

REQUEST FOR TECHNICAL CHANGE

AGENCY: Criminal Justice Training and Standards Commission

RULE CITATION: 12 NCAC 09B .0203

DEADLINE FOR RECEIPT: Friday, September 9, 2016

NOTE WELL: This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

On the Submission for Permanent Rule form, Box 6, you state that the agency adopted the Rule on August 12, 2016. However, the comment period did not end until August 15, 2016. I am assuming this is a typographical error, so please submit a revised form with the correct date.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: August 25, 2016

1 **12 NCAC 09B .0203 is amended as published in Vol. 30, Issue 23, pages. 2440-2442:**

2
3 **12 NCAC 09B .0203 ADMISSION OF TRAINEES**

4 (a) The school shall not admit any individual as a trainee in a presentation of the Basic Law Enforcement Training
5 Course who is not a citizen of the United States.

6 (b) The school shall not admit any individual younger than 20 years of age as a trainee in any non-academic basic
7 criminal justice training course. Individuals under 20 years of age may be granted authorization for early enrollment
8 as trainees in a presentation of the Basic Law Enforcement Training Course with prior written approval from the
9 Director of the Standards Division. The Director shall approve early enrollment if the individual will be 20 years of
10 age prior to the date of the State Comprehensive Examination for the course.

11 (c) The school shall give priority admission in certified criminal justice training courses to individuals holding full-
12 time employment with criminal justice agencies.

13 (d) The school shall not admit any individual as a trainee in a presentation of the "Criminal Justice Instructor
14 Training Course" who does not meet the education and experience requirements for instructor certification under
15 Rule .0302 of this Subchapter within 60 days of successful completion of the Instructor Training State
16 Comprehensive Examination.

17 (e) The school shall not admit an individual, including partial or limited enrollees, as a trainee in a presentation of
18 the Basic Law Enforcement Training Course unless the individual, within one year prior to admission to the Basic
19 Law Enforcement Training Course, places into course DRE 098 or above at a North Carolina Community College as
20 a result of taking the Reading and English component of the North Carolina Diagnostic Assessment and Placement
21 test as approved by the State Board of Community Colleges on October 17, 2014,
22 (<http://www.nccommunitycolleges.edu/state-board-community-colleges/meetings/october-17-2014>), or has taken the
23 reading component of a nationally standardized test within one year prior to admission to Basic Law Enforcement
24 Training and has scored at or above the tenth grade level or the equivalent. For the purposes of this Rule:

25 (1) Partial or limited enrollee does not include enrollees who hold, or have held within 12 months
26 prior to the date of enrollment, general certification pursuant to 12 NCAC 09C .0304.

27 (2) A "nationally standardized test" means a test that:

28 (A) reports scores as national percentiles, stanines, or grade equivalents; and

29 (B) compares student test results to a national norm.

30 (f) The school shall not admit any individual as a trainee in a presentation of the Basic Law Enforcement Training
31 Course unless the individual has provided to the School Director a medical examination report, completed by a
32 physician licensed to practice medicine in North Carolina, a physician's assistant, or a nurse practitioner, to
33 determine the individual's fitness to perform the essential job functions of a criminal justice officer. The Director of
34 the Standards Division shall grant an exception to this standard for a period of time not to exceed the
35 commencement of the physical fitness topical area when failure to receive the medical examination report is not due
36 to neglect on the part of the trainee.

- 1 (g) The school shall not admit any individual as a trainee in a presentation of the Basic Law Enforcement Training
2 Course unless the individual is a high school, college, or university graduate or has received a high school
3 equivalency credential recognized by the issuing state. High school diplomas earned through correspondence
4 enrollment are not recognized toward the educational requirements.
- 5 (h) The school shall not admit any individual trainee in a presentation of the Basic Law Enforcement Training
6 Course unless the individual has provided the School Director a certified criminal record check for local and state
7 records for the time period since the trainee has become an adult and from all locations where the trainee has resided
8 since becoming an adult. An Administrative Office of the Courts criminal record check or a comparable out-of-state
9 criminal record check shall satisfy this requirement.
- 10 (i) The school shall not admit any individual as a trainee in a presentation of the Basic Law Enforcement Training
11 Course who has been convicted of the following:
- 12 (1) a felony;
 - 13 (2) a crime for which the punishment could have been imprisonment for more than two years;
 - 14 (3) a crime or unlawful act defined as a Class B Misdemeanor within the five year period prior to the
15 date of application for employment, unless the individual intends to seek certification through the
16 North Carolina Sheriffs' Education and Training Standards Commission;
 - 17 (4) four or more crimes or unlawful acts defined as Class B Misdemeanors, regardless of the date of
18 conviction;
 - 19 (5) four or more crimes or unlawful acts defined as Class ~~B~~ A Misdemeanors, except the trainee may
20 be enrolled if the last conviction date occurred more than two years prior to the date of enrollment;
 - 21 (6) a combination of four or more Class A Misdemeanors or Class B Misdemeanors regardless of the
22 date of conviction, unless the individual intends to seek certification through the North Carolina
23 Criminal Justice Education and Training Standards Commission.
- 24 (j) Individuals charged with crimes specified in Paragraph (i) of this Rule may be admitted into the Basic Law
25 Enforcement Training Course if such offenses were dismissed or the person was found not guilty, but completion of
26 the Basic Law Enforcement Training Course does not ensure that certification as a law enforcement officer or justice
27 officer through the North Carolina Criminal Justice Education and Training Standards Commission will be issued.
28 Every individual who is admitted as a trainee in a presentation of the Basic Law Enforcement Training Course shall
29 notify the School Director of all criminal offenses the trainee is arrested for or charged with, pleads no contest to,
30 pleads guilty to, or is found guilty of, and of all Domestic Violence Orders (G.S. 50B) that are issued by a judicial
31 official after a hearing that provides an opportunity for both parties to be present. This includes all criminal offenses
32 except minor traffic offenses and includes any offense of Driving Under the Influence (DUI) or Driving While
33 Impaired (DWI). A "minor traffic offense" is defined, for the purposes of this Paragraph, as an offense where the
34 maximum punishment allowable by law is 60 days or fewer. Other offenses under G.S. 20 (Motor Vehicles) or
35 similar laws of other jurisdictions that shall be reported to the School Director are G.S 20-138.1 (driving while under
36 the influence), G.S. 20-28 (driving while license permanently revoked or permanently suspended), G.S. 20-30(5)
37 (fictitious name or address in application for license or learner's permit), G.S. 20-37.8 (fraudulent use of a fictitious

1 name for a special identification card), G.S. 20-102.1 (false report of theft or conversion of a motor vehicle), G.S.
2 20-111(5) (fictitious name or address in application for registration), G.S. 20-130.1 (unlawful use of red or blue
3 lights), G.S. 20-137.2 (operation of vehicles resembling law enforcement vehicles), G.S. 20-141.3 (unlawful racing
4 on streets and highways), G.S. 20-141.5 (speeding to elude arrest), and G.S. 20-166 (duty to stop in event of
5 accident). The notifications required under this Paragraph shall be in writing and specify the nature of the offense,
6 the court in which the case was handled, the date of the arrest or criminal charge, the date of issuance of the
7 Domestic Violence Order (G.S. 50B), and the final disposition and the date thereof. The notifications required
8 under this Paragraph shall be received by the School Director within 30 days of the date the case was disposed of in
9 court. The requirements of this Paragraph are applicable at all times during which the trainee is enrolled in a Basic
10 Law Enforcement Training Course. The requirements of this Paragraph are in addition to the notifications required
11 under 12 NCAC 10B .0301 and 12 NCAC 09B .0101(8).

12

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

14 Eff. January 1, 1981;

15 Amended Eff. October 1, 2016; February 1, 2016; November 1, 2015; March 1, 2015; January 1,
16 2015; June 1, 2012; February 1, 2011; June 1, 2010; December 1, 2004; July 1, 2004; August 1,
17 2002; August 1, 2000; January 1, 1995; March 1, 1992; July 1, 1989; January 1, 1985.

18

REQUEST FOR TECHNICAL CHANGE

AGENCY: Criminal Justice Training and Standards Commission

RULE CITATION: 12 NCAC 09B .0401

DEADLINE FOR RECEIPT: Friday, September 9, 2016

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

On the Submission for Permanent Rule form, Box 6, please revise the form to reflect that the Notice of Text was published August 3, 2015, and the public hearing was conducted November 20, 2015, as reflected in the NC Register published August 3, 2015. If those are not the correct dates, please change the Introductory Statement in the Rule to reflect the correct publication.

In the Introductory Statement, you need to add "with changes:" to reflect the changes made after publication.

In (a), line 7, are the "passing scores" in Rule elsewhere?

On line 8, do you mean to refer to Rule .0225 instead of .0412? I ask because Rule 12 NCAC 09B .0225 refers to the course itself.

On line 9, please state "his or her" to be consistent with earlier language on that line.

In (c), line 15, is "successfully passing" a reference to the 70% in Rule 12 NCAC 09B .0406(d)? If so, why are you using "successfully" here, when it is not used in that Rule, nor elsewhere for passing in this Rule?

In (d), you need to highlight the changes made after publication.

In (d), you published language that the individual would have five years for certification; after publication, you changed it to 12 months. In light of G.S. 150B-21.2(g), what was the genesis for this change?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: August 25, 2016

1 **SECTION .0400 - MINIMUM STANDARDS FOR COMPLETION OF TRAINING**

2
3 **12 NCAC 09B .0401 is amended as published in Vol. 30, Issue 3; page 276:**

4
5 **12 NCAC 09B .0401 TIME REQUIREMENT FOR COMPLETION OF TRAINING**

6 (a) Each criminal justice officer, with the exception of law enforcement officers, holding probationary certification
7 shall complete, with passing scores, a Commission-accredited basic training course as prescribed in Rules .0235,
8 .0236, and .0412 of this Subchapter that includes training in the skills and knowledge necessary to perform the
9 duties of his or her office. The officer shall complete the course within one year from the date of his original
10 appointment, as determined by the date of the probationary certification.

11 (b) Each law enforcement officer shall have completed with passing scores the accredited basic training course as
12 prescribed in Rule .0205 of this Subchapter prior to obtaining probationary certification.

13 (c) If a trainee completes the basic training course as prescribed in Rule .0205 of this Subchapter prior to being
14 employed as a law enforcement officer, the trainee shall be duly appointed and sworn as a law enforcement officer
15 within one year of successfully passing the comprehensive written exam as specified in Rule .0406 of this
16 Subchapter for that basic training course to be recognized under these Rules.

17 ~~(d) [If a trainee, while on active duty in the armed forces, completes the basic training course in its entirety as~~
18 ~~prescribed in Rule .0205 of this Subchapter, the trainee shall be eligible for probationary certification, as prescribed~~
19 ~~in Rule 9C .0303 of this Chapter within one year of separation from active duty status from the armed forces. The~~
20 ~~trainee's eligibility for certification shall expire five years from the date the trainee achieves a passing score on the~~
21 ~~BLET comprehensive written examination, unless otherwise provided by law.] An active duty member of the armed~~
22 ~~forces who begins the basic training course as prescribed in Rule .0205 of this Subchapter within five years prior to~~
23 ~~separating from active duty status, and completes the basic training course in its entirety pursuant to Rule .0405 of~~
24 ~~this Subchapter and achieves a passing score on the comprehensive written examination pursuant to Rule .0406 of~~
25 ~~this Subchapter shall be eligible for probationary certification pursuant to 12 NCAC 09C .0303 for a period of 12~~
26 ~~months from the date the individual separates from active duty status in the armed forces.~~

27 ~~(d)~~(e) If local confinement supervisory and administrative personnel complete basic training prior to being
28 employed by a facility in a supervisory and administrative position that requires certification as prescribed in G.S.
29 153A-217 and G.S. 153A-218, the personnel shall be duly appointed to a local confinement facility supervisory and
30 administrative position within one year of the completion of training for the basic training course specified in 12
31 NCAC 09B .0205. This one year period shall begin with the date the applicant achieves a passing score on the
32 comprehensive written exam, as specified in Rule .0411 of this Section.

33
34 *History Note:* *Authority G.S. 17C-2; 17C-6; 17C-10;*

35 *Eff. January 1, 1981;*

36 *Amended Eff. October 1, 2016; August 1, 2015; January 1, 2015; January 1, 1995; March 1,*
37 *1992; July 1, 1989; June 1, 1986.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Criminal Justice Training and Standards Commission

RULE CITATION: 12 NCAC 09B .0403

DEADLINE FOR RECEIPT: Friday, September 9, 2016

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In (a), line 8, what is your authority to evaluate only full-time experience? Are you relying upon G.S. 17C-10(c) for this?

Please end (a)(1) through (13) with periods, as you are ending (a)(14) through (18) with them.

Generally, the phrase "minimum" (line 30) and phrase "at a minimum" (lines 21-22) are disfavored in rules, as rules the minimum requirements. However, I presume where used in this Rule, the term/phrase is needed. Is that correct?

Also throughout this Rule, where you refer to "passing score," I take it that the passing score is as set forth in other Rules?

In (a)(2), line 25, replace "must" with "shall"

In (a)(3), Page 2, line 2, why aren't you citing to Rule 12 NCAC 09E .0106, as you did in (a)(2), Page 1, line 26? Please note the same question for (a)(17)(A), Page 4, line 19.

In (a)(5), lines 7 and 8, I suggest inserting commas after "years" and "experience"

I am just checking – do you still need Subparagraphs (a)(8) and (9), as those are addressing individuals trained 38 to 43 years ago? And I assume that the "Criminal Justice Training and Standards Council" is the former name of the Commission?

In (a)(9), line 34, I suggest inserting a comma after "Section" and "experience"

Amanda J. Reeder
Commission Counsel
Date submitted to agency: August 25, 2016

On Page 3, (a)(12), lines 14 – 15 parallel Subparagraph (a)(13), lines 17 through 19, but there are two differences: (a)(12) has a “shall” before “achieve” on line 15 and (a)(13) does not. Please change one to be consistent with the other.

Also, I am simply checking - did you intend to require the “prior to employment” to apply only to (a)(13)?

Please confirm that you intended to have different standards for (a)(14) than (a)(15) and (16).

In (a)(17), Page 4, line 9, what is on this form? Are the contents simply the statement set forth in this line?

In (a)(17)(A), line 13, the correct citation is “Subparagraph (a)(18) of this Rule.” Since this is how the language was published in the Register, you do not need to show this as a change, but you need to change it back.

On line 16, I suggest deleting the comma after “years”

On line 18, is “appointing” correct? It’s not “employing” as used elsewhere? Please note the same question for (a)(17)(B)(i), line 27.

In (a)(17)(B), line 21, please insert a comma after “guard” to be consistent with (a)(17)(A).

In (a)(17)(B)(i), line 28, replace “their” “he or she” since you refer to “person” on line 25.

In (a)(17)(B)(ii), line 34, why is “Commission-certified” in brackets? As you published it that way, so you will need to make sure you properly remove the brackets.

On line 37, I recommend replacing “per” with “as required by”

In (a)(17)(B)(iii), Page 5, line 4, the name of the topic in Rule .0205(b) is “Alcohol Beverage Control (ABC) Laws and Procedures”

On line 8, please hyphenate “Commission-certified”

In (a)(18), throughout this Subparagraph, I suggest using the language you published for the cross-references to rules in Subchapter 09E – “12 NCAC 09E .0105”, which is what you use throughout the rest of the Rule. Since you published it this way, you do not need to show it as a change. As a reminder, the Subparagraph read like this in the Register:

(18) An active duty member of the armed forces who completes the basic training course in its entirety as prescribed in Rule .0405 of this Section, and annually completes the mandatory in-service training topics as prescribed in Rule 12 NCAC 09E .0105, with the exception of the Firearms Qualification and Testing requirements contained in 12 NCAC 09E .0105(a)(1) for each year subsequent to the completion of the basic training course and achieves a passing score on the state comprehensive examination as prescribed in Rule .0406 of this Section within five years of separating from active duty status, shall be eligible for probationary certification as prescribed in Rule 12 NCAC 09C .0303 for a period of 12 months from the date he or she separates from active duty status in the armed forces. All mandatory in-service training topics as prescribed in 12 NCAC 09E .0105 of this Chapter must be completed by the individual prior to receiving probationary certification as prescribed in Rule 12 NCAC 09C .0303.

Amanda J. Reeder
Commission Counsel

Date submitted to agency: August 25, 2016

On line 14, I suggest replacing “as prescribed” with “set forth”

On line 21, replace “must” with “shall”

In (b), I take it that the standards are those set forth in this or other rules?

In (d), how does this work? What is the guidance for this exercise of discretion?

In (e)(4), Page 6, line 17, you cross-reference Rule .0401(a). However, that refers to a course, not an examination. Is this correct?

In the History Note, you cite to G.S. 93B-15.1. However, isn't this method of training waiver distinct from both 93B-15.1 and 17C-10?

If you need to retain 93B-15.1, please put a semicolon behind it.

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

1 **12 NCAC 09B .0403 is amended as published in Vol. 30, Issue 3; pages 276-280:**

2
3 **12 NCAC 09B .0403 EVALUATION FOR TRAINING WAIVER**

4 (a) The Standards Division staff shall evaluate each law enforcement officer's training and experience to determine
5 if equivalent training has been completed as specified in Rule .0402(a) of this Section. Applicants for certification
6 with prior law enforcement experience shall have been employed in a full-time, sworn law enforcement position in
7 order to be considered for training evaluation under this Rule. Applicants for certification with a combination of
8 full-time and part-time experience shall be evaluated on the basis of the full-time experience only. The following
9 criteria shall be used by Standards Division staff in evaluating a law enforcement officer's training and experience to
10 determine eligibility for a waiver of training requirements:

- 11 (1) Persons having completed a Commission-accredited basic training program and not having been
12 duly appointed and sworn as a law enforcement officer within one year of completion of the
13 program shall complete a subsequent Commission-accredited basic training program, as
14 prescribed in Rule .0405(a) of this Section, and achieve a passing score on the State
15 Comprehensive Examination prior to obtaining probationary law enforcement certification, unless
16 the Director determines that a delay in applying for certification was not due to neglect on the part
17 of the applicant, in which case the Director may accept a Commission-accredited basic training
18 program that is over one year old. The extension of the one year period shall not exceed 30 days
19 from the first year anniversary of the passing of the state comprehensive examination;
- 20 (2) Out-of-state transferees shall be evaluated to determine the amount and quality of their training
21 and experience. Out-of-state transferees shall not have a break in service exceeding one year. At
22 a minimum, out-of-state transferees shall have two years' full-time, sworn law enforcement
23 experience and have completed a basic law enforcement training course accredited by the
24 transferring State. Prior to employment as a certified law enforcement officer, out-of-state
25 transferees must complete with a passing score the employing agency's in-service firearms training
26 and qualification program as prescribed in 12 NCAC 09E .0106. At a minimum, out-of-state
27 transferees shall complete the Legal Unit in a Commission-accredited Basic Law Enforcement
28 Training Course as prescribed in Rule .0205(b)(1) of this Subchapter and shall achieve a passing
29 score on the State Comprehensive Examination within the 12 month probationary period;
- 30 (3) Persons who have completed a minimum 369-hour basic law enforcement training program
31 accredited by the Commission under guidelines administered beginning October 1, 1984 and have
32 been separated from a sworn position for over one year but less than three years who have had a
33 minimum of two years' experience as a full-time, sworn law enforcement officer in North Carolina
34 shall complete the Legal Unit in a Commission-accredited Basic Law Enforcement Training
35 Course as prescribed in Rule .0205(b)(1) of this Subchapter, and shall achieve a passing score on
36 the State Comprehensive Examination within the 12 month probationary period. Prior to
37 employment as a certified law enforcement officer, these persons shall complete with a passing

- 1 score the employing agency's in-service firearms training and qualification program as prescribed
2 in 12 NCAC 09E;
- 3 (4) Persons out of the law enforcement profession for over one year but less than three years who
4 have had less than two years' experience as a full-time, sworn law enforcement officer in North
5 Carolina shall complete a Commission-accredited basic training program, as prescribed in Rule
6 .0405(a) of this Section, and achieve a passing score on the State Comprehensive Examination;
- 7 (5) Persons out of the law enforcement profession for over three years regardless of prior training or
8 experience shall complete a Commission-accredited basic training program, as prescribed in Rule
9 .0405(a) of this Section, and shall achieve a passing score on the State Comprehensive
10 Examination;
- 11 (6) Persons who separated from law enforcement employment during their probationary period after
12 having completed a Commission-accredited basic training program and who have separated from a
13 sworn law enforcement position for more than one year shall complete a subsequent Commission-
14 accredited basic training program and achieve a passing score on the State Comprehensive
15 Examination;
- 16 (7) Persons who separated from a sworn law enforcement position during their probationary period
17 after having completed a Commission-accredited basic training program and who have separated
18 from a sworn law enforcement position for less than one year shall serve a new 12 month
19 probationary period as prescribed in Rule .0401(a) of this Section, but need not complete an
20 additional training program;
- 21 (8) Persons who have completed a minimum 160-hour basic law enforcement training program
22 accredited by the North Carolina Criminal Justice Training and Standards Council under
23 guidelines administered beginning on July 1, 1973 and continuing through September 30, 1978
24 and who have separated from a sworn law enforcement position for over one year but less than
25 two years shall be required to complete the Legal Unit and the topical area entitled "Law
26 Enforcement Driver Training" of a Commission-accredited Basic Law Enforcement Training
27 Course as prescribed in Rule .0205(b)(1) and .0205(b)(5)(C) of this Subchapter and achieve a
28 passing score on the State Comprehensive Examination within the 12 month probationary period;
- 29 (9) Persons who have completed a minimum 160-hour basic law enforcement training program
30 accredited by the North Carolina Criminal Justice Training and Standards Council under
31 guidelines administered beginning on July 1, 1973 and continuing through September 30, 1978
32 and have been separated from a sworn law enforcement position for two or more years shall be
33 required to complete a Commission-accredited basic training program, as prescribed in Rule .0405
34 of this Section regardless of training and experience and shall achieve a passing score on the State
35 Comprehensive Examination;
- 36 (10) Persons who have completed a minimum 240-hour basic law enforcement training program
37 accredited by the Commission under guidelines administered beginning October 1, 1978 and

1 continuing through September 30, 1984 and have been separated from a sworn position over one
2 year but less than three years shall be required to complete the Legal Unit in a Commission-
3 accredited Basic Law Enforcement Training Course as prescribed in Rule .0205(b)(1) of this
4 Subchapter and achieve a passing score on the State Comprehensive Examination within the 12
5 month probationary period;

- 6 (11) Persons previously holding law enforcement certification in accordance with G.S. 17C-10(a) who
7 have been separated from a sworn law enforcement position for over one year and who have not
8 previously completed a minimum basic training program accredited by either the North Carolina
9 Criminal Justice Training and Standards Council or the Commission shall complete a
10 Commission-accredited basic training program, as prescribed in Rule .0405 of this Section, and
11 shall achieve a passing score on the State Comprehensive Examination prior to employment;
- 12 (12) Persons who have completed training as a federal law enforcement officer and are candidates for
13 appointment as a sworn law enforcement officer in North Carolina shall be required to complete a
14 Commission-accredited basic training program, as prescribed in Rule .0405 of this Section, and
15 shall achieve a passing score on the State Comprehensive Examination;
- 16 (13) Applicants with part-time experience who have a break in service in excess of one year shall
17 complete a Commission-accredited basic training program, as prescribed in Rule .0405 of this
18 Section, and achieve a passing score on the State Comprehensive Examination prior to
19 employment;
- 20 (14) Applicants who hold or previously held certification issued by the North Carolina Sheriffs'
21 Education and Training Standards Commission (Sheriffs' Commission) shall be subject to
22 evaluation of their prior training and experience on an individual basis. The Standards Division
23 staff shall determine the amount of training required of these applicants, based upon:
- 24 (A) the active or inactive status held by the applicant;
25 (B) the amount of time served in an active status during the year immediately prior to
26 application for certification by the Commission;
27 (C) the length of any break in the applicant's service; and
28 (D) whether the applicant has completed mandatory in-service training for each year his or
29 her certification was held by the Sheriffs' Commission.
- 30 (15) Alcohol law enforcement agents who received basic alcohol law enforcement training prior to
31 November 1, 1993 and transfer to another law enforcement agency in a sworn capacity shall be
32 subject to evaluation of their prior training and experience on an individual basis. The Standards
33 Division staff shall determine the amount of training required of these applicants, based upon the
34 type of certification held by the applicant and the length of any break in the applicant's sworn, full-
35 time service.
- 36 (16) Wildlife enforcement officers who separate from employment with the Wildlife Enforcement
37 Division and transfer to another law enforcement agency in a sworn capacity shall be subject to

1 evaluation of their prior training and experience on an individual basis. The Standards Division
2 staff shall determine the amount of training required of these applicants, based upon the type of
3 certification held by the applicant and the length of any break in the applicant's sworn, full-time
4 service.

- 5 (17) Active duty, guard, or reserve military members failing to complete all of the required annual in-
6 service training topics, as defined in 12 NCAC 09E .0105, of this Chapter, due to military
7 obligations, are subject to the following training requirements as a condition for return to active
8 criminal justice status. The agency head shall verify the person's completion of the appropriate
9 training by submitting a statement, on Form F-9C, Return to Duty Request form. This form is
10 located on the agency's website: [http://www.ncdoj.gov/getdoc/ac22954d-5e85-4a33-87af-
11 308ba2248f54/F-9C-6-11.aspx](http://www.ncdoj.gov/getdoc/ac22954d-5e85-4a33-87af-308ba2248f54/F-9C-6-11.aspx).

12 (A) ~~Active duty,~~ duty members of the armed forces eligible for probationary certification
13 pursuant to Paragraph (18) of this Rule, and active duty, guard, or reserve military
14 members holding probationary or general certification as a criminal justice officer who
15 fail to complete all of the required annual in-service training topics due to military
16 obligations for up to a period of three years, shall complete the previous year's required
17 in-service training topics, the current year's required in-service training topics, and
18 complete with a passing score the appointing agency's in-service firearms training and
19 qualification program as prescribed in 12 NCAC 09E prior to their return to active
20 criminal justice status;

21 (B) Active, guard or reserve military members holding probationary or general certification
22 as a criminal justice officer who fail to complete all of the required annual in-service
23 training topics due to military obligations for a period greater than three years shall
24 complete the following topic areas within the following time frames:

25 (i) The person shall complete the previous year's required in-service training topics,
26 the current year's required in-service training topics, and complete the
27 appointing agency's in-service firearms training and qualification program as
28 prescribed in 12 NCAC 09E prior to their return to active criminal justice status;

29 (ii) The person shall achieve a passing score on the practical skills testing for the
30 First Responder, Law Enforcement Driver Training, and Subject Control Arrest
31 Techniques topics enumerated in Rule .0205(b)(5) of this Subchapter prior to
32 return to active criminal justice status. This practical skills testing may be
33 completed either in a Commission-accredited Basic Law Enforcement Training
34 course or under the instruction of a [Commission-certified] instructor for that
35 particular skill. The person shall complete one physical fitness assessment in
36 lieu of the Fitness Assessment and Testing topic. The person must also be
37 examined by a physician per Rule .0104(b) of this Subchapter; and

1 (iii) The person shall complete some of the topics in the legal unit of instruction in
2 the Basic Law Enforcement Training course as set forth in Rule .0205(b)(1) of
3 this Subchapter. The required topics include Motor Vehicle Law; Juvenile Laws
4 and Procedures; Arrest, Search and Seizure/Constitutional Law; and ABC Laws
5 and Procedures. The person shall achieve a passing score on the appropriate
6 topic tests for each course delivery. The person may undertake each of these
7 legal unit topics of instruction either in a Commission-accredited Basic Law
8 Enforcement Training course or under the instruction of a Commission certified
9 instructor for that particular topic of instruction. The person shall have 12
10 months from the beginning of his or her return to active criminal justice status to
11 complete each of the enumerated topics of instruction.

12 (18) An active duty member of the armed forces who completes the basic training course in its entirety
13 as prescribed in Rule .0405 of this Subchapter, and annually completes the mandatory in-service
14 training topics as prescribed in Rule 9E .0105 of this Chapter, with the exception of the Firearms
15 Qualification and Testing requirements contained in Paragraph (a)(1) of Rule 9E .0105 of this
16 Subchapter for each year subsequent to the completion of the basic training course and achieves a
17 passing score on the state comprehensive examination as prescribed in Rule .0406 of this
18 Subchapter within five years of separating from active duty status, shall be eligible for
19 probationary certification as prescribed in Rule 9C .0303 of this Chapter for a period of 12 months
20 from the date he or she separates from active duty status in the armed forces. All mandatory in-
21 service training topics as prescribed in Rule 9E .0105 of this Chapter must be completed by the
22 individual prior to receiving probationary certification as prescribed in Rule 9C .0303 of this
23 Chapter.

24 (b) In the event the applicant's prior training is not equivalent to the Commission's standards, the Commission shall
25 prescribe as a condition of certification supplementary or remedial training to equate previous training with current
26 standards.

27 (c) Where certifications issued by the Commission require satisfactory performance on a written examination as
28 part of the training, the Commission shall require the examinations for the certification.

29 (d) In those instances not incorporated within this Rule or where an evaluation of the applicant's prior training and
30 experience determines that required attendance in the entire Basic Law Enforcement Training Course would be
31 impractical, the Director of the Standards Division is authorized to exercise his or her discretion in determining the
32 amount of training those persons shall complete during their probationary period.

33 (e) The following criteria shall be used by Standards Division staff in evaluating prior training and experience of
34 local confinement personnel to determine eligibility for a waiver of training requirements:

35 (1) Persons who hold probationary, general, or grandfather certification as local confinement
36 personnel and separate after having completed a Commission-accredited course as prescribed in
37 Rule .0224 or .0225 of this Subchapter and have been separated for one year or more shall

1 complete a subsequent Commission-accredited training course and achieve a passing score on the
2 State Comprehensive Examination during the probationary period as prescribed in Rule .0401(a)
3 of this Section;

4 (2) Persons who separated from a local confinement personnel position after having completed a
5 Commission-accredited course as prescribed in Rule .0224 or .0225 of this Subchapter and who
6 have been separated for less than one year shall serve a new 12 month probationary period, but
7 need not complete an additional training program;

8 (3) Applicants who hold or previously held "Detention Officer Certification" issued by the North
9 Carolina Sheriffs' Education and Training Standards Commission shall be subject to evaluation of
10 their prior training and experience on an individual basis. No additional training shall be required
11 where the applicant obtained certification and successfully completed the required 120 hour
12 training course, and has not had a break in service in excess of one year; and

13 (4) Persons holding certification for local confinement facilities who transfer to a district or county
14 confinement facility shall complete the course for district and county confinement facility
15 personnel, as adopted by reference in Rule .0224 of this Subchapter, and achieve a passing score
16 on the State Comprehensive Examination during the probationary period as prescribed in Rule
17 .0401(a) of this Section.

18
19 *History Note: Authority G.S. 17C-2; 17C-6; 17C-10; 93B-15.1*
20 *Eff. January 1, 1981;*
21 *Amended Eff. October 1, 2016; November 1, 2014; August 1, 2000; November 1, 1993; March 1,*
22 *1992; July 1, 1989; February 1, 1987.*
23

REQUEST FOR TECHNICAL CHANGE

AGENCY: Criminal Justice Training and Standards Commission

RULE CITATION: 12 NCAC 09E .0105

DEADLINE FOR RECEIPT: Friday, September 9, 2016

NOTE WELL: This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

I am simply checking – in the changes to (a)(1) through (6), you intended to reduce the required hours from 26 to 24?

So that I am clear, is there training here for investigation in evidence-based prosecutions, as required by G.S. 17C-6(a)(2)?

§ 17C-6. Powers of Commission.

(a) In addition to powers conferred upon the Commission elsewhere in this Chapter, the Commission shall have the following powers, which shall be enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17C-10:

(2) Establish minimum educational and training standards that must be met in order to qualify for entry level employment and retention as a criminal justice officer in temporary or probationary status or in a permanent position. The standards for entry level employment shall include education and training in response to, and investigation of, domestic violence cases, as well as training in investigation for evidence-based prosecutions.

In (e)(1), Page 2, line 11, I take it you need to retain “at least”?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: August 25, 2016

1 **12 NCAC 09E .0105 is amended as published in Vol. 30, Issue 21; pages 2224-2225:**

2
3 **12 NCAC 09E .0105 MINIMUM TRAINING SPECIFICATIONS: ANNUAL IN-SERVICE TRAINING**

4 (a) The following are established as topics, specifications, and hours to be included in each law enforcement
5 officer's annual in-service training courses. For the purposes of this Subchapter, a credit shall be equal to one hour
6 of traditional classroom instruction. These specifications shall be incorporated in each law enforcement agency's
7 annual in-service training courses:

- 8 (1) ~~2016~~ 2017 Firearms Training and Qualification (6 credits);
9 (2) ~~2016~~ 2017 Legal Update (4 credits);
10 (3) ~~2016 Juvenile Minority Sensitivity Training: The Color of Justice~~ 2017 Positively Impacting
11 Today's Youth (2 credits);
12 (4) ~~Human Trafficking Awareness~~ 2017 Domestic Violence: Protecting Victims of Domestic
13 Violence (~~2 credits~~); (4 credits);
14 (5) ~~North Carolina Firearms Laws: Citizens and Guns (minimum of 2 credits);~~ 2017 Improving
15 Decision-Making Skills (4 credits); and
16 (6) ~~2016~~ 2017 Department Topics of Choice (~~40 credits~~); (4 credits). The Department Head may
17 choose any topic, provided the lesson plan is written in Instructional Systems Design format and is
18 taught by an instructor who is certified by the Commission. Topics delivered pursuant to Rule
19 .0104(1) of this Section to satisfy this requirement shall not be required to be written in
20 Instructional Systems Design format or delivered by an instructor certified by the Commission.

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

24 Criminal Justice Standards Division
25 North Carolina Department of Justice
26 1700 Tryon Park Drive
27 Raleigh, North Carolina 27610

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

29 North Carolina Justice Academy
30 Post Office Drawer 99
31 Salemburg, North Carolina 28385

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

35 Criminal Justice Standards Division
36 North Carolina Department of Justice
37 1700 Tryon Park Drive

1 Raleigh, North Carolina 27610

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

3 North Carolina Justice Academy

4 Post Office Drawer 99

5 Salemburg, North Carolina 28385

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

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

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

22
23 *History Note: Authority G.S. 17C-6; 17C-10;*

24 *Eff. July 1, 1989;*

25 *Amended Eff. January 1, 2005; November 1, 1998;*

26 *Temporary Amendment Eff. January 1, 2005;*

27 *Amended Eff. January 1, 2017; July 1, 2016; January 1, 2016; January 1, 2015; February 1,*
28 *2014; June 1, 2012; February 1, 2011; January 1, 2010; April 1, 2009; April 1, 2008; February 1,*
29 *2007; January 1, 2006.*

30