolina  
25 Department of Justice.

26 (7)(9) "Educational Points" means points earned toward the State Correction Officers' Professional  
27 Certificate Program for studies completed, with passing scores achieved, for semester hour or  
28 quarter hour credit awarded from colleges or universities accredited by the Department of Education  
29 of the state in which the institution is located, from an accredited body recognized by either the U.S.  
30 Department of Education or the Council for Higher Education Accreditation, or from the state  
31 university of the state in which the institution is located ~~at a regionally accredited institution of~~  
32 ~~higher education.~~ Each semester hour of college credit equals one educational point and each quarter  
33 hour of college credit equals two-thirds of an educational point.

34 (8)(10) "High School" means a high school that meets the compulsory attendance requirements in the  
35 jurisdiction in which the school is located.

36 (9)(11) "In-Service Training Coordinator" means a person designated by a Criminal Justice Agency head to  
37 administer the agency's In-Service Training program.

1 ~~(10)~~(12) "Misdemeanor" ~~for corrections officers~~ means those criminal offenses not classified under the laws,  
2 statutes, or ordinances as felonies. Misdemeanor offenses ~~for corrections officers~~ are classified by  
3 the Commission as the following as set forth in G.S. or other state or federal law: follows:

4 (a) "Class A Misdemeanor" means a misdemeanor committed or omitted in violation of any  
5 common law, duly-enacted ordinance, or criminal statute of this State that is not classified  
6 as a Class B Misdemeanor pursuant to Sub-item ~~(24)~~(12)(b) of this Rule. Class A  
7 Misdemeanor also includes any act committed or omitted in violation of any common law,  
8 duly enacted ordinance, criminal statute, or criminal traffic code of any jurisdiction other  
9 than North Carolina, either civil or military, for which the maximum punishment allowable  
10 for the designated offense under the laws, statutes, or ordinances of the jurisdiction in  
11 which the offense occurred includes imprisonment for a term of not more than six months.  
12 Excluded from "Class A Misdemeanor" criminal offenses for jurisdictions other than North  
13 Carolina are motor vehicle or traffic offenses designated as misdemeanors under the laws  
14 of other jurisdictions or duly enacted ordinances of an authorized governmental entity, with  
15 the exception of the offense of impaired driving that is included herein as a Class A  
16 Misdemeanor if the offender could have been sentenced for a term of not more than six  
17 months. Also included herein as a Class A Misdemeanor is the offense of impaired driving,  
18 if the offender was sentenced under punishment level three G.S. 20-179(i), level four G.S.  
19 20-179(j), or level five G.S. 20-179(k). Class A Misdemeanor shall also include acts  
20 committed or omitted in North Carolina prior to October 1, 1994, in violation of any  
21 common law, duly enacted ordinance, or criminal statute of this State for which the  
22 maximum punishment allowable for the designated offense included imprisonment for a  
23 term of not more than six months.

24 (b) "Class B Misdemeanor" means an act committed or omitted in violation of any common  
25 law, criminal statute, or criminal traffic code of this State that is classified as a Class B  
26 Misdemeanor as set forth in the Department of Adult Correction section of the Class B  
27 Misdemeanor Manual as published by the North Carolina Department of Justice,  
28 incorporated herein by reference, and shall include any later amendments and editions of  
29 the incorporated material as provided by G.S. 150B-21.6. The publication is available from  
30 the Commission's website: [http://www.ncdoj.gov/getdoc/60bb12ca-47c0-48cb-a0e3-](http://www.ncdoj.gov/getdoc/60bb12ca-47c0-48cb-a0e3-6095183c4c2a/Class-B-Misdemeanor-Manual-2005.aspx)  
31 6095183c4c2a/Class-B-Misdemeanor-Manual-2005.aspx. Class B Misdemeanor also  
32 includes any act committed or omitted in violation of any common law, duly enacted  
33 ordinance, criminal statute, or criminal traffic code of any jurisdiction other than North  
34 Carolina, either civil or military, for which the maximum punishment allowable for the  
35 designated offense under the laws, statutes, or ordinances of the jurisdiction in which the  
36 offense occurred includes imprisonment for a term of more than six months but not more  
37 than two years. Excluded from this grouping of "Class B Misdemeanor" criminal offenses

1 for jurisdictions other than North Carolina, are motor vehicle or traffic offenses designated  
2 as being misdemeanors under the laws of other jurisdictions with the following exceptions:

3 Class B Misdemeanor includes the following:

- 4 (i) either first or subsequent offenses of driving while impaired if the maximum  
5 allowable punishment is for a term of more than six months but not more than two  
6 years;  
7 (ii) driving while license permanently revoked or permanently suspended;  
8 (iii) those traffic offenses occurring in other jurisdictions which are comparable to the  
9 traffic offenses specifically listed in the Class B Misdemeanor Manual; and  
10 (iv) an act committed or omitted in North Carolina prior to October 1, 1994, in  
11 violation of any common law, duly enacted ordinance, criminal statute, or  
12 criminal traffic code of this State for which the maximum punishment allowable  
13 for the designated offense included imprisonment for a term of more than six  
14 months but not more than two years.

- 15 ~~(a) 14 2.5 Punishment for attempt (offenses that are Class A 1 misdemeanor)~~  
16 ~~(b) 14 32.1(f) Simple Assault on handicapped persons~~  
17 ~~(c) 14 33(b)(9) Assault, battery against sports official~~  
18 ~~(d) 14 33(e) Assault, battery with circumstances~~  
19 ~~(e) 14 34 Assault by pointing a gun~~  
20 ~~(f) 14 72 Larceny of property; receiving stolen goods etc.; not more than one~~  
21 ~~thousand dollars (\$1000.00)(14 72(a))~~  
22 ~~(g) 14 72.1 Concealment of merchandise (14 72.1(e); third or subsequent offense)~~  
23 ~~(h) 14 76 Larceny, mutilation, or destruction of public records/papers~~  
24 ~~(i) CH 14 Art. 19A False/fraudulent use of credit device (14 113.6)~~  
25 ~~(j) CH 14 Art. 19B Financial transaction card crime~~  
26 ~~(k) 14 114(a) Fraudulent disposal of personal property on which there is a security~~  
27 ~~interest~~  
28 ~~(l) 14 118 Blackmailing~~  
29 ~~(m) 14 118.2 Obtaining academic credit by fraudulent means (14 118.2(b))~~  
30 ~~(n) 14 122.1 Falsifying documents issued by a school (14 122.1(e))~~  
31 ~~(o) 14 127 Willful and wanton injury to real property~~  
32 ~~(p) 14 160 Willful and wanton injury to personal property greater than two~~  
33 ~~hundred dollars (\$200.00)(14 160(b))~~  
34 ~~(q) 14 190.5 Preparation of obscene photographs~~  
35 ~~(r) 14 190.9 Indecent Exposure~~  
36 ~~(s) 14 190.14 Displaying material harmful to minors (14 190.14(b))~~  
37 ~~(t) 14 190.15 Disseminating harmful material to minors (14 190.15(d))~~

- 1 (u) — 14 202.2 — Indecent liberties between children
- 2 (v) — 14 204 — Prostitution
- 3 (w) — 14 223 — Resisting officers
- 4 (x) — 14 225(a) — False, etc., reports to law enforcement agencies or officers
- 5 (y) — 14 230 — Willfully failing to discharge duties
- 6 (z) — 14 231 — Failing to make reports and discharge other duties
- 7 (aa) — 14 232 — Swearing falsely to official records
- 8 (bb) — 14 239 — Allowing prisoners to escape; punishment
- 9 (cc) — 14 255 — Escape of working prisoners from custody
- 10 (dd) — 14 256 — Prison breach and escape
- 11 (ee) — 14 258.1(b) — Furnishing certain contraband to inmates
- 12 (ff) — 14 259 — Harboring or aiding certain persons; misdemeanants
- 13 (gg) — CH 14 Art. 34 — Persuading inmates to escape; harboring fugitives (14 268)
- 14 (hh) — 14 269.2 — Weapons on campus or other educational property (14 269.2(d), (e) and
- 15 ————— (f))
- 16 (ii) — 14 269.3(a) — Weapons where alcoholic beverages are sold and consumed
- 17 (jj) — 14 269.4 — Weapons on state property and in courthouses
- 18 (kk) — 14 269.6 — Possession and sale of spring loaded projectile knives prohibited (14-
- 19 269.6(b))
- 20 (ll) — 14 277 — Impersonation of a law enforcement or other public officer verbally, by
- 21 displaying a badge or insignia, or by operating a red light (14 277 (d1)
- 22 and (e))
- 23 (mm) — 14 277.2(a) — Weapons at parades, etc., prohibited
- 24 (nn) — 14 277.3A — Stalking
- 25 (oo) — 14 288.2(b) — Riot
- 26 (pp) — 14 288.2(d) — Inciting to riot
- 27 (qq) — 14 288.6(a) — Looting; trespassing during emergency
- 28 (rr) — 14 315(a) — Selling or giving weapons to minors
- 29 (ss) — 14 315.1 — Storage of firearms to protect minors
- 30 (tt) — 14 316.1 — Contributing to delinquency
- 31 (uu) — 14 318.2 — Child abuse
- 32 (vv) — 14 360(a) — Cruelty to animals
- 33 (ww) — 14 361 — Instigating or promoting cruelty to animals
- 34 (xx) — 14 401.14 — Ethnic intimidation; teaching any technique to be used for
- 35 (yy) — 14 454(a) or (b) — Accessing computers less than \$1000 in damages
- 36 (zz) — 14 458 — Computer trespass (Damage less than two thousand five
- 37 hundred dollars)(\$2500.00)





~~special assistance; political mailing list (108A-80(e))~~  
~~(ffff) 113-290.1(a)(2) Criminally negligent hunting; no bodily disfigurement~~  
~~(gggg) 113-290.1(a)(3) Criminally negligent hunting; bodily disfigurement~~  
~~(hhhh) 113-290.1(a)(4) Criminally negligent hunting; death results~~  
~~(iiii) 113-290.1(d) Criminally negligent hunting; person convicted/suspended license~~  
~~(jjjj) 143-58.1(a) Use of public purchase or contract for private benefit (143-58.1(e))~~  
~~(kkkk) 148-45(d) Aiding escape or attempted escape from prison~~  
~~(llll) 162-55 Injury to prisoner by jailer~~  
~~(mmmm) Common Law misdemeanors:~~  
~~(i) Going Armed to the Terror of the People~~  
~~(ii) Common Law Mayhem~~  
~~(iii) False Imprisonment~~  
~~(iv) Common Law Robbery~~  
~~(v) Common Law Forgery~~  
~~(vi) Common Law Uttering of Forged paper~~  
~~(vii) Foreible Trespass~~  
~~(viii) Unlawful Assembly~~  
~~(ix) Common Law Obstruction of Justice~~  
~~(nnnn) Those offenses occurring in other jurisdictions that are comparable to the offenses specifically listed in (a) through (rrrr) of this Rule.~~  
~~(oooo) Any offense proscribed by 18 U.S.C. 922 (1996), (<http://www.gpo.gov/fdsys/pkg/USCODE-2011-title18/pdf/USCODE-2011-title18-partI-chap44-sec922.pdf>), that would prohibit possessing a firearm or ammunition.~~

**(11)(13)** "Pilot Courses" means those courses approved by the Education and Training Committee, consistent with 12 NCAC 09G .0404, which are used to develop new training course curricula.

**(12)(14)** "Probation/Parole Officer" means an employee of the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice, whose duties include supervising, evaluating, or otherwise instructing offenders placed on probation, parole, post release supervision, or assigned to any other community-based program operated by the Division of Adult Correction and Juvenile Justice.

**(13)(15)** "Qualified Assistant" means an additional staff person designated as such by the School Director to assist in the administration of a course when a certified institution or agency assigns additional responsibilities to the certified School Director during the planning, development, and implementation of a certified course.

**(14)(16)** "School" means an institution, college, university, academy, or agency that offers penal or corrections training for correctional officers or probation/parole officers. "School" includes the corrections training course curricula, instructors, and facilities.

1 ~~(15)~~(17) "School Director" means the person designated by the Secretary of the North Carolina Department  
2 of Public Safety, Division of Adult Correction and Juvenile Justice to administer the School.

3 ~~(16)~~(18) "Standards Division" means the Criminal Justice Standards Division of the North Carolina  
4 Department of Justice.

5 ~~(17)~~(19) "State Corrections Training Points" means points earned toward the State Corrections Officers'  
6 Professional Certificate Program by completion of Commission-approved corrections training  
7 courses. Twenty classroom hours of Commission-approved corrections training equals one State  
8 Corrections training point.

9  
10 *History Note: Authority G.S. 17C-2; 17C-6; 17C-10; 153A-217;*  
11 *Temporary Adoption Eff. January 1, 2001;*  
12 *Eff. August 1, 2002;*  
13 *Amended Eff. December 1, 2018; January 1, 2017; January 1, 2015; April 1, 2009; August 1, 2004;*  
14 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*  
15 *2019.*  
16 *Amended Eff. May 1, 2023*

17

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

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09G .0102

Recommended Change #1: *"On p. 2, line 23, specify which is the "pertinent section" of the Manual."*

Response: "Pertinent section" changed to read "Department of Adult Correction"

Recommended Change #2: *"Agency" and "Commission" are used through 09G but are not defined in this definition section. From context, the definitions from 12 NCAC 09A .0103 may be what you intended, but 12 NCAC 09G .0101 indicates that those definitions do not apply. Add definitions for those terms.*

Response: Definitions added.

1 **12 NCAC 09G .0206 as published in 36:24 NCR 1938-1942 is repealed.**

2  
3 **~~12 NCAC 09G .0206 — MORAL CHARACTER~~**

4 ~~Every person employed as a correctional officer as defined in 12 NCAC 09G .0102(3) or probation/parole officer as~~  
5 ~~defined in 12 NCAC 09G .0102(12) by the Department of Public Safety, Division of Adult Correction and Juvenile~~  
6 ~~Justice shall demonstrate good moral character as evidenced by the following:~~

- 7 (1) ~~for correctional officers, not having been convicted of a felony;~~  
8 (2) ~~for probation/parole officers, not having committed or having been convicted of a felony;~~  
9 (3) ~~for correctional officers, not having been convicted of a misdemeanor as defined in 12 NCAC 09G~~  
10 ~~.0102(10) for three years or the completion of any corrections supervision imposed by the courts,~~  
11 ~~whichever is later;~~  
12 (4) ~~for probation/parole officers, not having committed or having been convicted of a misdemeanor as~~  
13 ~~defined in 12 NCAC 09G .0102 for a three years period prior to the date of application for~~  
14 ~~employment;~~  
15 (5) ~~not having been convicted of an offense that, under 18 U.S.C. 922, which is hereby incorporated by~~  
16 ~~reference with subsequent amendments and editions and can be accessed at no cost at~~  
17 ~~<https://www.govinfo.gov/content/pkg/USCODE-2011-title18/pdf/USCODE-2011-title18-partI->~~  
18 ~~chap44-sec922.pdf, would prohibit the possession of a firearm or ammunition;~~  
19 (6) ~~having submitted to and produced a negative result on a drug test within 60 days of employment or~~  
20 ~~any in service drug screening required by the Department of Public Safety, Division of Adult~~  
21 ~~Correction and Juvenile Justice that meets the certification standards of the Department of Health~~  
22 ~~and Human Services for Federal Workplace Drug Testing Programs. A list of certified drug testing~~  
23 ~~labs that meet this requirement may be obtained, at no cost, at~~  
24 ~~<https://www.samhsa.gov/workplace/resources/drug-testing/certified-lab-list>;~~  
25 (7) ~~submitting to a background investigation consisting of the following:~~  
26 (a) ~~verification of age;~~  
27 (b) ~~verification of education; and~~  
28 (c) ~~criminal history check of local, state, and national files;~~  
29 (8) ~~being truthful in providing information to the Department of Public Safety, Division of Adult~~  
30 ~~Correction and Juvenile Justice and to the Standards Division for the purpose of obtaining~~  
31 ~~probationary or general certification;~~  
32 (9) ~~not having pending or outstanding felony charges that, if convicted of such charges, would~~  
33 ~~disqualify the applicant from holding such certification, pursuant to G.S. 17C-13; and~~  
34 (10) ~~not engage in any conduct that brings into question the truthfulness or credibility of the officer, or~~  
35 ~~involves "moral turpitude." "Moral Turpitude" is conduct that is contrary to justice, honesty, or~~  
36 ~~morality, including conduct as defined In re Willis, 288 N.C. 1, 215 S.E. 2d 771 appeal dismissed~~  
37 ~~423 U.S. 976 (1975); In State v. Harris, 216 N.C. 746, 6 S.E.2d 854 (1940); In re Legg, 325 N.C.~~

1 658, 386 S.E. 2d 174(1989); ~~In re Applicants for License~~, 143 N.C. 1, 55 S.E. 635 (1906); ~~In re~~  
2 ~~Dillingham~~, 188 N.C. 162, 124 S.E. 130 (1924); ~~State v. Benbow~~, 309 N.C. 538, 308 S.E. 2d 647  
3 (1983); and later court decisions that cite these as authority.

4  
5 ~~History Note: Authority G.S. 17C-6; 17C-10;~~

6 ~~Temporary Adoption Eff. January 1, 2001;~~

7 ~~Eff. August 1, 2002;~~

8 ~~Amended Eff. October 1, 2017; April 1, 2017; January 1, 2015; June 1, 2012; April 1, 2009; August~~  
9 ~~1, 2004;~~

10 ~~Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,~~  
11 ~~2019;~~

12 ~~Amended Eff. August 1, 2021; Repealed Eff. May 1, 2023.~~

13

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

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09G .0206

All recommended technical changes have been made.

1 “12 NCAC 09G .0210 is adopted with changes as published in 37:11 NCR 784-791 as follows:

2

3 **12 NCAC 09G .0210 BACKGROUND INVESTIGATION**

4 (a) Prior to employment, employing an applicant, the North Carolina Department of Adult Correction shall complete  
5 a background investigation on all applicants that applicant for certification. The investigation shall examine the  
6 applicant's character traits and habits relevant to performance as a correctional officer or probation/parole officer and  
7 shall determine whether the applicant is of good moral character.

8 (b) The background investigation will consist of the following:

9 (1) verification of age;

10 (2) verification of education; ~~and~~

11 (3) criminal history check of local, state, and national files; and

12 (4) personal interview. ~~interview;~~

13 (c) The employing agency shall include a signed and notarized Release Authorization Form that authorizes the  
14 Criminal Justice Standards Division staff to obtain documents and records pertaining to the applicant for certification  
15 that may be required in order to determine whether certification may be granted.

16

17

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

19 *Eff. May 1, 2023*



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

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09G .0210

Recommended technical changes have been made.

1 12 NCAC 09G .0211 is adopted as published in 37:11 NCR 784-791 as follows:

2  
3 **12 NCAC 09G .0211 AGENCY REPORTING OF DRUG SCREENING RESULTS**

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

6 (1) the drug screen shall be a urine test consisting of an initial screening test using an immunoassay  
7 method and a confirmatory test on an initial positive result using a gas chromatography/mass  
8 spectrometry (GC/MS) or other initial and confirmatory tests authorized or mandated by the  
9 Department of Health and Human Services for Federal Workplace Drug Testing Programs;

10 (2) a chain of custody shall be maintained on the specimen from collection to the eventual discarding  
11 of the specimen. If the specimen is handled only by a medical professional or a third party provider  
12 and the laboratory utilizes federally mandated chain of custody procedures, then the agency does  
13 not need an inter-agency chain of custody procedure. If agency staff will be handling the urine  
14 specimen at any point, then the agency needs a firmly established chain of custody  
15 procedure;

16 (3) the drug screen shall test for the presence of at least cannabis, cocaine, phencyclidine (PCP), opiates,  
17 and amphetamines or their metabolites; and

18 (4) the test threshold values meet the requirements established by the Department of Health and Human  
19 Services for Federal Workplace Drug Testing Programs, as found in 82 FR 7920 (2017) incorporated  
20 by reference, including later amendments and editions found at no cost at  
21 [https://www.federalregister.gov/documents/2017/01/23/2017-00979/mandatory-guidelines-for-](https://www.federalregister.gov/documents/2017/01/23/2017-00979/mandatory-guidelines-for-federal-workplace-drug-testing-programs)  
22 [federal-workplace-drug-testing-programs](https://www.federalregister.gov/documents/2017/01/23/2017-00979/mandatory-guidelines-for-federal-workplace-drug-testing-programs);

23 (5) conduct the test within 90 days of certification;

24 (6) the laboratory conducting the test shall be certified for federal workplace drug testing programs, and  
25 shall adhere to applicable federal rules, regulations, and guidelines pertaining to the handling,  
26 testing, storage, and preservation of samples.

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

31 (c) The agency, if it conducts a drug screen for in-service officers, shall report in writing positive results or refusals to  
32 submit to an in-service drug screening to the Criminal Justice Standards Division within 30 days of the positive result  
33 or refusal, unless the officer has explained the positive result to the satisfaction of the agency's Medical Review  
34 Officer, who shall be a licensed physician, to the extent the drug screen conducted conforms to the specifications of  
35 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. May 1, 2023*

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

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09G .0211

Recommended Change #1: *“On line 34 and 35, what is meant by “to the extent the drug screen conducted conforms to the specifications of this Rule?”.*

Response: Some agencies may choose to conduct drug screens different than or beyond the scope of this rule, but only results of drug screens of the type specified in the rule must be reported to the Commission. This language is identical to the language in 12 NAC 09C .0310 which was approved by the RRC on September 15, 2022.

1 **12 NCAC 09G .0304 is amended with changes as published in 36:24 NCR 1938-1942 as follows:**

2  
3 **12 NCAC 09G .0304 GENERAL CERTIFICATION**

4 (a) The Commission shall grant an officer General Certification when evidence is received by the Standards Division  
5 that an officer has completed the training requirements of 12 NCAC 09G .0410, .0411, .0412, ~~or .0413~~ within the  
6 officer's probationary period and the officer has met all requirements for General Certification as specified in Rules  
7 .0202, .0203, .0204, .0205, ~~.0206, .0302,~~ and .0303 of this Subchapter.

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

12 (c) Certified officers who, through promotional opportunities, move into non-certified positions within the  
13 Department, may have their certification reinstated without re-completion of the basic training requirements of 12  
14 NCAC 09G .0410, .0411, .0412, or .0413, and are exempted from reverification of employment standards of 12 NCAC  
15 09G .0202, through .0206, .0205, .0208 (except 12 NCAC .0208(4), and .0209 (except 12 NCAC .0209(4)) when  
16 returning to a position requiring certification if they have maintained employment within the Department.

17 (d) Documentation of General Certification shall be maintained with the officer's personnel records with the North  
18 Carolina Department of **[Public Safety, Division of]** Adult Correction **[and Juvenile Justice]** and the Commission.

19 (e) Upon transfer of a certified officer from one type of corrections officer position to another, the North Carolina  
20 Department of **[Public Safety, Division of]** Adult Correction **[and Juvenile Justice]** shall submit a Notice of Transfer  
21 to the Standards Division.

22 (1) Upon receipt of the Notice of Transfer, the Standards Division shall cancel the officer's current  
23 General Certification and upon receipt of documentary evidence that the officer has met the requisite  
24 standards for the specified type of corrections officer certification, the Commission shall issue  
25 Probationary Certification reflecting the officer's new corrections position.

26 (2) The Commission shall grant an officer General Certification as the new type of corrections officer  
27 when evidence is received by the Standards Division that an officer has completed the training  
28 requirements of 12 NCAC 09G .0410, .0411, .0412, or .0413 within the officer's probationary period  
29 and the officer has met all other requirements for General Certification.

30  
31 *History Note:* Authority G.S. 17C-2; 17C-6; 17C-10; Temporary Adoption Eff. January 1, 2001; Eff. August 1,  
32 2002; Amended Eff. January 1, 2015; August 1, 2004; Pursuant to G.S. 150B-21.3A, rule is  
33 necessary without substantive public interest Eff. May 25, 2019; **Amended Eff. May 1, 2023.**

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

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09G .0304

Recommended Change #1: *“What is the distinction between “promotional opportunities” in paragraph (c) (line 12), and “transfer” in paragraph (e) (line 19)? Wouldn’t many job changes potentially fit into both categories?”*

Response: Promotional opportunities exist within the Department of Adult Correction that do not require the individual to hold Correctional Officer certification, yet are an integral part in supporting the mission of the Department of Adult Correction. The Interpretive Rule, last approved by the Commission on November 4, 2022, identifies those positions within the Department of Adult Correction that require an individual to hold corrections officer certification. Line 19 pertains to those Individuals transferring from one type of certified position to another.

1 **12 NCAC 09G .0305 is amended with changes as published in 36:24 NCR 1938-1942 as follows:**

2  
3 **12 NCAC 09G .0305 RECERTIFICATION FOLLOWING SEPARATION**

4 (a) Previously certified corrections officers, with a minimum of one year of service who have been separated from  
5 the North Carolina Department of **Adult** Correction for less than [~~two~~] **three** years, may have their certification  
6 reinstated following a reverification of employment standards in 12 NCAC 09G .0202, .0203, and ~~.0206 (excluding~~  
7 ~~12 NCAC 09G .0206(4)(b))~~ .0208 (excluding 12 NCAC 09G .0208(4) and .0209 (excluding 12 NCAC 09G .0209(4)),  
8 but are exempt from the job appropriate basic training course described in 12 NCAC 09G [~~.0400~~] **.0411**.

9 (b) Previously certified corrections officers with less than one year of service who have been separated from the North  
10 Carolina Department of **Adult** Correction for less than two years, may have their certification reinstated following a  
11 reverification of employment standards 12 NCAC 09G .0202, .0203, and ~~.0206 (excluding 12 NCAC 09G .0206(d)(2))~~  
12 ~~.0208 (excluding 12 NCAC 09G .0208(5) and .0209 (excluding 12 NCAC 09G .0209(5))~~, and shall complete the job  
13 appropriate basic training course described in 12 NCAC 09G [~~.0400~~] **.0411**.

14 (c) Previously certified corrections officers who have been separated from the North Carolina Department of **Adult**  
15 Correction for more than [~~two~~] **three** years, upon their return shall complete the verification of employment standards  
16 and shall complete the job appropriate basic training course described in 12 NCAC 09G [~~.0400~~] **.0411**.

17  
18 *History Note: Authority G.S. 17C-2; 17C-6; 17C-10; Temporary Adoption Eff. January 1, 2001; Eff. August 1, 2002;*  
19 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*  
20 *2019; Amended Eff. May 1, 2023.*

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

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09G .0305

Recommended Change #1: *"On line 8, specify which rules in .0400 do not apply."*

Response: Corrected to reflect specific rule.

Recommended Change #2: *"On line 13, specify which rules in .0400 do not apply."*

Response: Corrected to reflect specific rule.

Recommended Change #3: *"On line 16, specify which rules in .0400 do not apply."*

Response: Corrected to reflect specific rule.

Recommended Change #4: *"On p. 2, lines 29 through 37 rules cannot be broken into subparts. Under 26 NCAC 02C .0205 only three levels of subdivision are permitted. Page 41 of the style guide is a helpful resource to see this visually. Reformat accordingly or request a waive from the codifier"*

Response: There are no lines 29 through 37 for this draft rule.



1 12 NCAC 09G .0504 IS is amended with changes as published in 37:04 NCR 317-318 as follows

2  
3 12 NCAC 09G .0504 SUSPENSION: REVOCATION: OR DENIAL OF CERTIFICATION

4 (a) The Commission shall revoke the certification of a correctional officer or probation/parole officer when the  
5 Commission finds that the officer has committed or been convicted of a felony offense.

6 (b) The Commission shall deny the certification of a correctional officer when the Commission finds the officer has  
7 been convicted of a felony.

8 (c) The Commission shall deny the certification of a probation/parole officer when the Commission finds the  
9 officer has committed or been convicted of a felony offense.

10 (d) The Commission may, based on the evidence for each case, suspend, revoke, or deny the certification of a  
11 corrections officer, as defined in 12 NCAC 09G .0102(4) when the Commission finds that the applicant for  
12 certification or the certified officer:

13 (1) has not enrolled in and completed with passing scores the required basic training course in its  
14 entirety in time periods prescribed in 12 NCAC 09G .0400 applicable to a specified position or job  
15 title;

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

19 ~~(3)~~ for correctional officers as defined in 12 NCAC 09G .0102(3), have been convicted of a Class B  
20 misdemeanor as defined in 12 NCAC 09G .0102~~(42)~~ (10)(b) within a three year period prior to the  
21 date of application for employment or have completed any corrections supervision imposed by the  
22 courts for such crimes within three years of issuance of certification, whichever is later;

23 ~~(3)~~ (4) for correctional officers as defined in 12 NCAC 09G .0102(3), have committed or been  
24 convicted of a Class B misdemeanor as defined in 12 NCAC 09G .0102(10)(b) after certification;

25 ~~(4)~~ (5) for probation/parole officers as defined in 12 NCAC 09G .0102(12), have committed or been  
26 convicted of a Class B misdemeanor as defined in 12 NCAC 09G .0102(10)(b) for a three year  
27 period prior to the date of application for employment or after certification have completed any  
28 corrections supervision imposed by the courts for such crimes [for a] within three years of issuance  
29 of certification;

30 ~~(5)~~ (6) has been discharged by the North Carolina Department [of Public Safety, Division] of Adult  
31 Correction ~~and Juvenile Justice~~ for:

32 (A) commission or conviction of a motor vehicle offense requiring the revocation of the  
33 officer's drivers license; or

34 (B) lack of good moral character as defined in 12 NCAC 09G .0206;

35 ~~(6)~~ (7) has been discharged by the North Carolina Department of Public Safety, Division of Adult  
36 Correction and Juvenile Justice because the officer lacks the mental or physical capabilities to fulfill  
37 the responsibilities of a corrections officer;

1           ~~(7)~~ (8) has knowingly made a material misrepresentation of any information required for certification or  
2           accreditation;

3           ~~(8)~~ (9) has knowingly and willfully, by any means of false pretense, deception, fraud, misrepresentation, or  
4           cheating whatsoever, obtained or attempted to obtain credit, training, or certification from the  
5           Commission;

6           ~~(9)~~ (10) has knowingly and willfully, by any means of false pretense, deception, fraud, misrepresentation, or  
7           cheating whatsoever, aided another person in obtaining or attempting to obtain credit, training, or  
8           certification from the Commission;

9           ~~(10)~~ (11) has failed to notify the Standards Division of all criminal charges or convictions as required by 12  
10           NCAC 09G ~~.0302~~, ~~.0208~~ or .0209;

11           ~~(11)~~ (12) has been removed from office by decree of the Superior Court in accord with the provisions of G.S.  
12           128-16 or has been removed from office by sentence of the court in accord with the provisions of  
13           G.S. 14-230;

14           ~~(12)~~ (13) has refused to submit to an applicant drug screen as required by 12 NCAC 09G .0206; or has  
15           refused to submit to an in-service drug screen pursuant to the guidelines set forth in the Drug  
16           Screening Implementation Guide as required by the Department of Public Safety, Division of Adult  
17           Correction and Juvenile Justice;

18           ~~(13)~~ (14) has produced a positive result on a drug screen reported to the Commission as specified in 12 NCAC  
19           09G .0206, where the positive result cannot be explained to the Commission's satisfaction. For the  
20           purposes of this Rule, "to the Commission's satisfaction" shall be determined on a case-by-case  
21           basis, and the use of a prescribed drug shall be satisfactory; or

22           ~~(14)~~ (15) has been denied certification or had such certification suspended or revoked by a previous action  
23           of the North Carolina Criminal Justice Education and Training Standards Commission, the North  
24           Carolina Company Police Program, the North Carolina Campus Police Program, the North Carolina  
25           Sheriffs' Education and Training Standards Commission, or a similar North Carolina, out of state,  
26           or federal approving, certifying, or licensing agency whose function is the same or similar to the  
27           agencies if the certification was denied, suspended, or revoked based on grounds that would  
28           constitute a violation of this Subchapter.

29           (e) Following suspension, revocation, or denial of the person's certification, the person shall not remain employed or  
30           appointed as a corrections officer and the person shall not exercise any authority of a corrections officer during a  
31           period for which the person's certification is suspended, revoked, or denied.

32  
33           *History Note: Authority G.S. 17C-6; 17C-10;*

34           *Temporary Adoption Eff. January 1, 2001;*

35           *Eff. August 1, 2002;*

36           *Amended Eff. May 1, 2023; December 1, 2018; January 1, 2015; April 1, 2009; December 1, 2004;*

37           *August 1, 2004;*

1  
2  
3  
4

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019;*  
*Amended Eff. May 1, 2023; August 1, 2021.*

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

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09G .0504

Recommended technical changes have been made.

## **Burgos, Alexander N**

---

**From:** Ascher, Seth M  
**Sent:** Monday, April 10, 2023 1:27 PM  
**To:** Schilling, Michelle  
**Cc:** Burgos, Alexander N  
**Subject:** CJETS April RFC  
**Attachments:** RFC CJETS April 2023.docx

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Good afternoon,

I'm the attorney who reviewed the Rules submitted by the Criminal Justice Education and Training Standards Commission for the April 2023 RRC meeting. The RRC will formally review these Rules at its meeting on Thursday, April 20, 2023, at 9:00 a.m. The meeting will be a hybrid of in-person and WebEx attendance, and an evite should be sent to you as we get close to the meeting. If there are any other representatives from your agency who want to attend virtually, let me know prior to the meeting, and we will get evites out to them as well.

Attached are Requests for Changes Pursuant to G.S. 150B-21.10. Please submit the revised Rules and forms to me via email, no later than 5 p.m. on April 14, 2023.

Given the number of rules and the timelines at issue, I would be happy to recommend an extension of the period of review, should you request one. In the meantime, please let me know if you have any questions of concerns.

**Seth Ascher**  
Counsel to the North Carolina Rules Review Commission  
Office of Administrative Hearings  
(984) 236-1934

---

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.