

Burgos, Alexander N

Subject: FW: [External] Response to RRC objection to 12 NCAC 09C .0401

From: Schilling, Michelle <mschilling@ncdoj.gov>

Sent: Friday, July 26, 2024 11:16 AM

To: Peaslee, William W <bill.peaslee@oah.nc.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Draper, Steven <sdraper@ncdoj.gov>; Dismukes, Leslie <ldismukes@ncdoj.gov>

Subject: Re: [External] Response to RRC objection to 12 NCAC 09C .0401

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Thank you.



MICHELLE SCHILLING

Deputy Director

Criminal Justice Standards Division

Office: (919) 779-8205

MSchilling@ncdoj.gov

1700 Tryon Park Drive

Raleigh, NC 27602-0149

ncdoj.gov

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Burgos, Alexander N

Subject: FW: [External] Response to RRC objection to 12 NCAC 09C .0401
Attachments: 07.2024 Criminal Justice 12 NCAC 09C .0401 Temp.docx; Form 0500 - Signed.1 12 NCAC 09.pdf

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Friday, July 26, 2024 10:10 AM
To: Schilling, Michelle <mschilling@ncdoj.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Draper, Steven <sdraper@ncdoj.gov>; Dismukes, Leslie <ldismukes@ncdoj.gov>
Subject: RE: [External] Response to RRC objection to 12 NCAC 09C .0401

Good morning,

Attached please find the staff opinion on the above captioned rule which will be considered at the July RRC meeting.

If you have any questions please let me know.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

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: Schilling, Michelle <mschilling@ncdoj.gov>
Sent: Thursday, July 25, 2024 11:51 AM
To: Peaslee, William W
Cc: Burgos, Alexander N; Draper, Steven; Dismukes, Leslie
Subject: [External] Response to RRC objection to 12 NCAC 09C .0401
Attachments: 12 NCAC 09C .0401 Accreditation of Criminal Justice Schools.docx; Form 0500 - Signed 072224.pdf

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Good morning, Mr. Peaslee:

Due to the RRC objection regarding the timing of the adoption by the CJETS Commission of the subject temporary rule, the CJETS Commission has subsequently met again to review the temporary rule, made recommended changes, and has readopted the temporary rule. I am resubmitting 12 NCAC 09C .0401 for RRC consideration. Please contact me if you have any questions or require additional information.

Respectfully,

Michelle



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

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1 12 NCAC 09C .0401 is being submitted for temporary rule amendment as follows:
2

3 **12 NCAC 09C .0401 ACCREDITATION OF CRIMINAL JUSTICE SCHOOLS**

4 (a) Any school requesting ~~accreditation,~~ accreditation or re-accreditation, pursuant to the Commission's authority to
5 certify criminal justice training schools in G.S. 17C-6, ~~as meeting~~ and which is in compliance with the requirements
6 contained in ~~12 NCAC 09B .0200~~ Section .0200 of this subchapter, ~~must shall~~ submit a completed Form F-10(SA)
7 Request for School Accreditation. The Form F-10(SA) is available on the agency's website:
8 [http://www.ncdoj.gov/getdoc/9134b822-24a7-4d70-8a3b-b2bd807100c4/F-10\(SA\)-6-11.aspx](http://www.ncdoj.gov/getdoc/9134b822-24a7-4d70-8a3b-b2bd807100c4/F-10(SA)-6-11.aspx). The F-10(SA)

9 Request for School Accreditation shall contain the following:

- 10 (1) The name of the requesting institution/agency;
- 11 (2) The mailing address, phone number, and name of the institution head or executive officer;
- 12 (3) The name, title or rank, address and phone number of the designated School Director;
- 13 (4) The type of Commission approved training course in which accreditation is being sought;
- 14 (5) The type and location of all facilities to be used in administering the Commission approved training
15 course; and
- 16 (6) The signature of the institution head or executive officer.

17 (b) Upon receipt of a completed Request for School Accreditation application:

- 18 (1) The Standards Division staff reviews the application and conducts a site visit to tour facilities,
19 confirm information on the application, and determine if and where deficiencies exist;
- 20 (2) The Standards Division Staff contacts the applying institution or agency concerning deficiencies
21 and provides assistance on correcting problem areas;
- 22 (3) The Standards Division staff recommends to the Education and Training Committee when the
23 accredited institution has satisfied the requirements outlined in 12 NCAC 09B .0200; and
- 24 (4) The Education and Training Committee recommends to the full Commission at its next regularly
25 scheduled meeting the approval or denial of accreditation for the applicant institution or agency.

26 ~~(b)-(c)~~ Accreditation or Re-accreditation of a school shall remain effective for five years from issuance unless earlier
27 suspended or revoked for failure to maintain compliance with the requirements set forth in 12 NCAC 09B .0200,
28 Minimum Standards for Criminal Justice Schools and Criminal Justice Training Programs or Courses of Instruction.

29 ~~(c) The identity of those schools accredited under this Rule are published and distributed by the Standards Division,~~
30 ~~via the agency's website: <http://www.ncdoj.gov/CMSPages/GetFile.aspx?nodeguid=6eb7e157-87f7-40a3-b281->~~
31 ~~d95a36807bb9 and the schedule of criminal justice training courses planned for delivery during the succeeding year.~~

32 ~~(d) A school may request reaccreditation from the Commission by submitting a completed Form F-10(SA) Request~~
33 ~~for School Accreditation form, located on the agency's website: <http://ncdoj.gov/getdoc/9134b822-24a7-4d70-8a3b->~~
34 ~~b2bd807100c4/F-10(SA)-6-11.aspx. The Form F-10(SA) shall contain information on changes in facilities,~~
35 ~~equipment, and staffing. Upon receipt of a completed application:~~

- 36 ~~(1) The Standards Division staff reviews the request for reaccreditation, conducts a site visit to tour~~
37 ~~facilities, confirms information on the application, determines if and where deficiencies exist, and~~
38 ~~attaches copies of the reports of site visits to the application;~~

1 ~~(2) — The Standards Division staff submits the application and staff reports to the Education and Training~~
2 ~~Committee for review; and~~

3 ~~(3) — The Education and Training Committee recommends to the full Commission at its next regularly~~
4 ~~scheduled meeting the approval or denial of accreditation of the applicant institution or agency.~~

5 ~~(e) In instances where certified schools have been found to be in compliance with by whom 12 NCAC 09B .0200~~
6 ~~through favorable site visit reports, Standards Division staff shall reaccredit on behalf of the Commission. Such action~~
7 ~~shall be reported to the Education and Training Committee at its next scheduled meeting.~~

8 ~~(f) (d)~~ In instances where the Education and Training Committee determines the school seeking accreditation or
9 reaccreditation is not in compliance with 12 NCAC 09B-.0200, the requirements contained in Section .0200 of this
10 subchapter, the school application and staff reports shall be reviewed by the Probable Cause Committee, as specified
11 in 12 NCAC 09A .0201.

12 ~~(g) (e)~~ The Commission may shall suspend or revoke a school's accreditation when it finds that the school has failed
13 to meet or continuously maintain any requirement, standard, or procedure for school or course accreditation. The
14 Commission, by and through the Probable Cause Committee, shall summarily suspend the accreditation of a criminal
15 justice school if the public health, safety, or welfare requires action pursuant to G.S. 150B-3.

16 (1) For the purpose of considering a summary suspension of accreditation, the Probable Cause
17 Committee shall meet only during its regularly scheduled quarterly meeting or upon notice given
18 by mail, telephone, or other means not less than 48 hours in advance of the meeting;

19 (2) A summary suspension shall be effective on the date specified in the order of the summary
20 suspension or upon service of the certified copy of the order at the last known address of the school,
21 whichever is later. The summary suspension shall remain effective during the proceedings for
22 suspension and revocation;

23 (3) Upon oral notification to the executive officer or officers of the institution or agency sponsoring any
24 criminal justice training program or course of instruction by the Director that the accreditation of a
25 school is being summarily suspended by written order, the school shall not perform any duties or
26 conduct any courses requiring accreditation by the Commission;

27 (4) The Director shall send a report of all summary suspensions for a formal hearing before the Probable
28 Cause Committee at the next scheduled Commission meeting.

29 ~~(h) The Accreditation of a school whose accreditation is scheduled to expire in calendar year 2015 and who has~~
30 ~~submitted a request for recertification shall be extended for a maximum of two years under the following conditions:~~

31 ~~(1) — accreditation has not expired;~~

32 ~~(2) — the school has submitted a request for reaccreditation along with the required documentation by~~
33 ~~December 31, 2015.~~

34 ~~(3) — the Standards Division staff was unable to complete the recertification process by December 31,~~
35 ~~2014; and~~

36 ~~(4) — the school is not denied reaccreditation prior to the expiration of the current accreditation.~~
37 ~~Accreditation or accreditation extension according to this Paragraph expires when reaccreditation is~~

1 ~~denied or revoked or the Standards Division staff is able to complete the reaccreditation process and~~
2 ~~it is determined that the school is in compliance with the Rules for Reaccreditation. If the school~~
3 ~~reaccreditation is denied or revoked, the school shall not deliver Commission accredited criminal~~
4 ~~justice courses until such reaccreditation has been granted or reinstated by the Commission.~~

5
6 *History Note: Authority G.S. 17C-6; 17C-11;*
7 *Eff. January 1, 1981;*
8 *Amended Eff. August 1, 2004, January 1, 1996;*
9 *Temporary Amendment Eff. January 1, 2007;*
10 *Temporary Amendment Expired October 13, 2007;*
11 *Amended Eff. February 1, 2016; April 1, 2008;*
12 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
13 *2019.*
14 *Temporary Amendment Eff. September 1, 2024*
15
16

Burgos, Alexander N

Subject: FW: [External] RRC Objection Response - Rule 12 NCAC 09C .0401 (Temporary Rule)

From: Schilling, Michelle <mschilling@ncdoj.gov>
Sent: Wednesday, July 24, 2024 12:19 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Draper, Steven <sdraper@ncdoj.gov>; Dismukes, Leslie <ldismukes@ncdoj.gov>
Subject: Re: [External] RRC Objection Response - Rule 12 NCAC 09C .0401 (Temporary Rule)

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Will do.

Thank you,

Michelle



MICHELLE SCHILLING

Deputy Director

Criminal Justice Standards Division

Office: (919) 779-8205

MSchilling@ncdoj.gov

1700 Tryon Park Drive

Raleigh, NC 27602-0149

ncdoj.gov

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Burgos, Alexander N

Subject: FW: [External] RRC Objection Response - Rule 12 NCAC 09C .0401 (Temporary Rule)

From: Peaslee, William W <bill.peaslee@oah.nc.gov>

Sent: Wednesday, July 24, 2024 11:43 AM

To: Schilling, Michelle <mschilling@ncdoj.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Draper, Steven <sdraper@ncdoj.gov>; Dismukes, Leslie <ldismukes@ncdoj.gov>

Subject: RE: [External] RRC Objection Response - Rule 12 NCAC 09C .0401 (Temporary Rule)

Hi Michelle,

Prior to resubmitting the temporary rule:

Page 1, Lines 6 & 8: Change “must” to “shall.”

Page 2, Line 9: Consider: “12 NCAC 09B .0200” sounds like a particular rule and I think the agency means “... not in compliance with Section .0200 of this Subchapter,…”

If you have any questions, please feel free to contact me.

Thank you.

William W. Peaslee

Rules Review Commission Counsel / Legislative Liaison

Office of Administrative Hearings

1711 New Hope Church Road

Raleigh NC, 27609

(984) 236-1939

Bill.Peaslee@oah.nc.gov

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Burgos, Alexander N

Subject: FW: [External] RRC Objection Response - Rule 12 NCAC 09C .0401 (Temporary Rule)

From: Peaslee, William W <bill.peaslee@oah.nc.gov>

Sent: Tuesday, July 23, 2024 1:17 PM

To: Schilling, Michelle <mschilling@ncdoj.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Draper, Steven <sdraper@ncdoj.gov>; Dismukes, Leslie <ldismukes@ncdoj.gov>

Subject: RE: [External] RRC Objection Response - Rule 12 NCAC 09C .0401 (Temporary Rule)

Thank you. See you next Wednesday.

William W. Peaslee

Rules Review Commission Counsel / Legislative Liaison

Office of Administrative Hearings

1711 New Hope Church Road

Raleigh NC, 27609

(984) 236-1939

Bill.Peaslee@oah.nc.gov

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Burgos, Alexander N

Subject: FW: [External] RRC Objection Response - Rule 12 NCAC 09C .0401 (Temporary Rule)

From: Schilling, Michelle <mschilling@ncdoj.gov>

Sent: Tuesday, July 23, 2024 1:01 PM

To: Peaslee, William W <bill.peaslee@oah.nc.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Draper, Steven <sdraper@ncdoj.gov>; Dismukes, Leslie <ldismukes@ncdoj.gov>

Subject: Re: [External] RRC Objection Response - Rule 12 NCAC 09C .0401 (Temporary Rule)

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Good afternoon, Mr. Peaslee,

Thank you for the information. I am withdrawing my previously submitted response to the RRC objection and will refile on July 25th.

Respectfully,



MICHELLE SCHILLING

Deputy Director

Criminal Justice Standards Division

Office: (919) 779-8205

MSchilling@ncdoj.gov

1700 Tryon Park Drive

Raleigh, NC 27602-0149

ncdoj.gov

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Burgos, Alexander N

From: Schilling, Michelle <mschilling@ncdoj.gov>
Sent: Monday, July 22, 2024 4:42 PM
To: Peaslee, William W
Cc: Burgos, Alexander N; Draper, Steven; Dismukes, Leslie
Subject: [External] RRC Objection Response - Rule 12 NCAC 09C .0401 (Temporary Rule)
Attachments: 12 NCAC 09C .0401 Accreditation of Criminal Justice Schools.docx; Form 0500 - Signed 072224.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

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Good afternoon, Mr. Peaslee,

Due to the RRC objection regarding the timing of the adoption by the CJETS Commission of the subject temporary rule, the CJETS Commission has subsequently met again to review the temporary rule, made recommended changes, and has readopted the temporary rule. I am resubmitting 12 NCAC 09C .0401 for RRC consideration. Please contact me if you have any questions or require additional information.

Respectfully,

Michelle



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

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**TEMPORARY RULE-MAKING
FINDINGS OF NEED**
[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: North Carolina Criminal Justice Education and Training Standards Commission
2. Rule citation & name: 12 NCAC 09C .0401 Accreditation of Criminal Justice Schools
3. Action: <input type="checkbox"/> Adoption <input checked="" type="checkbox"/> Amendment <input type="checkbox"/> Repeal
4. Was this an Emergency Rule: <input checked="" type="checkbox"/> Yes Effective date: May 16, 2024 <input type="checkbox"/> No
5. Provide dates for the following actions as applicable: a. Proposed Temporary Rule submitted to OAH: May 9, 2024 b. Proposed Temporary Rule published on the OAH website: May 16, 2024 c. Public Hearing date: June 7, 2024 d. Comment Period: May 17, 2024 - Jun 7, 2024 e. Notice pursuant to G.S. 150B-21.1(a3)(2): May 17, 2024 f. Adoption by agency on: July 22, 2024 g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]:
6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review. <input checked="" type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: Effective date: <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> Other:
Explain: The Commission has encountered a situation where a subject had held courses resulting in serious injuries to students. The conduct involved acts and omissions of the school throughout its chain of command from the instructor to the school executive level. This type of systematic failure to adhere to the Rules resulting in repeated and multiple serious injuries was not foreseen. Excessive and unwarranted violence in training does not achieve the training objectives, but instead can create in new officers unwarranted hesitance to engage subjects or an inclination to escalate force, either of which risks the public health, safety and welfare. The Commission has rules that allow the summary suspension of criminal justice officers and instructors on an individual basis, when the public health, safety, and welfare require. However, this authority does not currently exist for schools. This temporary rule allows for the summary suspension of the accreditation of a school if the public health, safety, and welfare requires action. The Commission faces such a situation at present. Without the temporary rule, the school can continue to offer courses in a way that risks the health, safety, and welfare of the students and public. RRC met on June 26, 2024 and objected to the Commission's adoption date for this rule. To address RRC's objection along with potential objections to certain text, the rule has had non-substantial text changes made and then has been adopted outside the thirty business day window.

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

The Commission has encountered a situation where a subject had held courses resulting in serious injuries to students. The conduct involved acts and omissions of the school throughout its chain of command from the instructor to the school executive level. This type of systematic failure to adhere to the Rules resulting in repeated and multiple serious injuries was not foreseen. The Commission has rules that allow the summary suspension of criminal justice officers and instructors on an individual basis, when the public health, safety, and welfare require. However, this authority does not currently exist for schools. This temporary rule allows for the summary suspension of the accreditation of a school if the public health, safety, and welfare requires action. The Commission faces such a situation at present. Without the temporary rule and were normal notice and hearing requirements followed, the school could continue to offer courses in a way that risks the healthy, safety, and welfare of the students and public.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

- Yes
Agency submitted request for consultation on:
Consultation not required. Cite authority:
- No

9. Rule-making Coordinator:

Michelle Schilling
Phone:
(919) 779-8205
E-Mail:
MSchilling@ncdoj.gov

Agency contact, if any:

Phone:
E-Mail:

10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name:
Christopher C. Blue
Title:
Commission Chair
E-Mail: cblue@townofchapelhill.org

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

Date returned to agency:

1 12 NCAC 09C .0401 is being submitted for temporary rule amendment as follows:
2

3 **12 NCAC 09C .0401 ACCREDITATION OF CRIMINAL JUSTICE SCHOOLS**

4 (a) Any school requesting ~~accreditation,~~ **accreditation or re-accreditation,** pursuant to the Commission's authority to
5 certify criminal justice training schools in G.S. 17C-6, as meeting the requirements contained in 12 NCAC 09B .0200
6 must submit a completed Form F-10(SA) Request for School Accreditation. The Form F-10(SA) is available on the
7 agency's website: [http://www.ncdoj.gov/getdoc/9134b822-24a7-4d70-8a3b-b2bd807100c4/F-10\(SA\)-6-11.aspx](http://www.ncdoj.gov/getdoc/9134b822-24a7-4d70-8a3b-b2bd807100c4/F-10(SA)-6-11.aspx). ~~The~~

8 **F-10(SA) Request for School Accreditation must contain the following:**

- 9 (1) The name of the requesting institution/agency;
- 10 (2) The mailing address, phone number, and name of the institution head or executive officer;
- 11 (3) The name, title or rank, address and phone number of the designated School Director
- 12 (4) The type of Commission approved training course in which accreditation is being sought;
- 13 (5) The type and location of all facilities to be used in administering the Commission approved training
14 course; and
- 15 (6) The signature of the institution head or executive officer.

16 **(b)** Upon receipt of a completed Request for School Accreditation application:

- 17 (1) The Standards Division staff reviews the application and conducts a site visit to tour facilities,
18 confirm information on the application, and determine if and where deficiencies exist;
- 19 (2) The Standards Division Staff contacts the applying institution or agency concerning deficiencies
20 and provides assistance on correcting problem areas;
- 21 (3) The Standards Division staff recommends to the Education and Training Committee when the
22 accredited institution has satisfied the requirements outlined in 12 NCAC 09B .0200; and
- 23 (4) The Education and Training Committee recommends to the full Commission at its next regularly
24 scheduled meeting the approval or denial of accreditation for the applicant institution or agency.

25 ~~(b)(c)~~ Accreditation **or Re-accreditation** of a school shall remain effective for five years from issuance unless earlier
26 suspended or revoked for failure to maintain compliance with the requirements set forth in 12 NCAC 09B .0200,
27 Minimum Standards for Criminal Justice Schools and Criminal Justice Training Programs or Courses of Instruction.

28 ~~(c)~~ ~~The identity of those schools accredited under this Rule are published and distributed by the Standards Division,~~
29 ~~via the agency's website: <http://www.ncdoj.gov/CMSPages/GetFile.aspx?nodeguid=6eb7e157-87f7-40a3-b281->~~
30 ~~d95a36807bb9 and the schedule of criminal justice training courses planned for delivery during the succeeding year.~~

31 ~~(d)~~ ~~A school may request reaccreditation from the Commission by submitting a completed Form F-10(SA) Request~~
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37 ~~attaches copies of the reports of site visits to the application;~~

1 ~~(2) The Standards Division staff submits the application and staff reports to the Education and Training~~
2 ~~Committee for review; and~~

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4 ~~scheduled meeting the approval or denial of accreditation of the applicant institution or agency.~~

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8 ~~(f) (d)~~ In instances where the Education and Training Committee determines the school seeking accreditation or
9 reaccreditation is not in compliance with 12 NCAC 09B .0200, the school application and staff reports shall be
10 reviewed by the Probable Cause Committee, as specified in 12 NCAC 09A .0201.

11 ~~(g) (e)~~ The Commission ~~may shall~~ suspend or revoke a school's accreditation when it finds that the school has failed
12 to meet or continuously maintain any requirement, standard, or procedure for school or course accreditation. The
13 Commission, by and through the Probable Cause Committee, shall summarily suspend the accreditation of a criminal
14 justice school if the public health, safety, or welfare requires action pursuant to G.S. 150B-3.

15 (1) For the purpose of considering a summary suspension of accreditation, the Probable Cause
16 Committee shall meet only during its regularly scheduled quarterly meeting or upon notice given
17 by mail, telephone, or other means not less than 48 hours in advance of the meeting;

18 (2) A summary suspension shall be effective on the date specified in the order of the summary
19 suspension or upon service of the certified copy of the order at the last known address of the school,
20 whichever is later. The summary suspension shall remain effective during the proceedings for
21 suspension and revocation;

22 (3) Upon oral notification to the executive officer or officers of the institution or agency sponsoring any
23 criminal justice training program or course of instruction by the Director that the accreditation of a
24 school is being summarily suspended by written order, the school shall not perform any duties or
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27 Cause Committee at the next scheduled Commission meeting.

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34 ~~2014; and~~

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1 ~~it is determined that the school is in compliance with the Rules for Reaccreditation. If the school~~
2 ~~reaccreditation is denied or revoked, the school shall not deliver Commission accredited criminal~~
3 ~~justice courses until such reaccreditation has been granted or reinstated by the Commission.~~

4
5 *History Note: Authority G.S. 17C-6; 17C-11;*
6 *Eff. January 1, 1981;*
7 *Amended Eff. August 1, 2004, January 1, 1996;*
8 *Temporary Amendment Eff. January 1, 2007;*
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11 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
12 *2019.*
13 *Temporary Amendment Eff. September 1, 2024*
14
15

Burgos, Alexander N

Subject: FW: [External] RE: 12 NCAC 09C .0401 Temp

From: CHRIS BLUE <CBLUE@townofchapelhill.org>

Sent: Wednesday, June 26, 2024 5:10 PM

To: Peaslee, William W <bill.peaslee@oah.nc.gov>

Cc: Schilling, Michelle <mschilling@ncdoj.gov>; Snyder, Ashley B <ashley.snyder@oah.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Subject: [External] RE: 12 NCAC 09C .0401 Temp

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Thank you for sharing the notification.

Christopher C. Blue
Town Manager
Town of Chapel Hill
405 Martin Luther King Jr Blvd.
Chapel Hill, NC 27514
919 968 2743



From: Peaslee, William W <bill.peaslee@oah.nc.gov>

Sent: Wednesday, June 26, 2024 1:57 PM

To: CHRIS BLUE <CBLUE@townofchapelhill.org>

Cc: Schilling, Michelle <mschilling@ncdoj.gov>; Snyder, Ashley B <ashley.snyder@oah.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Subject: 12 NCAC 09C .0401 Temp

Importance: High

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Dear Chair Blue:

Attached please find the letter of objection required by G.S. 150B-21.1 notifying you of the Rule Review Commission's objection to the above captioned temporary rule.

If you have any questions please feel free to contact me.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

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: 12 NCAC 42D .0102 telephone conversation

From: Schilling, Michelle <mschilling@ncdoj.gov>
Sent: Monday, June 24, 2024 1:30 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: [External] Re: 12 NCAC 42D .0102 telephone conversation

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, Mr. Peaslee,

Thank you for taking the time to discuss the objections to the submitted rule. I have provided information and recommendations to our Commission regarding resolution.

Michelle



MICHELLE SCHILLING

Deputy Director

Criminal Justice Standards Division

Office: (919) 779-8205

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.

Burgos, Alexander N

From: Peaslee, William W
Sent: Monday, June 24, 2024 11:01 AM
To: Schilling, Michelle
Cc: Burgos, Alexander N
Subject: 12 NCAC 42D .0102 telephone conversation

Good morning,

On Saturday June 22, 2024 we had a telephone conversation initiated by you following the issuance of the staff opinion. This email is to memorialize the relevant conversation.

- You indicated that the temporary rule was adopted June 17, 2024 and that a revised Form 500 would be filed. I told you that while a revision of the Form 500 clarified one issue raised in the staff opinion, it did not change my recommendation.
- We discussed how the relevant statute states 30 “business” days.
- You informed me about the BLET school which had unauthorized instructors which CJETS avers has led to student injuries.
- You inquired about a path forward and whether CJETS could simply adopt the same language after the 30 days had passed. I replied that the path forward was unclear and the agency should seek its own legal counsel. We agreed to speak again on Monday June 24.

If I have missed any relevant points, please let me know.

Having thought about a path forward for CJETS, I am not able to opine further as I do not want to prejudice any determination my client will make regarding whatever your agency decides to do as its next steps. I believe this to be a matter of first impression for the RRC.

Thank you.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

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: Peaslee, William W
Sent: Saturday, June 22, 2024 10:07 AM
To: Schilling, Michelle
Cc: Burgos, Alexander N
Subject: 12 NCAC 09C .0401 Temporary
Attachments: 06.2024 Staff Opinion 12 NCAC 09C .0401.doc; CJETS Full-Commission-Meeting-Agenda-6.17.24 (1).pdf

Good morning,

Attached please find the staff opinion for the above captioned rule which will be considered at the June 26, 2024 RRC meeting.

If you have any questions or concerns please feel free to contact me.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

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