

REQUEST FOR TECHNICAL CHANGE

AGENCY: Criminal Justice Education and Training Standards

RULE CITATION: All Rules

DEADLINE FOR RECEIPT: July 12, 2019

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

In your Submission for Permanent Rule Forms, the link you provided for agency notice is different from the link published in the NC Register. Please update your forms with the correct link.

It is not necessary to put page numbers on rules that are only one page. Please delete these page numbers.

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

Ashley Snyder
Commission Counsel
Date submitted to agency: July 1, 2019

REQUEST FOR TECHNICAL CHANGE

AGENCY: Criminal Justice Education and Training Standards

RULE CITATION: 12 NCAC 09A .0107

DEADLINE FOR RECEIPT: July 12, 2019

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

At line 6, do you intend to change "shall" to "may?" If so, what requirement is set forth in this rule?

To be sure, if you keep "may," would the Commission accept a petition for rulemaking without the petitioner's name?

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

Ashley Snyder
Commission Counsel
Date submitted to agency: July 1, 2019

12 NCAC 09A .0107 is amended as published in 33:13 NCR 1392-1403 as follows:

12 NCAC 09A .0107 PROCEDURES FOR PETITONS FOR RULE-MAKING AND ADMINISTRATIVE HEARING PROCEDURES

~~(a)~~ In addition to the ~~procedures process~~ set out in G.S. 150B-20, Petitions for Rule-Making shall be submitted to the Commission and ~~shall~~ may contain:

- (1) petitioner's name, ~~address~~ address, and telephone number;
- (2) a draft of the proposed rule or rule change;
- (3) the reason for its proposal;
- (4) the effect of the proposal on existing rules or decisions;
- (5) data supporting the proposal;
- (6) practices likely to be affected by the proposal; and
- (7) a list or description of persons likely to be affected by the proposed rule.

~~(b) Administrative hearings in contested cases conducted by the Commission or an Administrative Law Judge (as authorized in G.S. 150B-40) shall be governed by:~~

- ~~(1) — procedures set out in Article 3A of G.S. 150B;~~
- ~~(2) — insofar as relevant, the Rules of Civil Procedure as contained in G.S. 1A-1;~~
- ~~(3) — insofar as relevant, the General Rules of Practice for the Superior and District Courts as authorized by G.S. 7A-34 and found in the Rules Volume of the North Carolina General Statutes.~~

~~(c) The rules establishing procedures for contested cases adopted by the Office of Administrative Hearings as contained in Title 26, Chapter 3 of the North Carolina Administrative Code are hereby incorporated by reference for contested cases for which this agency has authority to adopt rules under G.S. 150B-38(h). All such incorporations by reference shall automatically include any later amendments and editions of the incorporated material as provided by G.S. 150B-21.6.~~

~~(d) If the case is conducted under G.S. 150B-40(b), the presiding officer shall have the powers and duties given to the Chief Administrative Law Judge or the presiding Administrative Law Judge in Title 26, Chapter 3 of the North Carolina Administrative Code.~~

~~(e) Pursuant to G.S. 17C-11(b), an applicant for certification or a certified officer shall have 30 days from the date of receipt of a notice of proposed action by the Commission to request a contested case hearing.~~

History Note: Authority G.S. 17C-6; 150B-20; 150B-21.6; 150B-38(h); 150B-40;

Eff. January 1, 1981;

Amended Eff. August 1, 2019; April 1, 2009; November 1, 1993; July 1, 1988; April 1, 1984;

Pursuant to G.S. 150B-33(b)(9), Administrative Law Judge Donald W. Overby declared Paragraph (d) of this rule void as applied in Curtis Canty v. NC Criminal Justice Education and Training Standards Commission (14 DOJ 01202).

REQUEST FOR TECHNICAL CHANGE

AGENCY: Criminal Justice Education and Training Standards

RULE CITATION: 12 NCAC 09A .0207

DEADLINE FOR RECEIPT: July 12, 2019

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

In (a), please delete the parentheses surrounding "as authorized in G.S. 150B-40."

In (a), consider referencing G.S. 150B-40(e) instead of the entire statute.

In (a)(2) and (3), what do you mean by "insofar as relevant?" When do the Rules of Civil Procedure and the General Rules of Practice apply?

In (b), you incorporate 26 NCAC 03 by reference. Did you intend to incorporate subsequent amendments and editions? If so, please add a comma after "reference" at line 11 and insert "including subsequent amendments and editions," after the comma.

At line 12, consider changing "under" to "pursuant to."

In (c), at line 13, consider replacing "given to" with "of."

In (d), you restrict the ability to file an appeal to "an applicant for certification or a certified officer." Should this language include certified instructors?

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

Ashley Snyder
Commission Counsel
Date submitted to agency: July 1, 2019

1 12 NCAC 09A .0207 is adopted as published in 33:13 NCR 1392-1403 as follows:

2
3 **12 NCAC 09A .0207 ADMINISTRATIVE HEARING PROCEDURES**

4 (a) Administrative hearings in contested cases conducted by the Commission or an Administrative Law Judge (as
5 authorized in G.S. 150B-40) shall be governed by:

6 (1) procedures set out in Article 3A of G.S. 150B;

7 (2) insofar as relevant, the Rules of Civil Procedure as contained in G.S. 1A-1;

8 (3) insofar as relevant, the General Rules of Practice for the Superior and District Courts as authorized
9 by G.S. 7A-34 and found in the Rules Volume of the North Carolina General Statutes.

10 (b) The rules establishing procedures for contested cases adopted by the Office of Administrative Hearings as
11 contained in 26 NCAC 03 are hereby incorporated by reference for contested cases for which this agency has authority
12 to adopt rules under G.S. 150B-38(h).

13 (c) If the case is conducted under G.S. 150B-40(b), the presiding officer shall have the powers and duties given to the
14 Chief Administrative Law Judge or the presiding Administrative Law Judge in 26 NCAC 03.

15 (d) Pursuant to G.S. 17C-11(b), an applicant for certification or a certified officer shall have 30 days from the date of
16 receipt of a notice of proposed action by the Commission to request a contested case hearing.

17
18 History Note: Authority G.S. 17C-6; 17C-11(b); 150B-38(h); 150B-40;
19 Eff. August 1, 2019;

REQUEST FOR TECHNICAL CHANGE

AGENCY: Criminal Justice Education and Training Standards

RULE CITATION: 12 NCAC 09B .0301

DEADLINE FOR RECEIPT: July 12, 2019

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

Amendments have been made to this Rule since publication in the NC Register. Please format these changes in accordance with 26 NCAC 02C .0405.

In (b), what is the Request for Instructor Certification Form? Are the form's contents or substantive requirements in rule in accordance with G.S. 150B-2(8a)?

In (b), line 11, what do you mean by "documented qualifications?" What are you requiring?

At line 12, please change "accord" to "accordance."

In (d), line 18, and elsewhere the terms "knowingly" and "willfully" are used. Define "knowingly" and "willfully."

In (e)(2), what do you mean by "remain knowledgeable?" Do you mean "remain competent" as defined in (c)?

In (e)(3), please refer to "Rule .0209 of this Subchapter."

In (e)(4), please refer to "Rule .0205 of this Subchapter."

In (e)(5), why is Commission-mandated italicized? Please remove the italics. Because this was published in the NC Register without italics, you do not need to show this change with underlines and strikethroughs. Simply do it.

At lines 32, 35, and elsewhere in this Rule, please do not use italics. These words were not italicized when published in the NC Register, so you do not need to show the change with underlines and strikethroughs, simply do it.

On page 2, line 2, what do you mean by "conduct that is detrimental to instruction."

In (e)(6), define "instructional incompetence."

Ashley Snyder
Commission Counsel
Date submitted to agency: July 1, 2019

In (e)(8), why is this written differently from Rule 09B .0101(3)(h)? That rule states that the case defines “moral turpitude.” Which is correct?

In (e)(8), at lines 8 and 10, delete the space between S.E. and 2d in the citations for In re Willis and In re Legg.

In (e)(8), at lines 8-9, add a comma after “215 S.E.2d 771.”

In (e)(8), at line 10, insert a space between 174 and (1989).

In (e)(8), at line 13, define “effectively.”

In (e)(12), define “material.”

In (f), where is your statutory authority to impose reciprocal discipline on out of state or federal law enforcement officers? Where is your authority to require those officers to report this information to the Commission? Please note G.S. 17C-6(a)(1) refers to “criminal justice agencies” which G.S. 17C-2 defines as follows:

§ 17C-2. Definitions.

Unless the context clearly otherwise requires, the following definitions apply in this Article:

- (1) Commission. - The North Carolina Criminal Justice Education and Training Standards Commission.
- (2) Criminal justice agencies. - The State and local law-enforcement agencies, the State correctional agencies, other correctional agencies maintained by local governments, and the juvenile justice agencies, but shall not include deputy sheriffs, special deputy sheriffs, sheriffs' jailers, or other sheriffs' department personnel governed by the provisions of Chapter 17E of these General Statutes.

In (f), line 26, consider deleting the “or” before “Office of Emergency Medical Services” and deleting “and the” after “Office of Emergency Medical Services” to make the new language part of the existing list.

In (f), line 27, what qualifies as a “similar” certifying or licensing agency?

In (f), line 30, please spell out the number “five.”

In (f), line 31, delete or define “similarly.”

At line 34, why is “Specialized” capitalized?

On page 3, line 2, please refer to “Rule .0302 of this Section.”

In (f)(3), please update the cross reference from .0303(c) to .0303(d) since you are amending .0303 to add a new paragraph.

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

Ashley Snyder
Commission Counsel
Date submitted to agency: July 1, 2019

12 NCAC 09B .0301 is amended with changes as published in 33:13 NCR 1392-1403 as follows:

SECTION .0300 - MINIMUM STANDARDS FOR CRIMINAL JUSTICE INSTRUCTORS

12 NCAC 09B .0301 CERTIFICATION OF INSTRUCTORS

(a) A person participating in a Commission-certified criminal justice training course or program as an instructor, teacher, professor, lecturer, or other participant making presentations to the class shall first be certified by the Commission as an instructor.

(b) The Commission shall certify instructors under the following categories: General Instructor Certification, Specialized Instructor Certification, or Professional Lecturer Certification as outlined in Rules .0302, .0304 and 0306 of this Section. Instructor certification shall be granted on the basis of documented qualifications of experience, education, and training in accord with the requirements of this Section and as stated on the applicant's Request for Instructor Certification Form.

(c) In addition to all other requirements of this Section, each instructor certified by the Commission to teach in a Commission-certified course shall remain competent in his or her specialized areas. Such competence shall include remaining current in the instructor's area of expertise, which shall be demonstrated by attending and completing all updated instructor training courses required by the Commission.

(d) If a person certified as an instructor by the Commission is found to have knowingly and willfully violated any provision or requirement of the rules in this Subchapter, the Commission shall take action to correct the violation and to ensure that the violation does not recur, including:

- (1) issuing an oral warning and request for compliance;
- (2) issuing a written warning and request for compliance;
- (3) issuing an official written reprimand;
- (4) suspending the individual's certification for a specified period of time or until acceptable corrective action is taken by the individual; and
- (5) revoking the individual's certification.

(e) The Commission shall deny, suspend, or revoke an instructor's certification ~~if~~ when the Commission finds that the person:

- (1) has failed to meet and maintain any of the requirements for qualification;
- (2) has failed to remain knowledgeable in the person's areas of expertise;
- (3) has failed to deliver training in a manner consistent with the instructor lesson plans outlined in the *"Instructor Training Manual"* as found in 12 NCAC 09B .0209;
- (4) has failed to follow specific guidelines outlined in the "Basic Law Enforcement Training Course Management Guide" as found in 12 NCAC 09B .0205;
- (5) has demonstrated unprofessional personal conduct in the delivery of *Commission-mandated* training. For the purposes of this Subparagraph, unprofessional personal conduct means an act that is: job-related conduct that constitutes a violation of State or federal law; conviction or commission

of a criminal offense, as set out in 12 NCAC 09A .0204; the willful violation of Rules of this Chapter; conduct that is detrimental to instruction in the Commission's mandated courses; the abuse of a client or student whom the instructor is teaching or supervising or falsification of an instructor application or in other employment documentation;

(6) has demonstrated instructional incompetence;

(7) has knowingly and willfully obtained or attempted to obtain instructor certification by deceit, fraud, or misrepresentation;

(8) has failed to meet or maintain good moral character as defined in: In re Willis, 288 N.C. 1, 215 S.E. 2d 771 appeal dismissed 423 U.S. 976 (1975); ~~in re~~ State v. Harris, 216 N.C. 746, 6 S.E.2d 854 (1940); ~~in In~~ re Legg, 325 N.C. 658, 386 S.E. 2d 174(1989); ~~in In~~ re Applicants for License, 143 N.C. 1, 55 S.E. 635 (1906); ~~in 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, and as required to effectively discharge the duties of a criminal justice instructor;

(9) has failed to deliver training in a manner consistent with the Qualified Retired Law Enforcement Officers Firearms Qualification Certification Program as found in 12 NCAC 09H .0102;

(10) has knowingly and willfully aided or attempted to aid any person in obtaining qualification or certification under the Qualified Retired Law Enforcement Officers Firearms Qualification Certification Program by deceit, fraud, or misrepresentation;

(11) has committed or been convicted of an offense which could result in the denial, suspension, or revocation of an officer's law enforcement certification, pursuant to 12 NCAC 09G .0504; or

(12) has knowingly made a material misrepresentation of any information required for certification or accreditation.

(f) When a person certified as a law enforcement officer by the North Carolina Criminal Justice Education and Training Standards Commission (Commission), the North Carolina Sheriffs Education and Training Standards Commission (Sheriffs' Commission), the North Carolina Department of Insurance, Office of State Fire Marshal, Fire Rescue Commission (Fire Commission), or Office of Emergency Medical Services and the North Carolina Company/Campus Police Program; or a similar North Carolina, out of state or federal approving, certifying or licensing agency; has been denied certification or had his or her certification suspended or revoked ~~his or her law enforcement officer or fire and rescue certification suspended or revoked~~ by their respective Commission, or agency that person shall report the suspension or revocation to the Criminal Justice Standards within ~~30 days~~ 5 days. He or she shall also have his or her General Instructor Certification (if applicable) similarly and automatically suspended or revoked for the same time period as his or her respective Commission certification.

(1) This suspension or revocation of the General Instructor certification shall also include suspension or revocation to any Commission recognized Specialized or additional instructor certification, as outlined in 12 NCAC 09B .0304.

(2) If the term of suspension or revocation exceeds the expiration date of the instructor's initial certification expiration date, *he or she* shall forfeit their certifications as a General Instructor and

1 Specialized Instructor and shall be required to obtain certification pursuant to the requirements of
2 12 NCAC 09B .0302 before any instruction may be delivered in any **Commission-approved** or
3 mandated training, including the completion of a subsequent General Instructor's training course in
4 its entirety.

- 5 (3) If the term of suspension or revocation does not exceed the expiration date of the instructor's initial
6 certification expiration date, the instructor shall be reinstated as a General Instructor only upon
7 reinstatement of his or her law enforcement officer certification by the Commission. The terms of
8 renewal for the existing General Instructor and Specialized Instructor certifications shall remain
9 subject to all renewal requirements pursuant to 12 NCAC 09B .0303(c) by the next immediate
10 expiration date.

11
12 *History Note: Authority G.S. 17C-6;*

13 *Eff. January 1, 1981;*

14 *Amended Eff. August 1, 2019; December 1, 2018; October 1, 2017; October 1, 2009; August 1,*
15 *2004; April 1, 1999; July 1, 1991; January 1, 1985.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Criminal Justice Education and Training Standards

RULE CITATION: 12 NCAC 09B .0303

DEADLINE FOR RECEIPT: July 12, 2019

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

In (b), are the contents or substantive requirements of the Commission Instructor Evaluation Form F-16 in rule in accordance with G.S. 150B-2(8a)?

At line 17, please put "just cause" in quotations since you are defining the term.

At line 18, change "which" to "that."

At lines 17-18, delete or define "exceptional circumstances." Or, consider instead: "For purposes of this Rule, [just cause] "just cause" includes an accident, illness, emergency, or course cancellation [cancellation, or other exceptional circumstances which] that precluded the instructor from fulfilling the teaching requirement."

In (e), at line 25, delete "10B" before .1302 and .2005.

At line 26, please update your reference from Paragraph (c) to Paragraph (d).

In (f), please update your internal references from "Paragraph (c) or (d)" to "Paragraph (d) or (e)."

At line 29, should 09B .0302 be replaced with a reference to Paragraph (c) of this Rule?

In (g), consider the following options followed by a list of the appropriate circumstances: "Guest participants may instruct a Basic Law Enforcement Training Course under the following circumstances:" or "A School Director may authorize a guest participant to instruct Basic Law Enforcement Training Course under the following circumstances:"

At line 32, change "are subject to the direct on-site supervision" to "shall be supervised on-site."

At line 33, under what circumstances does the School Director authorize a guest participant?

On page 2, line 7, should you say "at least" 70 percent correct answers?

Ashley Snyder
Commission Counsel
Date submitted to agency: July 1, 2019

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

Ashley Snyder
Commission Counsel
Date submitted to agency: July 1, 2019

1 12 NCAC 09B .0303 is amended as published in 33:13 NCR 1392-1403 as follow: as follows:

2
3 **12 NCAC 09B .0303 TERMS AND CONDITIONS OF GENERAL INSTRUCTOR CERTIFICATION**

4 (a) An applicant meeting the requirements for certification as a general instructor shall, for the first 12 months of
5 certification, be in a probationary status. The General Instructor Certification, Probationary Status, shall automatically
6 expire 12 months from the date of issuance.

7 (b) The probationary instructor shall be eligible for general instructor status if the instructor, through application at
8 the end of the probationary period, submits to the Commission a favorable recommendation from a School Director
9 or In-Service Training Coordinator accompanied by a certification on a Commission Instructor Evaluation Form F-16
10 that the instructor taught a minimum of eight hours of Commission-accredited basic training course, Commission-
11 recognized in-service training course, or training course pursuant to 12 NCAC 10B .0601, 10B .1302, or 10B .2005
12 during the probationary period. The instructor shall achieve a minimum of 64 points on all instruction evaluations
13 submitted to the Commission. The Commission Instructor Evaluation Form F-16 is located on the agency's website:
14 <http://www.ncdoj.gov/getdoc/c2eba6aa-12bc-4303-bf4b-5fa0431ef5a1/F-16-6-11.aspx>.

15 (c) Probationary Instructors for just cause, may be granted an extension of the one-year period to teach the 8 hour
16 minimum requirement. The Director may grant such extensions on a one-time basis only not to exceed 12 months.
17 For purposes of this Rule, just cause means accident, illness, emergency, course cancellation, or other exceptional
18 circumstances which precluded the instructor from fulfilling the teaching requirement.

19 ~~(e)~~ (d) The term of certification as a general instructor is indefinite, provided the instructor completes during each
20 calendar year a minimum of one hour of instructor refresher training provided by North Carolina Justice Academy.
21 The Standards Division shall post on its website on January 1 of the current year the list of instructors who have met
22 this requirement during the previous calendar year.

23 ~~(4)(e)~~ If the instructor fails to meet the instructor refresher training specified in Paragraph (c) of this Rule, he or she
24 shall deliver eight hours of evaluated instruction in a Commission-accredited basic training, Commission-recognized
25 in-service training course, or training course pursuant to 12 NCAC 10B .0601, 10B .1302, or 10B .2005, and complete
26 the instructor refresher training specified in Paragraph (c) of this Rule within 60 days from the last day of the previous
27 calendar year.

28 ~~(e)~~ (f) If an instructor fails to meet the requirements of Paragraph (c) or (d) of this Rule, the certification period for
29 the instructor shall cease, and the instructor shall be required to complete the requirements of Rule 09B .0302 of this
30 Section in order to obtain probationary instructor status.

31 ~~(f)~~ (g) The use of guest participants in a delivery of the Basic Law Enforcement Training Course is permissible.
32 However, such guest participants are subject to the direct on-site supervision of a Commission-certified instructor and
33 must be authorized by the School Director. A guest participant shall only be used to complement the primary certified
34 instructor of the block of instruction and shall not replace the primary instructor.

35 ~~(g)~~ (h) "Commission-recognized in-service training" shall mean training meeting the following requirements:

- 36 (1) training is taught by an instructor certified by the Commission;
37 (2) training utilizes a lesson plan in the Instructional Systems Design format; and

- (3) completion of training shall be demonstrated by a passing score on a written test as follows:
- (A) a written test comprised of at least five questions per credit shall be developed by the agency or the North Carolina Justice Academy for each in-service training topic requiring testing. Written courses that are more than four credits in length are required to have a written test comprising of a minimum of 20 questions. The Firearms Training and Qualifications in-service course is exempt from this written test requirement;
 - (B) a student shall pass each test by achieving 70 percent correct answers; and
 - (C) a student who completes a topic of in-service training in a traditional classroom setting or online and fails the end of topic exam shall be given one attempt to re-test. If the student fails the exam a second time, the student shall complete the in-service training topic in a traditional classroom setting before taking the exam a third time.
 - (D) Topics delivered pursuant to 12 NCAC 09E .0104(1) and 12 NCAC 09E .0105(a)(1) shall not require written testing.

History Note: Authority G.S. 17C-6;
Eff. January 1, 1981;
Amended Eff. August 1, 2019; January 1, 2017; December 1, 2007; November 1, 2007; August 1, 2006; January 1, 2006; August 1, 2000; July 1, 1991; October 1, 1985; January 1, 1985; January 1, 1983.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Criminal Justice Education and Training Standards

RULE CITATION: 12 NCAC 09B .0305; *Amended Eff. August 1, 2019*

DEADLINE FOR RECEIPT: July 12, 2019

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The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

At lines 10 and 19, is there a reason you use "36 months" instead of "three years?" Note you use "three-year period" at line 21. Please be consistent.

In (d)(2)(A), are the contents or substantive requirements of the Commission Renewal of Instructor and Professional Lecturer Certification Form in rule?

At line 37, consider replacing "that" with "stating."

On page 2, lines 4-5, did you intend to reference all of 12 NCAC 09H instead of only 12 NCAC 09H .0101?

At lines 13-14 are the contents or substantive requirements of Form F-16 in a rule?

At line 15, in (C), please update your cross reference from .0303(c) to .0303(d).

In (f), under what circumstances shall a School Director authorize a guest participant to deliver a Basic Law Enforcement Training Course?

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

Ashley Snyder
Commission Counsel
Date submitted to agency: July 1, 2019

12 NCAC 09B .0305 is amended as published in 33:18 NCR 1858-1864 as follows:

**12 NCAC 09B .0305 TERMS AND CONDITIONS OF SPECIALIZED INSTRUCTOR
~~CERTIFICATION~~ CERTIFICATION**

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

(b) Where certification for both General Probationary Instructor as set forth in Rule .0303 of this Section and Specialized Instructor Certification are issued on the same date, the instructor is required to instruct, within 36 months after certification, a minimum of 12 hours in each of the topics for which Specialized Instructor Certification was granted, and that instruction was provided in a Commission-accredited basic training, Specialized Instructor Training, Commission-recognized in-service training course, or training course delivered pursuant to 12 NCAC 10B .0601, .1302, or .2005. The instructor may satisfy the teaching requirement for the General Probationary Instructor certification by teaching any specialized topic for which certification has been issued.

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

(d) The term of certification as a specialized instructor shall not exceed 36 months. An application for renewal shall contain, in addition to the requirements listed in Rule .0304 of this Section, documentary evidence that the applicant has remained active in the instructional process during the previous three-year period. Such documentary evidence shall include the following:

- (1) proof that the applicant has, within the three-year period preceding application for renewal, instructed at least 12 hours in each of the topics for which Specialized Instructor Certification was granted, and that instruction was provided in a Commission-accredited basic training, Specialized Instructor Training, Commission-recognized in-service training course, or training course delivered pursuant to 12 NCAC 10B .0601, .1302, or .2005. Acceptable documentary evidence shall include official Commission records submitted by School Directors or In-Service Training Coordinators and written certification from a School Director or In-Service Training Coordinator;
- (2) proof that the applicant has, within the three-year period preceding application for renewal, attended and completed all instructor updates that have been issued by the Commission. Acceptable documentary evidence shall include official Commission records submitted by School Directors or In-Service Training Coordinators, or copies of certificates of completion issued by the institution which provided the instructor updates; and
 - (A) a favorable written recommendation from a School Director or In-Service Training Coordinator completed on a Commission Renewal of Instructor and Professional Lecturer Certification Form (Form F-12A) that the instructor taught at least 12 hours in each of the

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

- (B) a favorable written evaluation by a School Director, ~~Qualified Assistant~~, In-Service Training Coordinator, or another Specialized Instructor certified in the same specialized subject, based on an on-site classroom evaluation of a presentation by the instructor in a Commission-accredited basic training, Specialized Instructor Training, Commission-recognized in-service training course, or in-service training course delivered pursuant to 12 NCAC 10B .0601, .1302, or .2005 during the three-year period of Specialized Instructor Certification. Such evaluation shall be certified on a Criminal Justice Instructor Evaluation Form F-16, located on the agency's website: <http://www.ncdoj.gov/getdoc/c2eba6aa-12bc-4303-bf4b-5fa0431ef5a1/F-16-6-11.aspx>;
- (C) proof that the applicant has met the requirement set forth in Rule .0303(c) of this Section;
- (D) proof that the individual applying for renewal as a Specialized Firearms Instructor has achieved a minimum score of 92 on the day and night Basic Law Enforcement Training firearms qualification courses, administered by a certified Specialized Firearms Instructor, within the three-year period preceding the application for renewal; and
- (E) proof that the individual applying for renewal as a Specialized Physical Fitness Instructor has passed the Basic Law Enforcement Training Police Officer Physical Abilities Test, administered by a certified Specialized Physical Fitness Instructor, within the three-year period preceding the application for renewal.

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

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

*History Note: Authority G.S. 17C-6;
Eff. January 1, 1981;*

1 *Amended Eff. August 1, 2019; January 1, 2017; February 1, 2016; August 1, 2015; May 1, 2014;*
2 *June 1, 2012; November 1, 2007; January 1, 2006; December 1, 2004; August 1, 2004; August 1,*
3 *2000; July 1, 1991; July 1, 1989; December 1, 1987; February 1, 1987.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Criminal Justice Education and Training Standards

RULE CITATION: 12 NCAC 09B .0305; *Amended Eff. January 1, 2020*

DEADLINE FOR RECEIPT: July 12, 2019

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

At lines 10 and 19, is there a reason you use "36 months" instead of "three years?" Note you use "three-year period" at line 21. Please be consistent.

In (d)(2)(A), are the contents or substantive requirements of the Commission Renewal of Instructor and Professional Lecturer Certification Form in rule?

At line 37, consider replacing "that" with "stating."

On page 2, lines 4-5, did you intend to reference all of 12 NCAC 09H instead of only 12 NCAC 09H .0101?

At lines 13-14 are the contents or substantive requirements of Form F-16 in a rule?

At line 15, in (C), please update your cross reference from .0303(c) to .0303(d).

In (f), under what circumstances shall a School Director authorize a guest participant to deliver a Basic Law Enforcement Training Course?

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

Ashley Snyder
Commission Counsel
Date submitted to agency: July 1, 2019

12 NCAC 09B .0305 is amended with changes as published in 33:18 NCR 1858-1864 as follows:

**12 NCAC 09B .0305 TERMS AND CONDITIONS OF SPECIALIZED INSTRUCTOR
~~CERTIFICATION~~ CERTIFICATION**

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

(b) Where certification for both General Probationary Instructor as set forth in Rule .0303 of this Section and Specialized Instructor Certification are issued on the same date, the instructor is required to instruct, within 36 months after certification, a minimum of 12 hours in each of the topics for which Specialized Instructor Certification was granted, and that instruction was provided in a Commission-accredited basic training, Specialized Instructor Training, Commission-recognized in-service training course, or training course delivered pursuant to 12 NCAC 10B .0601, .1302, or .2005. The instructor may satisfy the teaching requirement for the General Probationary Instructor certification by teaching any specialized topic for which certification has been issued.

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

(d) The term of certification as a specialized instructor shall not exceed 36 months. An application for renewal shall contain, in addition to the requirements listed in Rule .0304 of this Section, documentary evidence that the applicant has remained active in the instructional process during the previous three-year period. Such documentary evidence shall include the following:

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

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

(A) a favorable written recommendation from a School Director or In-Service Training Coordinator completed on a Commission Renewal of Instructor and Professional Lecturer Certification Form (Form F-12A) that the instructor taught at least 12 hours in each of the

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

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

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

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

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

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

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

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

Eff. January 1, 1981;

1 *Amended Eff. January 1, 2020; January 1, 2017; February 1, 2016; August 1, 2015; May 1, 2014;*
2 *June 1, 2012; November 1, 2007; January 1, 2006; December 1, 2004; August 1, 2004; August 1,*
3 *2000; July 1, 1991; July 1, 1989; December 1, 1987; February 1, 1987.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Criminal Justice Education and Training Standards

RULE CITATION: 12 NCAC 09B .0503

DEADLINE FOR RECEIPT: July 12, 2019

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

In (a), at line 6, by "program rules and procedures" do you mean the Rules of this Chapter?

In (a), under what circumstances would a school director "otherwise demonstrate incompetence?"

Just to be sure, the Commission will notify the licensee before the commencement of proceedings for the suspension or revocation of a license in accordance with G.S. 150B-3(b) and 150B-38 unless the provisions of G.S. 150B-3(c) apply, correct?

In (c), please add a comma after "suspend."

In (c), please show the addition of "(e) and (f)" as follows: "outlined in 12 NCAC 09B ~~[.0301.]~~ .0301(e) and (f).

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

Ashley Snyder
Commission Counsel
Date submitted to agency: July 1, 2019

1 12 NCAC 09B .0503 is amended with changes as published in 33:13 NCR 1392-1403 as follow: as follows:

2
3 **12 NCAC 09B .0503 SUSPENSION: REVOCATION: DENIAL/SCHOOL DIR. CERTIFICATION**

4 (a) The Commission may deny, suspend, or revoke certification of a school director when the Commission finds that
5 the person has failed to meet or continuously maintain any of the requirements for qualification or through
6 performance fails to comply with program rules and procedures of the Commission or otherwise demonstrates
7 incompetence.

8 (b) Prior to the Commission's action denying, suspending, or revoking a school director's certification, the Standards
9 Division may notify the person that a deficiency appears to exist and may attempt, in an advisory capacity, to assist
10 the person in correcting the deficiency.

11 (c) The Commission shall deny, suspend or revoke the certification of a School Director when they have found the
12 person has engaged in any conduct outlined in 12 NCAC 09B .0301 (e) and (f).

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14
15
16 *History Note: Authority G.S. 17C-6;*
17 *Eff. January 1, 1985.*
18 *Amended Eff. August 1, 2019;*
19
20

REQUEST FOR TECHNICAL CHANGE

AGENCY: Criminal Justice Education and Training Standards

RULE CITATION: 12 NCAC 09B .0504

DEADLINE FOR RECEIPT: July 12, 2019

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

Please format this Rule in accordance with Rule 26 NCAC 02C .0108 by using appropriate spacing and indentions.

Please subdivide this Rule in accordance with 26 NCAC 02C .0206.

"Qualified Assistant" is defined in 12 NCAC 09A .0103(25). Is (a) consistent with this definition? The definition does not suggest the qualified assistant must be certified.

In (a), what do you mean by "additional responsibilities?" Under what circumstances does an additional responsibility trigger the requirement for a qualified assistant?

In (a)(2), at line 9, delete or define "practical."

In (a)(2), which fields are "directly" related to the criminal justice system?

In (a)(3) and (4), what do you mean by "if certified as a Qualified Assistant for an Instructor Training Course?" Are there two types of certification? Once for a Qualified Assistant and one for a Qualified Assistant for an Instructor Training Course?

In (b), consider simply saying "Any person designated by a School Director as a Qualified Assistant . . . "

In (c), please review and update the link to the Qualified Assistant Application Form. The link does not go to that form.

At line 24, consider: "Applicants shall provide the following information on the Qualified Assistant Application Form."

In (d), change "meet the requirement" to "meets the requirements."

In (e), line 32, change "will" to "shall."

Ashley Snyder
Commission Counsel
Date submitted to agency: July 1, 2019

In the history note, at line 37, please change "January 1. 2020" to "January 1, 2020."

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

Ashley Snyder
Commission Counsel
Date submitted to agency: July 1, 2019

12 NCAC 09B .0504 is adopted with changes as published in 33:18 NCR 1858-1864 as follows:

12 NCAC 09B .0504 CERTIFICATION OF QUALIFIED ASSISTANT

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

(1) be selected by the School Director;

(2) have four years of practical experience as a criminal justice officer or as an administrator or specialist in a field directly related to the criminal justice system;

(3) be certified as a General Instructor, pursuant to rule 12 NCAC 09B .0302, if certified as a Qualified Assistant for a Criminal Justice Instructor Training Course;

(4) if serving as a Qualified Assistant for an Instructor Training Course, must complete an Instructor Orientation Course as offered by the North Carolina Justice Academy;

(5) have completed an orientation course conducted by Standards Division staff; and

(6) participate in the annual training conducted by Commission staff.

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

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

(A) accredited school name and contact information;

(B) applicants applicant's name and contact information;

(C) applicants applicant's instructor certification number; and

(D) School Director name and signature.

(d) The School Director shall ensure that the persons person selected meet(s) meet the requirement set forth in Paragraphs (a) and (b) of this Rule.

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

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

Eff. August 1, 2019; January 1, 2020

12 NCAC 09B .0505 is adopted with changes as published in 33:18 NCR 1858-1864 as follows:

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

(a) The term of certification as a Qualified Assistant is three years from the date the Commission issues the certification, unless earlier terminated by action of the Commission. The application for renewal shall include documentation meeting the requirements of Rule 12 NCAC 09B. 0504 (a) and (b) of this Section.

(b) The Commission may deny, suspend, or revoke certification as a Qualified Assistant when the Commission finds that the person has failed to meet or continually maintain any of the requirements for qualification or through performance fails to comply with program rules and procedures of the Commission or otherwise demonstrates incompetence.

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

(d) The Commission shall deny, ~~suspend~~ suspend, or revoke the certification of a Qualified Assistant when they have found the person has engaged in any conduct outlined in 12 NCAC 09B .0301(e) and (f).

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

Eff. ~~August 1, 2019~~ January 1, 2020

REQUEST FOR TECHNICAL CHANGE

AGENCY: Criminal Justice Education and Training Standards

RULE CITATION: 12 NCAC 09C .0307

DEADLINE FOR RECEIPT: July 12, 2019

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

Where is your statutory authority to require agencies to place certain documents in personnel files?

Please format this Rule in accordance with Rule 26 NCAC 02C .0108 by using appropriate spacing and indentions.

In (a), line 5, please replace "Such" with "The."

At line 6, delete or define "reasonable."

In (1)(D), why is it necessary to begin with "for the criminal justice officer?"

In (1)(F) and (2)(C), define "educational achievements." Do you mean degrees obtained?

In (1)(J) and (2)(F), you reference a commission-approved form set forth in 09E .0103 and .0110. Those rules do not refer to a form. Please update.

In (1)(L), you reference Form F-5A. Are the contents or substantive requirements of this form in a rule?

In (2)(H), you reference Form F-5. Did you intend to reference F-5A? If not, are the contents or substantive requirements of Form F-5 in a rule?

In (b), please consider referring to the Records Retention Schedule generally instead of stating the 30-year retention timeline in rule due to specific exceptions that may apply. It is also possible the Retention Schedule could change over time, in which case you would need to amend this rule. Please consider the following: "These records shall be maintained in compliance with the North Carolina Department of Natural And Cultural Records Retention and Disposition Schedule established pursuant to Chapters 121 and 132 of the General Statutes."

Ashley Snyder
Commission Counsel
Date submitted to agency: July 1, 2019

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

Ashley Snyder
Commission Counsel
Date submitted to agency: July 1, 2019

1 12 NCAC 09C .0307 is amended as published in 33:13 NCR 1392-1403 as follows:

2
3 **12 NCAC 09C .0307 AGENCY RETENTION OF RECORDS OF CERTIFICATION**

4 (a) Each agency shall place in personnel files the official notification from the Commission of either probationary or
5 general certification for each criminal justice officer employed or appointed by the agency. Such files shall be
6 available for examination at any reasonable time by representatives of the Commission for the purpose of verifying
7 compliance with these Rules. The personnel files shall also contain:

8 (1) Criminal Justice Officer with probationary certification:

9 ~~(A)~~ (A) the officer's Personal History Statement;

10 ~~(B)~~ (B) the officer's Medical History Statement and Medical Examination Report;

11 ~~(C)~~ (C) documentation of the officer's drug screening results;

12 ~~(D)~~ (D) for the criminal justice officer, the Commission's Mandated Background Investigation Form as
13 completed by the agency's investigator; ~~for criminal justice officers employed by the North Carolina~~
14 ~~Department of Correction, a written summary of the Background Investigation conducted on the~~
15 ~~officer;~~

16 ~~(E)~~ (E) a written summary of the officer's Qualifications Appraisal Interview;

17 ~~(F)~~ (F) documentation of the officer's educational achievements;

18 ~~(G)~~ (G) documentation of all criminal justice training completed by the officer;

19 ~~(H)~~ (H) the results of the officer's fingerprint record check;

20 ~~(I)~~ (I) a written summary of the officer's psychological examination results; ~~and~~

21 ~~(J)~~ (J) for the law enforcement officer, documentation on a commission-approved form as set forth in 12
22 NCAC 09E .0103(3) and .0110(5) and that the officer has completed the minimum in-service
23 training as ~~required, required;~~

24 (K) certified copy of proof of age, citizenship, and educational requirements required in 12 NCAC 09B
25 .0101;

26 (L) copy of Report of Appointment/Application for Certification Form F-5A;

27 (M) oath of office;

28 (N) copy of firearms qualification; and

29 (O) once separated, a copy of the Affidavit of Separation.

30 (2) Criminal Justice Officer with general certification:

31 (A) the officer's Medical History Statement and Medical Examination Report;

32 (B) documentation of the officer's drug screening results;

33 (C) documentation of the officer's educational achievements;

34 (D) documentation of all criminal justice training completed by the officer;

35 (E) the results of the officer's fingerprint record check;

1 (F) for the law enforcement officer, documentation on a commission-approved form as set forth in 12
2 NCAC 09E .0103(3) and .0110(5) that the officer has completed the minimum in-service training
3 as required;

4 (G) certified copy of proof of age, citizenship, and educational requirements required in 12 NCAC 09B
5 .0101;

6 (H) a copy of the Report of Appointment/Application for Certification Form F-5;

7 (I) oath of office;

8 (J) copy of firearms qualification; and

9 (K) once separated, a copy of the Affidavit of Separation.

10 (b) These records shall be maintained in compliance with the North Carolina Department of Natural and Cultural
11 Resources Retention Schedule which requires that Personnel Records be destroyed after 30 years from the date of
12 separation except for those records involved in a pending audit, legal, or other official action which may be
13 destroyed at the conclusion of any legal action if they met the required retention period as established by the North
14 Carolina Department of Natural and Cultural Resources.

15
16 *History Note: Authority G.S. 17C-2; 17C-6;*

17 *Eff. January 1, 1981;*

18 *Amended Eff. August 1, 2019; August 1, 1998; January 1, 1995; July 1, 1990; July 1, 1989; June 1,*
19 *1986.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Criminal Justice Education and Training Standards

RULE CITATION: 12 NCAC 09E .0105

DEADLINE FOR RECEIPT: July 12, 2019

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

In (a)(8), what do you mean by "Topics of Choice?" Are (A)-(D) broad subject areas within which a law enforcement officer can pick specific topics?

Please indent (A)-(D) in accordance with Rule 26 NCAC 02C .0108.

In (b), did you change the requirement from 4 credits to 6 credits in response to public comment?

In (b), line 27, what is the "Instructional Systems Design format?"

(b), line 27, requires the topics to be in Instructional Systems Design format and taught by an instructor certified by the Commission. However, lines 30-32 state the topics are not required to be in Instructional Systems Design format or taught by an instructor certified by the Commission. Please clarify.

In (c), since this rule was last amended in 2005, does this training manual still exist? Is it now available online? If so, please provide a link.

In (d), does the "In-Service Lesson Plan" still exist? Is it now available online? If so, please provide a link.

In (f)(1), the sentence beginning with "Written courses" on line 23 repeats the requirements of lines 22-23. If every credit hour must have 5 questions, then four credit hours must have 20 questions. Why is this sentence necessary?

In (f)(2), should you say "at least" 70 percent?

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

Ashley Snyder
Commission Counsel
Date submitted to agency: July 1, 2019

12 NCAC 09E .0105 is amended with changes as published in 33:13 NCR 1392-1403 as follows:

12 NCAC 09E .0105 MINIMUM TRAINING SPECIFICATIONS: ANNUAL IN-SERVICE TRAINING

(a) The following topics, specifications, and hours shall be included in each law enforcement officer's annual in-service training courses. For the purposes of this Subchapter, a credit shall be equal to one hour of traditional classroom instruction. All sworn law enforcement officers shall complete a minimum of 24 in-service training credits. The following topics, totaling ~~20~~18 credits, shall be specifically required:

- (1) ~~2019-2020~~ Firearms Training and Qualification (4 credits);
- (2) ~~2019-2020~~ Legal Update (4 credits);
- (3) ~~2019 Juvenile Law Update (2 credits);~~ 2020 Long-Term Effects of Childhood Adversity (2 credits);
- (4) ~~2019 Individual Wellness: Coping with Stress & PTSD (2 credits);~~ 2020 The Signs Within: Suicide Prevention Education and Awareness (2 credits);
- (5) ~~2019 Best Practices for Officers During Community Dissent (2 credits);~~ 2020 Career Survival: Training and Standards Issues (2 credits);
- (6) ~~2019 Law Enforcement Intelligence Update: Gangs and Divisive Groups (2 credits);~~ 2020 Communication Strategies When Encountering Persons Who are Deaf or Hard of Hearing (2 credits);
- (7) ~~2019 Domestic Violence: Law and Procedure Update (2 credits);~~ 2020 Armed/Unarmed Security/Company Police: Understanding Their Roles and Authority (2 credits);
- (8) Topics of Choice (12 credits);
- (A) ~~2019 Opioid Awareness and Response (2 credits);~~ Hazardous Materials (2 credits);
- (B) Bloodborne Pathogens (2 credits);
- (C) Situational Awareness/Subject Control (4 credits); and
- (D) Law enforcement Threat Assessment (4 credits).

(b) All sworn law enforcement officers shall complete a minimum of ~~4~~6 in-service credits, in topics identified by their respective agency heads. The agency head may choose any topic, provided the lesson plan is written in Instructional Systems Design format and is taught by an instructor who is certified by the Commission. Topics delivered pursuant to Rule .0104(1) of this Section and National Certification Programs administered by the International Association of Directors of Law Enforcement Standards and Training (IADLEST) completed during the mandated in-service year, shall satisfy in part or in whole the topic requirements set forth by the agency head. To satisfy this requirement these topics shall not be required to be written in Instructional Systems Design format or delivered by an instructor certified by the Commission.

(c) The "Specialized Firearms Instructor Training Manual" published by the North Carolina Justice Academy shall be applied as a guide for conducting the annual in-service firearms training program. Copies of this publication may be inspected at the office of the:

Criminal Justice Standards Division
North Carolina Department of Justice

1700 Tryon Park Drive
Raleigh, North Carolina 27610

and may be obtained at the cost of printing and postage from the Academy at the following address:

North Carolina Justice Academy
Post Office Drawer 99
Salemberg, North Carolina 28385

(d) The "In-Service Lesson Plans" published by the North Carolina Justice Academy shall be applied as a minimum curriculum for conducting the annual in-service training program. Copies of this publication may be inspected at the office of the:

Criminal Justice Standards Division
North Carolina Department of Justice
1700 Tryon Park Drive
Raleigh, North Carolina 27610

and may be obtained at the cost of printing and postage from the Academy at the following address:

North Carolina Justice Academy
Post Office Drawer 99
Salemberg, North Carolina 28385

(e) Lesson plans are designed to be delivered in hourly increments. A student who completes an online in-service training topic shall receive the number of credits that correspond to the number of hours of traditional classroom training, regardless of the amount of time the student spends completing the course.

(f) Completion of training shall be demonstrated by passing a written test for each in-service training topic, as follows:

- (1) A written test comprised of at least five questions per credit shall be developed by the agency or the North Carolina Justice Academy for each in-service training topic requiring testing. Written courses that are more than four credits in length shall include a written test comprising of a minimum of 20 questions. The Firearms Training and Qualifications in-service course and topics delivered pursuant to Rule .0104(1) of this Section shall be exempt from this written test requirement;
- (2) A student shall pass each test by achieving 70 percent correct answers; and
- (3) A student who completes a topic of in-service training in a traditional classroom setting or online and fails the end of topic exam shall be given one attempt to re-test. If the student fails the exam a second time, the student shall complete the in-service training topic in a traditional classroom setting before taking the exam a third time.

History Note: Authority G.S. 17C-6; 17C-10;
Eff. July 1, 1989;
Amended Eff. January 1, 2005; November 1, 1998;
Temporary Amendment Eff. January 1, 2005;

1 *Amended Eff. January 1, 2020; January 1, 2019; January 1, 2018; January 1, 2017; July 1, 2016;*
2 *January 1, 2016; January 1, 2015; February 1, 2014; June 1, 2012; February 1, 2011; January 1,*
3 *2010; April 1, 2009; April 1, 2008; February 1, 2007; January 1, 2006.*

4
5

REQUEST FOR TECHNICAL CHANGE

AGENCY: Criminal Justice Education and Training Standards

RULE CITATION: 12 NCAC 09F .0105

DEADLINE FOR RECEIPT: July 12, 2019

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

This Rule is formatted as if it has changes since publication in the NC Register. However, the highlighted portions are the same as published in the Register. If this Rule does not contain any changes since publication, please remove "with changes" from your introductory statement (assuming you make no technical corrections) and remove the highlighting in (5).

What is your intent in (5)? Are instructors required to maintain certificates of participants who have completed the course and this provision allows them to transfer the certificates? Or does this mean the class participants can transfer to another class? If the latter, consider: ". . . and wants to transfer his or her assigned participants and their certificates to another Concealed Carry Handgun instructor . . ."

In (5), as this is written, the instructor decides to transfer certificates to another instructor. Can a participant request a transfer?

In (5)(f), please delete the space before the semicolon and add a space before "and." The formatting should be: "email ~~[address ;and]~~ address; and"

In (5)(d) and (f), please replace the comma with "and."

Please end line 24 with a semicolon instead of a comma.

In (7), please refer to "Rule .0102 of this Section."

In (9)(b), why do you need to add "a minimum of?" Rules always set minimum requirements.

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

Ashley Snyder
Commission Counsel
Date submitted to agency: July 1, 2019

1 12 NCAC 09F .0105 is amended with changes as published in 33:13 NCR 1392-1403 as follows:

2
3 **12 NCAC 09F .0105 INSTRUCTOR RESPONSIBILITIES**

4 In delivering the "Concealed Carry Handgun Training" course the instructor shall:

- 5 (1) have a valid Concealed Carry Handgun instructor certification issued by the Criminal Justice
- 6 Standards Division;
- 7 (2) file a copy of the proposed firearms course description, outline, and proof of instructor certification
- 8 along with a written request to conduct the "Concealed Carry Handgun Training" course for
- 9 approval by the Commission prior to delivery of any instruction required by G.S. 14-415.12;
- 10 (3) file a copy of all modifications;
- 11 (4) be issued by Commission staff a quantity of certificates as requested by the instructor for course
- 12 participants which shall bear the instructor's name, the instructor's assigned number, be sequentially
- 13 numbered, and bear the raised seal of the Commission;
- 14 (5) if a Concealed Carry Handgun Instructor relinquishes his or her certification and wants to transfer
- 15 his or her assigned participants' certificates, to another Concealed Carry Handgun instructor a
- 16 written request shall be submitted to the Criminal Justice Standards Division Director for approval.
- 17 The written request shall include the following:
- 18 (a) instructor name and identification number;
- 19 (b) name of business;
- 20 (c) phone number and email address;
- 21 (d) recipient instructor name, identification number;
- 22 (e) business name;
- 23 (f) phone number, email address ;and
- 24 (g) list of the assigned certificate numbers for participants to be transferred.
- 25 ~~(6)(5)~~ affix the student's name to one certificate and issue that certificate to the student who successfully
- 26 completes the "Concealed Carry Handgun Training" course;
- 27 ~~(7)(6)~~ conduct the training consistent with the guidelines established in 12 NCAC 09F .0102;
- 28 ~~(8)(7)~~ administer a written examination to the student on the legal issues block of instruction to
- 29 demonstrate that the student is knowledgeable in the laws of this State governing the carrying of a
- 30 concealed handgun and the use of deadly force; and
- 31 ~~(9)(8)~~ administer a proficiency examination that demonstrates the student is competent in the firing and
- 32 safe handling of a handgun. Such examination shall include the following:
- 33 (a) The student fires 30 rounds of ammunition at a bulls-eye or silhouette target from three,
- 34 five and seven yard distances;
- 35 (b) At each yard distance the student shall fire a minimum of ten rounds; and
- 36 (c) 21 of the 30 rounds fired by the student hit the target.

1 *History Note:* *Authority G.S. 14-415.12; 14-415.13;*
2 *Temporary Adoption Eff. November 1, 1995;*
3 *Eff. May 1, 1996;*
4 *Amended Eff. August 1, 2019; April 1, 2018; May 1, 2004.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Criminal Justice Education and Training Standards

RULE CITATION: 12 NCAC 09G .0306

DEADLINE FOR RECEIPT: July 12, 2019

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

In your history note, why do you reference G.S. 17C-2?

In (a)(4), please define "educational achievements."

Please delete the extra line at line 23.

In (b), please consider referring to the Records Retention Schedule generally instead of stating the 30-year retention timeline in rule due to specific exceptions that may apply. It is also possible the Retention Schedule could change over time, in which case you would need to amend this rule. Please consider the following: "These records shall be maintained in compliance with the North Carolina Department of Natural And Cultural Records Retention and Disposition Schedule established pursuant to Chapters 121 and 132 of the General Statutes."

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

Ashley Snyder
Commission Counsel
Date submitted to agency: July 1, 2019

12 NCAC 09G .0306 is amended as published in 33:13 NCR 1392-1403 as follows:

12 NCAC 09G .0306 RETENTION OF RECORDS OF CERTIFICATION

(a) The North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice shall place in the officer's certification file the official notification from the Commission of either Probationary or General Certification for each correctional officer, probation/parole officer employed or appointed by the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice. The certification file shall also contain:

- (1) the officer's Report of Appointment/Application for Certification, including the Department of Public Safety Personnel Action Form;
- (2) the officer's Medical History Statement and Medical Examination Report;
- (3) documentation of the officer's drug screening results;
- (4) documentation of the officer's educational achievements;
- (5) documentation of all corrections training completed by the officer;
- (6) documentation of the officer's psychological examination results;
- (7) documentation and verification of the officer's age;
- (8) documentation and verification of the officer's citizenship;
- (9) documentation of any prior criminal record; and
- (10) miscellaneous documents including letters, investigative reports, and subsequent charges and ~~convictions.~~ convictions;
- (11) oath of office; and
- (12) if separated, a copy of the Report of Separation or Department of Public Safety Action Form.

(b) All files and documents relating to an officer's certification shall be available for examination and utilization at any reasonable time by representatives of the Commission for the purpose of verifying compliance with the Rules in this Subchapter. These records shall be maintained in compliance with the North Carolina Department of ~~Public Safety, Division of Adult Correction and Juvenile Justice's Records Retention Schedule.~~ Cultural and Natural Resources Retention Schedule which requires that Personnel Records be destroyed after 30 years from the date of separation except for those records involved in a pending audit, legal, or other official action which may be destroyed at the conclusion of any legal action if they met the required retention period as established by the North Carolina Department of Cultural and Natural Resources.

History Note: Authority G.S. 17C-2; 17C-6;
Temporary Adoption Eff. January 1, 2001;
Eff. August 1, 2002;
Amended Eff. August 1, 2019; January 1, 2015; August 1, 2004.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Criminal Justice Education and Training Standards

RULE CITATION: 12 NCAC 09G .0307

DEADLINE FOR RECEIPT: July 12, 2019

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

In (b), when referring to rules in the same Section, please say "Rules .0308, .0310, and .0311 of this Section."

In (b), what do you mean by "documented qualifications of experience, education, and training?"

At line 10, please change "accord" to "accordance."

In (d), line 19, and elsewhere the terms "knowingly" and "willfully" are used. Define "knowingly" and "willfully."

In (d), at line 20, do you mean "may" or "shall?"

In (e)(2), define "currently knowledgeable."

In (e)(4), please refer to "Rules .0411 through .0416 of this Subchapter."

On page 2, please correct the formatting in (e)(5).

In (e)(5), at line 2, capitalize "for."

In (e)(5), please note the definition of "unprofessional personal conduct" here is different than the definition in 12 NCAC 09B .0301(e)(5). Please ensure this is correct.

At line 4, 12 NCAC 09G .0504 does not define "criminal offense." Please clarify.

At lines 5-6, under what circumstances is conduct "detrimental to instruction?"

At line 8, delete or define "apparently."

At line 10, please add a comma after "School Director."

Ashley Snyder
Commission Counsel
Date submitted to agency: July 1, 2019

In (e)(6), define “instructional incompetence.”

Please review and update (e)(8) to mirror 12 NCAC 09B .0301(e)(8).

On page 3, line 6, please refer to “Rule .0204 or Rule .0504 of this Subchapter.”

At line 11, delete “or” after “(Sheriffs’ Commission).”

In (f), do you need to provide shortened titles for the various Commissions? Please delete the titles in parentheses if they are not used elsewhere.

In (f), where is your statutory authority to impose reciprocal discipline on out of state or federal law enforcement officers? Where is your authority to require them to report this information to the Commission? Please note G.S. 17C-6(a)(1) refers to “criminal justice agencies” which G.S. 17C-2 defines as follows:

§ 17C-2. Definitions.

Unless the context clearly otherwise requires, the following definitions apply in this Article:

- (1) Commission. - The North Carolina Criminal Justice Education and Training Standards Commission.
- (2) Criminal justice agencies. - The State and local law-enforcement agencies, the State correctional agencies, other correctional agencies maintained by local governments, and the juvenile justice agencies, but shall not include deputy sheriffs, special deputy sheriffs, sheriffs' jailers, or other sheriffs' department personnel governed by the provisions of Chapter 17E of these General Statutes.

At line 15, please change “5-days” to “five days.”

In (f), line 13, what qualifies as a “similar” certifying or licensing agency?

At line 16, delete or define “similarly.”

At line 24, change “commission approved” to “Commission-approved.”

At line 31, delete “immediate.”

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

12 NCAC 09G .0307 is amended with changes as published in 33:13 NCR 1392-1403 as follows:

12 NCAC 09G .0307 CERTIFICATION OF INSTRUCTORS

(a) ~~Any~~ A person participating in a Commission-accredited corrections training course or program as an instructor, teacher, professor, lecturer, or other participant making presentations to the class shall first be certified by the Commission as an instructor.

(b) The Commission shall certify instructors under the following categories: General Instructor Certification or Specialized Instructor Certification or Professional Lecturer Certification as outlined in 12 NCAC 09G ~~.0308, and .0310, .0308, .0310, and 0311~~ of this Section. ~~Such instructor~~ Instructor certification shall be granted on the basis of documented qualifications of experience, education, and training in accord with the requirements of this Section and ~~reflected as stated~~ on the applicant's Request for Instructor Certification Form.

(c) In addition to all other requirements of this Section, each instructor certified by the Commission to teach in a Commission-~~accredited~~ certified course shall remain competent in his/her specific or specialty areas. Such competence includes remaining current in the instructor's area of expertise, which may be demonstrated by attending and ~~successfully~~ completing any instructor ~~all updates~~ updated instructor training courses issued ~~required~~ by the Commission.

~~(d) The Standards Division may notify an applicant for instructor certification or a certified instructor that a deficiency appears to exist and attempt, in an advisory capacity, to assist the person in correcting the deficiency.~~

~~(e)~~ (d) ~~When If~~ any a person certified as an instructor by the Commission is found to have knowingly and willfully violated any provision or requirement of the Rules in this Subchapter, the Commission may take action to correct the violation and to ensure that the violation does not recur, including:

- (1) issuing an oral warning and request for compliance;
- (2) issuing a written warning and request for compliance;
- (3) issuing an official written reprimand;
- (4) suspending the individual's certification for a specified period of time or until acceptable corrective action is taken by the individual; or
- (5) revoking the individual's certification.

~~(f)~~ (e) The Commission ~~may~~ shall deny, suspend, or revoke an instructor's certification when the Commission finds that the person:

- (1) has failed to meet and maintain any of the requirements for qualification; ~~or~~
- (2) has failed to remain currently knowledgeable in the person's areas of expertise; ~~or~~
- (3) has failed to deliver training in a manner consistent with the instructor lesson plans outlined in the "Basic Instructor Training Manual" as found in 12 NCAC 09G .0414; ~~or~~
- (4) ~~has demonstrated unprofessional personal conduct in the delivery of Commission mandated training; or has failed to follow specific guidelines outlined in the basic corrections officers' training manual set out in 12 NCAC 09G .0411 through .0416;~~

(5) has demonstrated unprofessional personal conduct in the delivery of commission-mandated training. for the purposes of this Subparagraph, unprofessional personal conduct as evidenced by: job-related conduct which constitutes a violation of State or federal law; conviction or commission of a criminal offense, as set out in 12 NCAC 09G .0504; the willful violation of Rules of this Chapter; conduct that is detrimental to instruction in the Commission's mandated courses; the abuse of a client or student whom the instructor is teaching or supervising; falsification of an instructor application or in other employment documentation; or an amorous, dating or sexual relationship ("intimate relationship"), even when apparently consensual, between a student enrolled in any basic training program administered by the Division of Adult Correction and Juvenile Justice and any instructor, School Director or Qualified Assistant involved in the delivery of that program in which the student is enrolled.

~~(6)(5)~~ has demonstrated instructional incompetence; or

~~(7)(6)~~ has knowingly and willfully obtained, or attempted to obtain instructor certification by deceit, fraud, or misrepresentation; or

~~— (7) — has failed to meet or maintain good moral character as required to effectively discharge the duties of a corrections instructor, as evidenced by, but not limited to:~~

~~(A) — not having been convicted of a felony;~~

~~(B) — not having been convicted of a misdemeanor as defined in 12 NCAC 09G .0102(10) for five years since the date of conviction or the completion of any corrections supervision imposed by the courts whichever is later;~~

~~(C) — having submitted to and produced a negative result on a drug test which meets the certification standards of the Department of Health and Human Services for Federal Workplace Drug Testing Programs, copies of which may be obtained from National Institute on Drug Abuse, 5600 Fisher Lane, Rockville, Maryland 20857 at no cost, to detect the illegal use of at least cannabis, cocaine, phenacyclidine (PCP), opiates and amphetamines or their metabolites;~~

~~(D) — submitting to a background investigation consisting of:~~

~~(i) — verification of age;~~

~~(ii) — verification of education;~~

~~(iii) — criminal history check of local, state, and national files;~~

~~(E) — being truthful in providing all required information as prescribed by the application process; or~~

~~(8)~~ has failed to meet or maintain good moral character as defined in: In re Willis, 288 N.C. 1, 215 S.E. 2d 771 appeal dismissed 423 U.S. 976 (1975); State v. Harris, 216 N.C. 746, 6 S.E. 2d 854 (1940); In re Legg, 325 N.C. 658, 386 S.E. 2d 174(1989); In re Applicants for License, 143 N.C. 1, 55 S.E. 635 (1906); In re Dillingham, 188 N.C. 162, 124 S.E. 130 (1924); State v. Benbow, 309

N.C. 538, 308 S.E. 2d 647 (1983); and later court decisions that cite these cases as authority, and as required to effectively discharge the duties of a criminal justice instructor;

(8) has failed to deliver training in a manner consistent with the curriculum outlines in the corrections officers' training manuals set out in 12 NCAC 09G .0411 through .0416.

(9) has committed or been convicted of an offense which could result in the denial, suspension, or revocation of an officers certification pursuant to 12 NCAC 09G .0204 or 12 NCAC 09G .0504;

(10) has knowingly made a material misrepresentation of any information required for certification or accreditation.

(f) When a person certified as an officer by the North Carolina Criminal Justice Education and Training Standards Commission (Commission), the North Carolina Sheriffs Education and Training Standards Commission (Sheriffs' Commission), or the North Carolina Department of Insurance, Office of State Fire Marshal, Fire Rescue Commission (Fire Commission), Office of Emergency Medical Services and the North Carolina Company/Campus Police Program; or a similar North Carolina, out of state or federal approving, certifying or licensing agency; has been denied certification or had his or her certification suspended or revoked by their respective Commission or agency that person shall report the suspension or revocation to the Criminal Justice Standards within 5-days. They shall also have their General Instructor certification (if applicable) similarly and automatically suspended or revoked for the same time period as their respective Commission certification.

(1) This suspension or revocation of the General Instructor certification shall also include suspension or revocation to any Commission recognized Specialized or additional instructor certification, as outlined in 12 NCAC 09G .0310.

(2) If the term of suspension or revocation exceeds the expiration date of the instructor's initial certification expiration date, they shall forfeit their certifications as a General Instructor and Specialized Instructor and shall be required to obtain certification pursuant to the requirements of 12 NCAC 09G .0304 before any instruction may be delivered in any commission approved or mandated training, including the completion of a subsequent General Instructor's training course in its entirety.

(3) If the term of suspension or revocation does not exceed the expiration date of the instructor's initial certification expiration date, the instructor shall be reinstated as a General Instructor only upon reinstatement of his or her law enforcement officer certification by the Commission. The terms of renewal for the existing General Instructor and Specialized Instructor certifications shall remain subject to all renewal requirements pursuant to 12 NCAC 09G .0309(c) by the next immediate expiration date.

*History Note: Authority G.S. 17C-6; 17C-10;
Temporary Adoption Eff. January 1, 2001;
Eff. August 1, 2019; August 1, 2002.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Criminal Justice Education and Training Standards

RULE CITATION: 12 NCAC 09G .0311

DEADLINE FOR RECEIPT: July 12, 2019

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

At lines 9 and 17, is there a reason you use "36 months" instead of "three years?" Note you use "three-year period" at line 21. Please be consistent.

In (d)(2)(A), are the contents or substantive requirements of the Commission Renewal of Instructor and Professional Lecturer Certification Form in rule?

At line 35, consider replacing "that" with "stating."

At line 36, replace "such" with "the."

On page 2, lines 8-10 are the contents or substantive requirements of Form F-16 in a rule?

In (e), under what circumstances shall a School Director authorize a guest participant to deliver a Basic Law Enforcement Training Course?

In your history note, you do not need to strike through and highlight your proposed effective date of August 1, 2019 to replace it with a new effective date. Please delete August 1, 2019 altogether.

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

Ashley Snyder
Commission Counsel
Date submitted to agency: July 1, 2019

1 12 NCAC 09G .0311 is amended with changes as published in 33:18 NCR 1858-1864 as follows:

2
3 **12 NCAC 09G .0311 TERMS AND CONDITIONS OF SPECIALIZED INSTRUCTOR**
4 **CERTIFICATION**

5 (a) An applicant meeting the requirements for Specialized Instructor Certification shall be issued a certification to
6 expire three years from the date of issuance. The applicant shall apply for certification as a specialized instructor
7 within 60 days from the date of completion of a specialized instructor course.

8 (b) Where certifications for both General Probationary Instructor and Specialized Instructor are issued on the same
9 date, the instructor shall be required to instruct within 36 months after certification, a minimum of 12 hours in each
10 of the topics for which Specialized Instructor Certification was granted in a Commission-accredited basic training,
11 Specialized Instructor Training, Commission-recognized in-service training course, or training course delivered
12 pursuant to 12 NCAC 10B .0601, .1302, or .2005. The instructor may satisfy the teaching requirement for the General
13 Probationary Instructor certification by teaching any specialized topic for which certification has been issued.

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

17 (d) The term of certification as a specialized instructor shall not exceed 36 months. An application for renewal shall
18 contain, in addition to the requirements listed in Rule .0310 of this Section, documentary evidence that the applicant
19 has remained active in the instructional process during the previous three-year period. Such documentary evidence
20 shall include the following:

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

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

33 (A) a favorable written recommendation from a School Director or In-Service Training
34 Coordinator completed on a Commission Renewal of Instructor and Professional Lecturer
35 Certification Form that the instructor taught at least 12 hours in each of the topics for which
36 Specialized Instructor Certification was granted. Such teaching shall have been provided
37 in a Commission-accredited basic training, Specialized Instructor Training course,

pursuant to Rule .0310 of this Section, or Commission-recognized in-service training course;

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

(C) has met the requirement set forth in Rule .0309(c) of this Section.

(e) The use of guest participants in a delivery of a Commission-mandated training course pursuant to this Section shall be permissible. However, such guest participants are subject to the on-site supervision of a Commission-certified instructor and shall be authorized by the School Director. A guest participant shall be used only to complement the primary certified instructor of the block of instruction and shall not replace the primary instructor.

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

Temporary Adoption Eff. January 1, 2001;

Eff. August 1, 2002;

Amended Eff. ~~August 1, 2019~~, January 1, 2020; January 1, 2017; May 1, 2014; June 1, 2012; January 1, 2006.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Criminal Justice Education and Training Standards

RULE CITATION: 12 NCAC 09G .0407

DEADLINE FOR RECEIPT: July 12, 2019

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

At line 6, delete or define "continuously."

At line 7, by "program rules" do you mean "the Rules of this Chapter?"

At line 7, what do you mean by "otherwise demonstrates incompetence?"

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

Ashley Snyder
Commission Counsel
Date submitted to agency: July 1, 2019

1 12 NCAC 09G .0407 is amended with changes as published in 33:13 NCR 1392-1403 as follows:

2
3 **12 NCAC 09G .0407 SUSPENSION: REVOCATION: DENIAL/SCHOOL DIRECTOR**
4 **CERTIFICATION**

5 (a) The Commission may deny, suspend, or revoke certification of a School Director when the Commission finds that
6 the person has failed to meet or continuously maintain any of the requirements for qualification or through
7 performance fails to comply with program rules of the Commission or otherwise demonstrates incompetence.

8 (b) Prior to the Commission's action denying, suspending, or revoking a School Director's certification, the Standards
9 Division may notify the person that a deficiency appears to exist and may attempt, in an advisory capacity, to assist
10 the person in correcting the deficiency.

11 (c) The Commission shall deny, suspend or revoke the certification of a School Director when they have found the
12 person has engaged in any conduct outlined in 12 NCAC 09B .0301(e) and (f).

13
14
15 *History Note: Authority G.S. 17C-6;*
16 *Temporary Adoption Eff. January 1, 2001;*
17 *Temporary Adoption Expired December 20, 2001;*
18 *Temporary Adoption Eff. April 15, 2003;*
19 *Eff. August 1, 2019; April 1, 2004.*
20

REQUEST FOR TECHNICAL CHANGE

AGENCY: Criminal Justice Education and Training Standards

RULE CITATION: 12 NCAC 09G .0417

DEADLINE FOR RECEIPT: July 12, 2019

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

Please format this Rule in accordance with Rule 26 NCAC 02C .0108 by using appropriate spacing and indentions.

Please subdivide this Rule in accordance with 26 NCAC 02C .0206.

In (a), what do you mean by "additional responsibilities?" Under what circumstances does an additional responsibility trigger the requirement for a qualified assistant?

In (a)(2), at line 9, delete or define "practical."

In (a)(2), which fields are "directly" related to the criminal justice system?

In (a)(3) and (4), what do you mean by "if certified as a Qualified Assistant for an Instructor Training Course?" Are there two types of certification? Once for a Qualified Assistant and one for a Qualified Assistant for an Instructor Training Course?

In (b), consider simply saying "Any person designated by a School Director as a Qualified Assistant . . . "

In (c), please review and update the link to the Qualified Assistant Application Form. The link does not go to that form.

At line 24, consider: "Applicants shall provide the following information on the Qualified Assistant Application Form:"

In (d), change "meet the requirement" to "meets the requirements."

In (e), line 32, change "will" to "shall."

In your history note, you do not need to strike through and highlight your proposed effective date of August 1, 2019 to replace it with a new effective date. Please delete August 1, 2019 altogether.

Ashley Snyder
Commission Counsel
Date submitted to agency: July 1, 2019

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

Ashley Snyder
Commission Counsel
Date submitted to agency: July 1, 2019

12 NCAC 09G .0417 is adopted with changes as published in 33:18 NCR 1858-1864 as follows:

12 NCAC 09G .0417 CERTIFICATION OF QUALIFIED ASSISTANT

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

(1) be selected by the School Director;

(2) have four years of practical experience as a criminal justice officer or as an administrator or specialist in a field directly related to the criminal justice system;

(3) be certified as a General Instructor, pursuant to 12 NCAC 09G .0308, if certified as a Qualified Assistant for an Instructor Training Course;

(4) if serving as a Qualified Assistant for an Instructor Training Course, must complete an Instructor Training Orientation Course as offered by the North Carolina Justice Academy;

(5) have completed an orientation course conducted by Standards Division staff; and

(6) participate in the annual training conducted by Commission staff.

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

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

(A) accredited school name and contact information;

(B) ~~applicants~~ applicant's name and contact information;

(C) ~~applicants~~ applicant's instructor certification number; and

(D) ~~school director~~ School Director name and signature.

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

(e) When directed by the School Director, the Qualified Assistant will assist in the planning, developing, coordinating, and delivering of Commission-mandated training courses as outlined in 12 NCAC 09G .0408.

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

Eff. ~~August 1, 2019;~~ January 1, 2020.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Criminal Justice Education and Training Standards

RULE CITATION: 12 NCAC 09G .0418

DEADLINE FOR RECEIPT: July 12, 2019

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

In (a), under what circumstances would the Commission terminate the certification prior to three years? Are you referring to (b)?

At line 6, simply refer to "Rule .0417(a) and (b) of this Section."

In (b), at line 8, delete the word "has."

In (b), at line 8, delete or define "continually."

At lines 8-9, what do you mean by "through performance?" Could you just say "failed to comply?"

At line 9, by "program rules and procedures" do you mean "the Rules of this Chapter?"

At lines 9-10, what do you mean by "otherwise demonstrates incompetence?"

In (d), line 14, change "they" to "it."

In (d), at line 15, simply refer to "Rule .0307 of this Subchapter."

In your history note, please add a period after "January 1, 2020."

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

Ashley Snyder
Commission Counsel
Date submitted to agency: July 1, 2019

1 12 NCAC 09G .0418 is adopted with changes as published in 33:18 NCR 1858-1864 as follows:

2
3 **12 NCAC 09G .0418 TERMS AND CONDITIONS OF QUALIFIED ASSISTANT CERTIFICATION**

4 (a) The term of certification as a Qualified Assistant is three years from the date the Commission issues the
5 certification, unless earlier terminated by action of the Commission. The application for renewal shall include
6 documentation meeting the requirements of Rule 12 NCAC 09G. 0417 (a) and (b) of this Section.

7 (b) The Commission may deny, suspend, or revoke certification as a Qualified Assistant when the Commission
8 finds that the person has failed to meet or continually maintain any of the requirements for qualification or through
9 performance fails to comply with program rules and procedures of the Commission or otherwise demonstrates
10 incompetence.

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

14 (d) The Commission shall deny, ~~suspend~~ suspend, or revoke the certification of a Qualified Assistant when they have
15 found the person has engaged in any conduct outlined in 12 NCAC 09G .0307.

16
17 *History Note: Authority G.S. 17C-6;*

18 *Eff. ~~[August 1, 2019]~~ January 1, 2020*