

12 NCAC 09B .0101 is proposed for amendment under temporary procedures as follows:

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

SECTION .0100 - MINIMUM STANDARDS FOR CRIMINAL JUSTICE EMPLOYMENT

12 NCAC 09B .0101 MINIMUM STANDARDS FOR CRIMINAL JUSTICE OFFICERS

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

- (1) be a citizen of the United States;
- (2) be at least 20 years of age;
- (3) be of good moral character pursuant to G.S. 17C-10 as evidenced by the following:
 - (a) not having been convicted of a felony;
 - (b) not having been convicted of a misdemeanor as defined in 12 NCAC 09B .0111(1) for five years or the completion of any corrections supervision imposed by the courts, whichever is later;
 - (c) not having been convicted of an offense that would prohibit the possession of a firearm or ammunition, under 18 U.S.C. 922, which is hereby incorporated by reference with subsequent amendments and editions and can be found at no cost at <https://www.govinfo.gov/content/pkg/USCODE-2018-title18/pdf/USCODE-2018-title18-partI-chap44.pdf>;
 - (d) having submitted to and produced a negative result on a drug test within 60 days of employment or any in-service drug screening required by the appointing agency that meets the certification standards of the Department of Health and Human Services for Federal Workplace Drug Testing Programs. A list of certified drug testing labs that meet this requirement may be obtained, at no cost, at <https://www.samhsa.gov/programs-campaigns/drug-free-workplace/guidelines-resources/drug-testing/certified-lab-list>;
 - (e) submitting to a background investigation consisting of the verification of age and education and a criminal history check of local, state, and national files;
 - (f) being truthful in providing information to the appointing agency and to the Standards Division for the purpose of obtaining probationary or general certification;
 - (g) not having pending or outstanding felony charges that, if convicted of such charges, would disqualify the applicant from holding such certification, pursuant to G.S. 17C-13; and
 - (h) not having engaged in any conduct that brings into question the truthfulness or credibility of the officer, or involves "moral turpitude." "Moral turpitude" is conduct that is contrary to justice, honesty, or morality, including conduct as defined in: In re Willis 288 N.C. 1,

215 S.E. 2d 771 appeal dismissed 423 U.S. 976 (1975); State v. Harris, 216 N.C. 746, 6 S.E. 2d 854 (1940); In re Legg, 325 N.C. 658, 386 S.E. 2d 174(1989); in re Applicants for License, 143 N.C. 1, 55 S.E. 635 (1906); In re Dillingham, 188 N.C. 162, 124 S.E. 130 (1924); State v. Benbow, 309 N.C. 538, 308 S.E. 2d 647 (1983); and later court decisions that cite these cases as authority.

- (4) have been fingerprinted and a search made of local, state, and national files to disclose any criminal record;
- (5) have been examined and certified by a licensed surgeon, physician, physician assistant, or nurse practitioner to meet physical requirements necessary to fulfill the officer's particular responsibilities and shall have produced a negative result on a drug screen administered according to the following specifications:
 - (a) the drug screen shall be a urine test consisting of an initial screening test using an immunoassay method and a confirmatory test on an initial positive result using a gas chromatography/mass spectrometry (GC/MS) or other initial and confirmatory tests authorized or mandated by the Department of Health and Human Services for Federal Workplace Drug Testing Programs;
 - (b) a chain of custody shall be maintained on the specimen from collection to the eventual discarding of the specimen;
 - (c) the drug screen shall test for the presence of at least cannabis, cocaine, phencyclidine (PCP), opiates, and amphetamines or their metabolites;
 - (d) the test threshold values meet the requirements established by the Department of Health and Human Services for Federal Workplace Drug Testing Programs, as found in 82 FR 7920 (2017) incorporated by reference, including later amendments and editions found at no cost at <https://www.federalregister.gov/documents/2017/01/23/2017-00979/mandatory-guidelines-for-federal-workplace-drug-testing-programs>;
 - (e) the test conducted shall be not more than 60 days old, calculated from the time when the laboratory reports the results to the date of employment; and
 - (f) the laboratory conducting the test shall be certified for federal workplace drug testing programs, and shall adhere to applicable federal rules, regulations, and guidelines pertaining to the handling, testing, storage, and preservation of samples;
- (6) have been administered a psychological screening examination in accordance with G.S. 17C-10(c). ~~[examination, including a face to face, in person interview conducted by a licensed psychologist to determine the criminal justice officer's psychological suitability to fulfill the responsibilities of the criminal justice officer.~~
 - (a) ~~If a face to face, in person interview is not practicable, the face to face evaluation can be virtual as long as both the audio and video allow for a professional clinical evaluation in a clinical environment.~~

~~(b) The psychological screening examination shall be given prior to the initial certification or prior to the criminal justice officer performing any action requiring certification by the Commission.]~~

(c) The psychological screening shall be valid for a period of one year prior to the criminal justice officer's initial appointment and applies to any criminal justice officer seeking initial or probationary certification.

~~have been administered a psychological screening examination by a clinical psychologist or psychiatrist licensed to practice in North Carolina or by a clinical psychologist or psychiatrist authorized to practice in accordance with the rules and regulations of the United States Armed Forces within one year prior to employment by the employing agency to determine the officer's mental and emotional suitability to properly fulfill the responsibilities of the position;~~

(7) have been interviewed personally by the department head or the department head representative or representatives to determine such things as the applicant's appearance, demeanor, attitude, and ability to communicate; and

(8) make the following notifications:

(a) within 30 days of the qualifying event notify the Standards Division and the appointing department head in writing of all criminal offenses for which the officer is charged or arrested. This shall include traffic offenses identified in the Class B Misdemeanor Manual and offenses of driving under the influence (DUI) or driving while impaired (DWI);

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

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

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

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

(9) The required notifications in this Rule shall be in writing and shall specify the nature of the offense or order, the court in which the case was handled, the date of the arrest, criminal charge, or service of the order, and the final disposition. The notification shall include a certified copy of the order or court documentation and final disposition from the Clerk of Court in the county of adjudication. The

requirements of this Item shall be applicable at all times during which the officer is employed and certified by the Commission and shall also apply to all applicants for certification. Receipt by the Standards Division of a single notification, from the officer or the department head, shall be sufficient notice for compliance with this Item.

History Note: Authority G.S. 17C-6; 17C-10;
Eff. January 1, 1981;
Amended Eff. April 1, 2018; October 1, 2017; September 1, 2001; April 1, 1999; January 1, 1995;
November 1, 1993; July 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,
2019;
Amended Eff. January 01, 2022; October 1, 2020.

12 NCAC 09G .0205 is proposed for amendment under temporary procedures as follows:

12 NCAC 09G .0205 PHYSICAL AND MENTAL STANDARDS

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

(b) Every person employed as a correctional officer or probation/parole officer by the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice shall have been administered ~~within one year prior to employment with the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice~~ a psychological screening examination by a clinical psychologist or psychiatrist licensed to practice in North Carolina ~~to determine the officer's mental and emotional suitability to fulfill the officer's particular responsibilities as stated in the essential job functions.~~ a psychological screening examination in accordance with G.S. 17C-10(c). ~~[examination, including a face to face, [in person] in person interview conducted by a licensed psychologist to determine the criminal justice officer's psychological suitability to fulfill the responsibilities of the criminal justice officer.~~

(1) ~~—— If a face to face, in person interview is not practicable, the face to face evaluation can be virtual as long as both the audio and video allow for a professional clinical evaluation in a clinical environment.~~

(2) ~~—— The psychological screening examination shall be given prior to the initial certification or prior to the criminal justice officer performing any action requiring certification by the Commission.]~~

(3) The psychological screening shall be valid for a period of one year prior to the criminal justice officer's initial appointment and applies to any criminal justice officer seeking initial or probationary certification.

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

Temporary Adoption Eff. January 1, 2001;

Eff. August 1, 2002;

Amended Eff. January 1, 2015; April 1, 2009; August 1, 2004;

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

Amended Eff. January 01, 2022.