

REQUEST FOR TECHNICAL CHANGE

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09B .0204

**DEADLINE FOR RECEIPT: Thursday, March 9, 2017**

***PLEASE NOTE: 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. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Lines 5 thru 8, what is Paragraph (b) trying to accomplish? Line 6 references "no fewer than 8" but line 8 says "fewer than 10." The clause "no fewer than" should be deleted if the minimum attendees will remain 8. Please review and clarify.*

*Further, on line 6, if the number remains lower than 10, in accordance with [26 NCAC 02C .0108\(9\)\(a\)](#), the number should be spelled out "eight"*

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

Abigail M. Hammond  
Commission Counsel

Date submitted to agency: Wednesday, February 22, 2017

1 **12 NCAC 09B .0204 is proposed for amendment as follows:**

2

3 **12 NCAC 09B .0204 TRAINING COURSE ENROLLMENT**

4 (a) Any school offering a Basic Law Enforcement Training Course shall have enrolled 10 trainees in the offering.

5 (b) Any school may make written request to the Director of the Standards Division to deliver the Basic Law  
6 Enforcement Training Course with no fewer than 8 enrolled trainees. The written request shall include a summary of the  
7 efforts the school has made to notify its respective community of the availability of the course, and the reasons  
8 supporting the school's need to enroll fewer than 10 trainees.

9 ~~(b)~~(c) The school may not enroll any trainee later than the initial day of delivery of a certified training course unless the  
10 trainee's enrollment is pursuant to an authorization of limited enrollment in a subsequent course pursuant to Rule .0405 of  
11 this Subchapter or pursuant to prescribed supplementary or remedial training required pursuant to Rule .0402 of this  
12 Subchapter.

13 ~~(c)~~(d) The school may not enroll more than 16 trainees in a presentation of the "Criminal Justice Instructor Training  
14 Course" as constituted under Rule .0209 of this Section.

15

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

17 *Eff. January 1, 1981;*

18 *Amended Eff. April 1, 2017; August 1, 2005; August 1, 2000; January 1, 1985; November 1, 1981.*

19

REQUEST FOR TECHNICAL CHANGE

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09G .0206

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In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line 8, verify the cross referenced rule. It appears to be 12 NCAC 09G .0102(10), not 12 NCAC 09G .0102(9)*

*Line 26, replace the period after "certification" with a semicolon*

*Lines 27 thru 28, what type of criminal charges? G.S. 17C-13 appears to limit the denial of certification to only felony convictions. Please clarify the authority for this language when pending or outstanding charges are not convictions and G.S. 17C-13 requires a felony conviction for denial. Further, a later unconditional pardon would bar the Commission from considering the crime as "an alleged lack of good moral character" and this seems to be using a pending charge against an applicant. Please clarify.*

*Line 27, if the language remains, the applicable type of "criminal changes" should be clarified by adding a cross-reference to the appropriate felony statutes*

*Line 28, if the language remains, delete the comma after "certification, and the language "pursuant to this Subchapter" should be replaced with a cross-reference to G.S. 17C-13(b) to clarify what controls the consideration of the application.*

*Line 29, uncapitalize "Any"*

*Line 31, replace "could" with "may"*

*Lines 31 thru 32, delete the clause "but is not limited to"*

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

Abigail M. Hammond  
Commission Counsel

Date submitted to agency: Wednesday, February 22, 2017

1 **12 NCAC 09G .0206 is proposed for amendment as follows:**

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3 **12 NCAC 09G .0206 MORAL CHARACTER**

4 Every person employed as a correctional officer or probation/parole officer by the Department of Public Safety,  
5 Division of Adult Correction and Juvenile Justice shall demonstrate good moral character as evidenced by the  
6 following:

7 (1) not having been convicted of a felony;

8 (2) not having been convicted of a misdemeanor as defined in 12 NCAC 09G .0102(9) for three years  
9 or the completion of any corrections supervision imposed by the courts whichever is later;

10 (3) not having been convicted of an offense that, under 18 U.S.C. 922 (1996), which is hereby  
11 incorporated by reference and all subsequent amendments  
12 (<http://www.gpo.gov/fdsys/pkg/USCODE-2011-title18-part1-chap44-sec922.pdf>), would prohibit  
13 the possession of a firearm or ammunition;

14 (4) having submitted to and produced a negative result on a drug test within 60 days of employment  
15 or any in-service drug screening required by the Department of Public Safety, Division of Adult  
16 Correction and Juvenile Justice that meets the certification standards of the Department of Health  
17 and Human Services for Federal Workplace Drug Testing Programs. A list of certified drug  
18 testing labs that meet this requirement may be obtained, at no cost, at  
19 [http://workplace.samhsa.gov/DrugTesting/Level\\_1\\_Pages/CertifiedLabs.html](http://workplace.samhsa.gov/DrugTesting/Level_1_Pages/CertifiedLabs.html).

20 (5) submitting to a background investigation consisting of the following:

21 (a) verification of age;

22 (b) verification of education; and

23 (c) criminal history check of local, state, and national files; ~~and~~

24 (6) being truthful in providing information to the Department of Public Safety, Division of Adult  
25 Correction and Juvenile Justice and to the Standards Division for the purpose of obtaining  
26 probationary or general certification.

27 (7) not having pending or outstanding criminal charges which, if convicted of, would disqualify the  
28 applicant from holding such certification, pursuant to this Subchapter; and

29 (8) Any conduct that brings into question the truthfulness or credibility of the officer, reflects poorly  
30 on the officer's profession, or conduct that involved "moral turpitude." "Moral Turpitude" is  
31 conduct that is contrary to justice, honesty, or morality. This conduct could include but is not  
32 limited to conduct as defined in: re Willis, 299 N.C. 1, 215 S.E. 2d 771 appeal dismissed 423 U.S.  
33 976 (1975); in re State v. Harris, 216 N.C. 746, 6 S.E. 2d 854 (1940); in re Legg, 325 N.C. 658,  
34 386 S.E. 2d 174(1989); in re Applicants for License, 143 N.C. 1, 55 S.E. 635 (1906); in re  
35 Dillingham, 188 N.C. 162, 124 S.E. 130 (1924); State v. Benbow, 309 N.C. 538, 308 S.E. 2d 647  
36 (1983); and their progeny.

37

1 *History Note: Authority G.S. 17C-6; 17C-10;*  
2 *Temporary Adoption Eff. January 1, 2001;*  
3 *Eff. August 1, 2002;*  
4 *Amended Eff. April 1, 2017; January 1, 2015; June 1, 2012; April 1, 2009; August 1, 2004.*  
5

REQUEST FOR TECHNICAL CHANGE

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09H .0102

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In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line 4, replace "must" with "shall"*

*Line 4, replace "he/she" with "he or she"*

*Line 6, replace "be incorporated" with "incorporate"*

*Line 12, use the statutory term and replace "Individuals" with "Qualified retired law enforcement officers"*

*Line 12, replace "pursuant to" with "of"*

*Lines 12 thru 13, delete "and who have submitted an application to the Commission" as that is the requirements set forth in Rule .0105 of this Subchapter*

*Line 14, add a comma after "renewal"*

*Line 16, what is meant by "meets the requirements specified in this Subchapter."? Can the "requirements" be specified? Is it just "compliance with the rules in this Subchapter"? Please review and clarify*

*Lines 17 thru 18 appears bulky and disconnected. Consider the following re-write:*

*"Qualified retired law enforcement officers shall qualify each certification period with each handgun that will be carried concealed."*

*Line 22, the citation to G.S. 14-415.2 is incorrect, as that has been repealed. Should the citation be "14-415.26"? Please review and clarify.*

Abigail M. Hammond  
Commission Counsel

Date submitted to agency: Wednesday, February 22, 2017

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Abigail M. Hammond  
Commission Counsel  
Date submitted to agency: Wednesday, February 22, 2017

1 **12 NCAC 09H .0102 is proposed for amendment as follows:**

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3 **12 NCAC 09H .0102 MINIMUM TRAINING SPECIFICATIONS**

4 (a) Each qualified retired law enforcement officer must qualify with each handgun he/she will carry in accordance with  
5 the standards outlined in 12 NCAC 09E .~~0105(4)~~ .0105(a)(1) and 12 NCAC 09E .0106(a), (c), (e), (f) and (g), which shall  
6 be incorporated in classroom instruction and firearms qualification on the firing range utilizing the course of fire from the  
7 "Specialized Firearms Instructor Training Manual."

8 (b) In addition to the standards set out in Rules 09E .0105 and ~~.0106~~, .0106 of this Chapter, each qualified retired law  
9 enforcement officer shall also receive a minimum of two hours of instruction on the North Carolina laws of self defense  
10 and the use of force by private citizens, detention of persons by private persons, and assistance to law enforcement  
11 officers by private persons.

12 (c) Individuals meeting the requirements pursuant to Paragraphs (a) and (b) of this Rule, and who have submitted an  
13 application to the Commission and have met the requirements of Rule .0105 of this Subchapter, shall be certified for a  
14 period of 12 months from the date the application is approved by the Commission. Upon application for renewal the  
15 certification may be renewed by the Commission for 12 month periods, provided the qualified retired law enforcement  
16 officer meets the requirements specified in this Subchapter.

17 ~~(d)~~ (d) Qualified retired law enforcement officers shall qualify with each handgun that will be carried concealed at least  
18 once ~~every 12 months~~, during each certification period. ~~For the purpose of this Rule, handgun shall include semi-~~  
19 ~~automatic pistols or revolvers.~~

20

21

22 *History Note: Authority G.S. 17C-6; 14-415.10; 14-415.25; 14-415.2;*

23 *Eff. April 1, 2017; May 1, 2009.*

24



REQUEST FOR TECHNICAL CHANGE

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09H .0105

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*Lines 4, 12, and 14, consider beginning these clauses with lowercase letters.*

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

Abigail M. Hammond  
Commission Counsel  
Date submitted to agency: Wednesday, February 22, 2017

1 **12 NCAC 09H .0105 FILING AND FEES**

2 Each applicant for firearms qualification certification under the Qualified Retired Law Enforcement Officers Firearms  
3 Qualification Certification Program shall submit the following to the Commission:

- 4 (1) ~~An original Commission approved~~ A Commission application form (Form F-9R) containing the  
5 applicant's notarized signature which attests that the applicant meets the definition of qualified retired  
6 law enforcement officer set forth in G.S. 14-415.10 and is eligible to receive or possess firearms under  
7 federal and state law. ~~The application form~~ Form F-9R, available on the agency's website at  
8 <http://www.ncdoj.gov/getdoc/23af3614-2aa2-4416-bbae-25cbe9441e06/1F-9R-8-09.aspx>, ~~must also~~  
9 shall include the signature of a Commission certified Specialized Firearms Instructor attesting that the  
10 applicant has met the training and qualification standards as specified in Rule 09H .0102 and lists the  
11 handguns with which the qualified retired officer qualified;
- 12 (2) A copy of the qualified retired officer's photographic identification indicating retirement status issued  
13 by the law enforcement agency from which the applicant retired; and
- 14 (3) A fee of fifty dollars (\$50.00) for the initial one-year qualification and a fee of twenty-five dollars  
15 (\$25.00) for the annual renewal thereafter. Applications and fees shall be submitted to:

16 Criminal Justice Standards Division  
17 North Carolina Department of Justice  
18 Post Office Drawer 149  
19 Raleigh, NC 27602.

20 All fees shall be paid by certified check or money order made payable to the North Carolina Department of  
21 Justice.

22

23 *History Note: Authority G.S. 17C-6; 14-415.10; 14-415.25; 14-415.26;*

24 *Eff. April 1, 2017; April 1, 2009.*

25