

RRC STAFF OPINION

PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: All rules submitted in 12 NCAC 09

RECOMMENDED ACTION:

- ☐ Approve, but note staff's comment
- ☒ Object, based on:
 - ☐ Lack of statutory authority
 - ☐ Unclear or ambiguous
 - ☐ Unnecessary
- ☒ Failure to comply with the APA
- ☐ Extend the period of review

COMMENT:

The Criminal Justice Education and Training Standards Commission (CJETS) published notice of its proposed amendment of 16 rules and repeal of one rule in the March 15, 2017, Register. In that notice, CJETS also provided notice of a public hearing to be held on August 16, 2017. In fact, the public hearing was held the following day, on August 17, 2017, instead of the day established in the Register notice. The date, time, and place of the rescheduled meeting were not published in any subsequent volume of the Register.

The Administrative Procedures Act (APA) requires that a public hearing be held only under certain circumstances. If a public hearing is held, however, the G.S. 150B-21.2(e) requires that the date, time, and place of the meeting and of any rescheduled meeting be published in the Register:

(e) Hearing. – An agency must hold a public hearing on a rule it proposes to adopt if the agency publishes the text of the proposed rule in the North Carolina Register and the agency receives a written request for a public hearing on the proposed rule within 15 days after the notice of text is published. The agency must accept comments at the public hearing on both the proposed rule and any fiscal note that has been prepared in connection with the proposed rule.

An agency may hold a public hearing on a proposed rule and fiscal note in other circumstances. **When an agency is required to hold a public hearing on a proposed rule or decides to hold a public hearing on a proposed rule when it is not required to do so, the agency must publish in the North Carolina Register a notice of the date, time, and place of the public hearing.** The hearing date of a public hearing held after the agency publishes notice of the hearing in the North Carolina

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Issued September 7, 2017

Register must be at least 15 days after the date the notice is published. If notice of a public hearing has been published in the North Carolina Register and that public hearing has been cancelled, the agency shall publish notice in the North Carolina Register at least 15 days prior to the date of any rescheduled hearing.

Pursuant to G.S. 150B-18, a “rule is not valid unless it is adopted in substantial compliance with” the APA. Staff recommends that, absent a demonstration of substantial compliance by CJETS, the Rules Review Commission object to the Rule because notice of the rescheduled public hearing was not provided as required by G.S. 150B-21.2(e).

12 NCAC 09A .0206 is proposed for amendment as follows:

12 NCAC 09A .0206 SUMMARY SUSPENSIONS

(a) The Commission, by and through the Probable Cause Committee, may summarily suspend the certification of a criminal justice officer or instructor before the commencement of proceedings for suspension or revocation of the certification when the public health, safety, or welfare requires action pursuant to G.S. 150B-3. The Commission has determined that the following conditions specifically affect the public health, safety, or welfare and therefore it, by and through the Probable Cause Committee, may utilize summary suspension when:

- (1) the person has committed or been convicted of a violation of the criminal code that would require a permanent revocation or denial of certification;
- (2) the certified officer fails to satisfactorily complete the in-service training requirements as prescribed in 12 NCAC 09E; or
- (3) the certified officer has produced a positive result on a urinalysis test, conducted in accordance with 12 NCAC 09B .0101(5).

(b) For the purpose of considering a summary suspension of certification, the Probable Cause Committee may meet upon notice given by mail, telephone, or other means not less than 48 hours in advance of the meeting.

(c) A summary suspension shall be effective on the date specified in the order of summary suspension or on service of the certified copy of the order at the last known address of the person, whichever is later. The summary suspension shall remain effective during the proceedings.

(d) The Director, upon receipt of information showing the existence of a basis for summary suspension provided for in Subparagraph (a)(1), (2), or (3) of this Rule, shall coordinate the meeting described in Paragraph (b) of this Rule. Any affected person shall be notified, if feasible, that the person may submit any pertinent matters to the Probable Cause Committee for its consideration before the Committee acts on the summary suspension issue. No person shall be allowed more than 48 hours to submit information to the Probable Cause Committee.

(e) Upon verbal notification by the Director that the certification of an officer or instructor is being summarily suspended by written order, the Department Head of the Criminal Justice Agency or the executive officer of the institution shall take such steps as are necessary to ensure that the officer or instructor does not perform duties requiring certification by the Commission.

(f) The Commission, by and through the Director, upon determining that a Commission-certified Concealed Carry Handgun Instructor has conducted a concealed carry handgun training course as mandated by G.S. 14-415(a)(4) that is not in compliance with 12 NCAC 09F .0102 and negatively affects the public safety and welfare may summarily suspend the instructor's Concealed Carry Handgun Instructor certification until such time as the training course has been brought into compliance or reported to the Probable Cause Committee for action. For each instance the Director shall:

- (1) summarily suspend the Concealed Carry Handgun Instructor certification, prohibiting him or her from delivering concealed carry handgun training until the Director determines the training

program is brought into compliance with 12 NCAC 09F .0102 and 12 NCAC 09F .0105; of this Chapter; and

- (2) inform the instructor that he or she may appeal the Director's suspension by requesting, in writing, a formal hearing before the Probable Cause Committee at the next scheduled Commission meeting.

(g) The Commission, by and through the Director, upon determining that a criminal justice officer who was issued a waiver of the requirements of 12 NCAC 09C .0306 has not met those requirements within 60-days of being awarded general certification by the Commission, shall summarily suspend the officer's certification until such time the officer meets the requirements of 09C .0306.

History Note: Authority G.S. 17C-6; 17C-10; 150B-3;

Eff. January 1, 1981;

Amended Eff. October 1, 2017; February 1, 2016; December 1, 2007; March 1, 2004; July 1, 1990; July 1, 1989; October 1, 1985; August 15, 1981.

**SUBCHAPTER 9B - STANDARDS FOR CRIMINAL JUSTICE EMPLOYMENT: EDUCATION: AND
TRAINING**

SECTION .0100 - MINIMUM STANDARDS FOR CRIMINAL JUSTICE EMPLOYMENT

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

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

Every criminal justice officer employed by an agency in North Carolina shall:

- (1) be a citizen of the United States;
- (2) be at least 20 years of age;
- (3) be of good moral character pursuant to G.S. 17C-10 and as ~~determined by a thorough background investigation;~~ evidenced by the following:
 - (a) not having been convicted of a felony;
 - (b) not having been convicted of a misdemeanor as defined in 12 NCAC 09B .0111 (1) for five years or the completion of any corrections supervision imposed by the courts whichever is later;
 - (c) not having been convicted of an offense that, under 18 U.S.C. 922 (1996), which is hereby incorporated by reference and all subsequent amendments (<http://www.gpo.gov/fdsys/pkg/USCODE-2011-title18-part1-chap44-sec922.pdf>), would prohibit the possession of a firearm or ammunition;
 - (d) having submitted to and produced a negative result on a drug test within 60 days of employment or any in-service drug screening required by the appointing agency that meets the certification standards of the Department of Health and Human Services for Federal Workplace Drug Testing Programs. A list of certified drug testing labs that meet this requirement may be obtained, at no cost, at http://workplace.samhsa.gov/DrugTesting/Level_1_Pages/CertifiedLabs.html.
 - (e) submitting to a background investigation consisting of the verification of age and education; and a criminal history check of local, state, and national files;
 - (f) being truthful in providing information to the appointing agency and to the Standards Division for the purpose of obtaining probationary or general certification;
 - (g) not having pending or outstanding felony charges which, if convicted of, would disqualify the applicant from holding such certification, pursuant to North Carolina General Statute 17C-13; and
 - (h) not engage in any conduct that brings into question the truthfulness or credibility of the officer, reflects poorly on the officer's profession, or conduct that involved "moral turpitude." "Moral Turpitude" is conduct that is contrary to justice, honesty, or morality. This conduct may include conduct as defined in: re Willis, 299 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 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 their progeny.
- (4) have been fingerprinted and a search made of local, state, and national files to disclose any criminal record;

- 1 (5) have been examined and certified by a licensed physician or surgeon to meet physical requirements
 2 necessary to properly fulfill the officer's particular responsibilities and shall have produced a negative
 3 result on a drug screen administered according to the following specifications:
- 4 (a) the drug screen shall be a urine test consisting of an initial screening test using an immunoassay
 5 method and a confirmatory test on an initial positive result using a gas chromatography/mass
 6 spectrometry (GC/MS) or other reliable initial and confirmatory tests as may, from time to time,
 7 be authorized or mandated by the Department of Health and Human Services for Federal
 8 Workplace Drug Testing Programs;
 - 9 (b) a chain of custody shall be maintained on the specimen from collection to the eventual discarding
 10 of the specimen;
 - 11 (c) the drug screen shall test for the presence of at least cannabis, cocaine, phencyclidine (PCP),
 12 opiates and amphetamines or their metabolites;
 - 13 (d) the test threshold values established by the Department of Health and Human Services for Federal
 14 Workplace Drug Testing Programs, as found in 59 F.R. 29916(1994), are hereby incorporated by
 15 reference, and shall automatically include any later amendments and editions of the incorporated
 16 material as provided by G.S. 150B-21.6;
 - 17 (e) the test conducted shall be not more than 60 days old, calculated from the time when the
 18 laboratory reports the results to the date of employment;
 - 19 (f) the laboratory conducting the test must be certified for federal workplace drug testing programs,
 20 and must adhere to applicable federal rules, regulations and guidelines pertaining to the handling,
 21 testing, storage and preservation of samples;
- 22 (6) have been administered a psychological screening examination by a clinical psychologist or psychiatrist
 23 licensed to practice in North Carolina or by a clinical psychologist or psychiatrist authorized to practice in
 24 accordance with the rules and regulations of the United States Armed Forces within one year prior to
 25 employment by the employing agency to determine the officer's mental and emotional suitability to
 26 properly fulfill the responsibilities of the position;
- 27 (7) have been interviewed personally by the Department head or his representative or representatives, to
 28 determine such things as the applicant's appearance, demeanor, attitude, and ability to communicate;
- 29 (8) notify the Standards Division of all criminal offenses which the officer is arrested for or charged with,
 30 pleads no contest to, pleads guilty to or is found guilty ~~of~~ of as well as Domestic Violence Orders (50B)
 31 which are issued by a judicial official. This shall include all criminal offenses except minor traffic offenses
 32 and shall specifically include any offense of Driving Under The Influence (DUI) or Driving While
 33 Impaired (DWI). A minor traffic offense is defined, for purposes of this Subparagraph, as an offense
 34 where the maximum punishment allowable by law is 60 days or less. Other offenses under Chapter 20
 35 (Motor Vehicles) of the General Statutes of North Carolina or similar laws of other jurisdictions which
 36 shall be reported to the Standards Division expressly include G.S. 20-139 (persons under influence of
 37 drugs). G.S. 20-28(b) (driving while license permanently revoked or permanently suspended) and G.S. 20-

1 166 (duty to stop in event of accident). The notifications required under this Subparagraph must be in
2 writing, must specify the nature of the offense, the court in which the case was handled, the date of the
3 arrest or criminal charge, the final disposition, and the date thereof. The notifications required under this
4 Subparagraph must be received by the Standards Division within 30 days of the date of arrest or charge and
5 case disposition ~~the case was disposed of in court.~~ The requirements of this Subparagraph shall be
6 applicable at all times during which the officer is certified by the Commission and shall also apply to all
7 applications for certification. Officers required to notify the Standards Division under this Subparagraph
8 shall also make the same notification to their employing or appointing executive officer within 20 days of
9 the date the case was disposed of in court. The executive officer, provided he has knowledge of the
10 officer's arrest(s) or criminal charge(s) and final disposition(s), shall also notify the Standards Division of
11 all arrests or criminal charges and final dispositions within 30 days of the date the case was disposed of in
12 court. Receipt by the Standards Division of a single notification, from either the officer or the executive
13 officer, is sufficient notice for compliance with this Subparagraph.
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15 *History Note: Authority G.S. 17C-6; 17C-10;*

16 *Eff. January 1, 1981;*

17 *Amended Eff. October 1, 2017; September 1, 2001; April 1, 1999; January 1, 1995; November 1, 1993;*
18 *July 1, 1990.*
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12 NCAC 09B .0104 is proposed for amendment as follows:

12 NCAC 09B .0104 MEDICAL EXAMINATION

(a) Each applicant for employment as a criminal justice officer shall complete the Commission's Medical History Statement Form within one year prior to employment by the employing agency and shall be examined by either a physician or surgeon licensed to practice medicine in North Carolina or by a physician or surgeon authorized to practice medicine in accordance with the rules and regulations of the United States Armed Forces to help determine one's fitness in carrying out the physical requirements of the criminal justice officer position.

(b) The examining physician shall record the results of the examination on the Commission's Medical Examination Report Form and shall include notation of any evidence of past or present defects, diseases, injuries, operations, or conditions of an abnormal or unusual nature.

(c) An applicant for employment as a law enforcement officer seeking general certification may not be employed or placed in a sworn law enforcement position prior to the date on which the employing agency receives the report of the results of the medical examination unless all of the following requirements are met:

(1) The applicant has completed and signed the applicant's certificate (Section A) of the Commission's Report of Appointment, wherein the applicant's temporary employment and probationary law enforcement officer certification is acknowledged to be contingent on the completion of the drug screening reported to the Commission of the individual being issued general certification.

(2) The requirements of this section shall be met within 60-days of the law enforcement officer being issued general certification.

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

Eff. January 1, 1981;

Amended Eff. October 1, 2017; November 1, 1993; February 1, 1991; March 1, 1990; April 1, 1985.

12 NCAC 09B .0205 is as published in 31:14 NCR, pp 1387-1388, with changes, as follows

12 NCAC 09B .0205 BASIC LAW ENFORCEMENT TRAINING

(a) The basic training course for law enforcement officers consists of instruction designed to provide the trainee with the skills and knowledge to perform those tasks essential to function in law enforcement.

(b) The course entitled "Basic Law Enforcement Training" shall consist of a minimum of ~~616~~ 632 hours of instruction and shall include the following identified topical areas and minimum instructional hours for each:

(1) LEGAL UNIT

(A)	Motor Vehicle Laws	20 Hours
(B)	Preparing for Court and Testifying in Court	12 Hours
(C)	Elements of Criminal Law	24 Hours
(D)	Juvenile Laws and Procedures	8 Hours
(E)	Arrest, Search and Seizure/Constitutional Law	28 Hours
(F)	Alcohol Beverage Control (ABC)Laws and Procedures	4 Hours
	UNIT TOTAL	96 Hours

(2) PATROL DUTIES UNIT

(A)	Techniques of Traffic Law Enforcement	24 Hours
(B)	Explosives and Hazardous Materials Emergencies	12 Hours
(C)	Traffic Crash Investigation	20 Hours
(D)	In-Custody Transportation	8 Hours
(E)	Crowd Management	12 Hours
(F)	Patrol Techniques	28 Hours
(G)	Law Enforcement Communication and Information Systems	8 Hours
(H)	Anti-Terrorism	4 Hours
(I)	Rapid Deployment	8 Hours
	UNIT TOTAL	124 Hours

(3) LAW ENFORCEMENT COMMUNICATION UNIT

(A)	Responding to Victims and the Public	10 Hours
(B)	Domestic Violence Response	12 Hours
(C)	Ethics for Professional Law Enforcement	4 Hours
(D)	Individuals with Mental Illness and Developmental Disabilities	8 <u>24</u> Hours
(E)	Crime Prevention Techniques	6 Hours
(F)	Communication Skills for Law Enforcement Officers	8 Hours
	UNIT TOTAL	48 <u>64</u> Hours

(4) INVESTIGATION UNIT

(A)	Fingerprinting and Photographing Arrestee	6 Hours
(B)	Field Note-taking and Report Writing	12 Hours
(C)	Criminal Investigation	34 Hours

1	(D)	Interviews	16 Hours
2	(E)	Controlled Substances	12 Hours
3	(F)	Human Trafficking	2 Hours
4		UNIT TOTAL	82 Hours
5	(5)	PRACTICAL APPLICATION UNIT	
6	(A)	First Responder	32 Hours
7	(B)	Firearms	48 Hours
8	(C)	Law Enforcement Driver Training	40 Hours
9	(D)	Physical Fitness (classroom instruction)	8 Hours
10	(E)	Fitness Assessment and Testing	12 Hours
11	(F)	Physical Exercise 1 hour daily, 3 days a week	34 Hours
12	(G)	Subject Control Arrest Techniques	40 Hours
13		UNIT TOTAL	214 Hours
14	(6)	SHERIFF-SPECIFIC UNIT	
15	(A)	Civil Process	24 Hours
16	(B)	Sheriffs' Responsibilities: Detention Duties	4 Hours
17	(C)	Sheriffs' Responsibilities: Court Duties	6 Hours
18		UNIT TOTAL	34 Hours
19	(7)	COURSE ORIENTATION	2 Hours
20	(8)	TESTING	16 Hours
21		TOTAL COURSE HOURS	616 <u>632</u> Hours

(c) The "Basic Law Enforcement Training Manual" published by the North Carolina Justice Academy shall be used as the curriculum for this training course. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division
North Carolina Department of Justice
1700 Tryon Park Drive
Post Office Drawer 149
Raleigh, North Carolina 27602

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

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

(d) The "Basic Law Enforcement Training Course Management Guide" published by the North Carolina Justice Academy shall be used by school directors in planning, implementing, and delivering basic training courses. Copies of this guide may be obtained at the cost of printing and postage from the Justice Academy.

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History Note: Authority G.S. 17C-6; 17C-10;
Eff. January 1, 1981;
Temporary Amendment Eff. December 14, 1983 for a period of 120 days to expire on April 12,
1984;
Amended Eff. January 1, 2018; July 1, 2017; July 1, 2016; January 1, 2015; February 1, 2014;
July 1, 2011; July 1, 2009; January 1, 2006; August 1, 2002; August 1, 2000; November 1, 1998;
July 1, 1997; January 1, 1995; February 1, 1991; July 1, 1989.

12 NCAC 09B .0209 is proposed for amendment as follows:

12 NCAC 09B .0209 CRIMINAL JUSTICE INSTRUCTOR TRAINING

(a) The instructor training course required for general instructor certification shall consist of a minimum of ~~75~~ 78 hours of instruction presented during a continuous period of not more than two weeks.

(b) Each instructor training course shall be designed to provide the trainee with the skills and knowledge to perform the function of a criminal justice instructor.

(c) Each instructor training course shall include the following identified topic areas and minimum instructional hours for each area:

(1)	Orientation/ Self Assessment <u>and Pre-Test</u>	3 Hours
(2)	Curriculum Development: ISD Model <u>Instructional Systems Design (ISD)</u>	3 <u>6</u> Hours
(3)	Law Enforcement Instructor Liabilities <u>and Legal</u> Responsibilities	2 3 Hours
(4)	Interpersonal Communication in Instruction <u>Instructional Leadership</u>	4 Hours
(5)	Lesson Plan Preparation: Professional Resources	2 3 Hours
(6)	Lesson Plan Preparation: <u>Development:</u> Format and Objectives	6 4 Hours
(7)	Teaching Adults <u>Adult Learning</u>	4 Hours
(8)	Principles of Instruction: Demonstration Methods and Practical Exercise <u>Instructional Styles and Platform Skills</u>	6 <u>4</u> Hours
(9)	Classroom Management	4 Hours
(10)	Methods and Strategies of Instruction <u>Active Learning: Demonstration</u> <u>and Practical Exercises</u>	4 <u>6</u> Hours
(10) (11)	The Evaluation Process <u>of Learning</u>	4 Hours
(11) (12)	Principles of Instruction: Audio-Visual Aids	6 <u>4</u> Hours
(12) (13)	Student 10-Minute <u>8-Minute</u> Talk and Video Critique	6 Hours
(13) (14)	Student Performance:	
	First 30-Minute Presentation	6 <u>5</u> Hours
	Second 30-Minute Presentation	6 <u>5</u> Hours
	Final 80-Minute <u>70-Minute</u> Presentation and Review	12 Hours
(14) (15)	Course Closing	1 Hour

(d) The "Instructor Training" manual published by the North Carolina Justice Academy shall be the curriculum for instructor training courses. Copies of this publication may be inspected at the agency:

Criminal Justice Standards Division
North Carolina Department of Justice
1700 Tryon Park Drive
Post Office Drawer 149
Raleigh, North Carolina 27602

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

1 North Carolina Justice Academy
2 Post Office Drawer 99
3 Salemburg, North Carolina 28385
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5 *History Note: Authority G.S. 17C-6;*
6 *Eff. January 1, 1981;*
7 *Amended Eff. January 1, 2018; January 1, 2015; December 1, 2009; August 1, 2005; November 1,*
8 *1998; January 1, 1995; March 1, 1990; July 1, 1989; January 1, 1985.*
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12 NCAC 09B.0301 is proposed for amendment as follows:

SECTION .0300 - MINIMUM STANDARDS FOR CRIMINAL JUSTICE INSTRUCTORS

12 NCAC 09B .0301 CERTIFICATION OF INSTRUCTORS

(a) Any 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 reflected 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/her specialized areas. Such competence includes remaining current in the instructor's area of expertise, which shall be demonstrated by attending and successfully completing all instructor updates issued 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) When any 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; and
- (5) revoking the individual's certification.

(f) The Commission may 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;
- (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 "Basic 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 in the delivery of commission-mandated training, unprofessional personal conduct, defined as an act that is: conduct for which no reasonable person should expect to receive prior

warning; 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 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 client(s), student(s) over whom the instructor has charge; 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: re Willis, 299 N.C. 1, 215 S.E. 2d 771 appeal dismissed 423 U.S. 976 (9175); 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 their progeny, 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; or

(10) has knowingly and willfully aided or attempted to aid any person in obtaining qualification/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 02A .0204 or 12 NCAC 09G .0504

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

(g) When any 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), or the North Carolina Department of Insurance, Office of State Fire Marshal, Fire Rescue Commission (Fire Commission) and Office of Emergency Medical Services has his or her law enforcement officer or fire and rescue certification suspended or revoked by their respective Commission, shall report to Criminal Justice Standards within 30-days. They shall also have their General Instructor certification (if applicable) similarly and automatically suspended/revoked for the same time period as their respective Commission certification.

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

(2) If the term of suspension/revocation exceeds the expiration date of the Instructor's initial certification expiration date, they shall forfeit their certification(s) as a General Instructor/Specialized Instructor(s) and shall be required to obtain certification pursuant to all requirements as established in 12 NCAC

09B .0302 before any instruction may be delivered within any commission approved/mandated training, including the completion of a subsequent General Instructor training course in it's entirety.

- (3) If the term of suspension/revocation does not exceed the expiration date of the Instructor's initial certification expiration date, they shall be reinstated as a General Instructor only upon reinstatement of their law enforcement officer certification by the Commission. The terms of renewal for the existing General Instructor/Specialized Instructor certification(s) shall remain subject to all renewal requirements pursuant to 12 NCAC 09B .0303(c) by the next immediate expiration date.

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

Eff. January 1, 1981;

Amended Eff. October 1, 2017; October 1, 2009; August 1, 2004; April 1, 1999; July 1, 1991; January 1, 1985.

12 NCAC 09B .0302 is proposed for amendment as follows:

12 NCAC 09B .0302 GENERAL INSTRUCTOR CERTIFICATION

(a) General Instructor Certification issued after December 31, 1984, shall be limited to those topics that are not expressly incorporated under the Specialized Instructor Certification category. Individuals certified under the general instructor category shall not teach any of the subjects specified in Rule .0304 of this Subchapter, entitled "Specialized Instructor Certification." To qualify for issuance of General Instructor Certification, an applicant shall demonstrate a combination of education and experience in criminal justice and proficiency in the instructional process by meeting the following requirements:

- (1) Present documentary evidence showing that the applicant:
 - (A) is a high school, college or university graduate, or has received a high school equivalency credential as recognized by the issuing state; and
 - (B) has acquired four years of practical experience as a Criminal Justice Officer, an administrator or specialist in a field directly related to the criminal justice system, or as an employee of a Criminal Justice Agency.
- (2) Present evidence showing completion of a Commission-accredited instructor training program or an equivalent instructor training course utilizing the Instructional Systems Design model, an international model with applications in education, military training, and private enterprise; and
- (3) Achieve a passing score on the comprehensive written examination administered by the Commission, as required by Rule .0413(d) of this Subchapter.

(b) Applications for General Instructor Certification shall be submitted to the Standards Division within 60 days of the date the applicant passed the state comprehensive examination administered at the conclusion of the Commission-accredited instructor training program or an equivalent instructor training course utilizing the Instructional Systems Design model, an international model with applications in education, military training, and private enterprise.

(c) Persons having completed a Commission-accredited instructor training course or an equivalent instructor training course utilizing the Instructional Systems Design model, an international model with applications in education, military training, and private enterprise, and not having made application within 60 days of completion of the course shall complete a subsequent Commission-accredited instructor training course or an equivalent instructor training course utilizing the Instructional Systems Design model, an international model with applications in education, military training, and private enterprise, in its entirety.

(d) Applicants for Speed Measuring Instrument Instructor courses shall possess probationary or General Instructor Certification.

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

Eff. January 1, 1981;

1 *Amended Eff. October 1, 2017; January 1, 2017; February 1, 2016; January 1, 2015; January 1,*
2 *2006; May 1, 2004; August 1, 2000; July 1, 1991; December 1, 1987; October 1, 1985; January*
3 *1, 1985.*

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1 **12 NCAC 09B .403 is proposed for amendment as follows**

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

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

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

- (11) Persons previously holding law enforcement certification in accordance with G.S. 17C-10(a) who have been separated from a sworn law enforcement position for over one year and who have not previously completed a minimum basic training program accredited by either the North Carolina Criminal Justice Training and Standards Council or the Commission shall complete a Commission-accredited basic training program, as prescribed in Rule .0405 of this Section, and shall achieve a passing score on the State Comprehensive Examination prior to employment;

- (12) ~~Persons who have completed training as a federal law enforcement officer and are candidates for appointment as a sworn law enforcement officer in North Carolina shall complete a Commission-accredited basic training program, as prescribed in Rule .0405 of this Section, and shall achieve a passing score on the State Comprehensive Examination;~~ Individuals seeking certification with the Commission and have been appointed as Special Agents with the Federal Bureau of Investigation, United States Secret Service, Bureau of Alcohol, Tobacco and Firearms, and Drug Enforcement Administration, United States Marshals and Deputy United States Marshals shall be evaluated to determine the amount and quality of their training and experience. These individuals shall not have a break in service exceeding three years. At a minimum, federal law enforcement officers shall have two years' full-time, sworn law enforcement experience and have completed a basic law enforcement training course as required by their appointing federal agency. Prior to employment as a certified law enforcement officer, these individuals must complete with a passing score the employing agency's in-service firearms training and qualification program as prescribed in 12 NCAC 09E .0106. These individuals shall complete the Basic Law Enforcement Training topics pursuant to 12 NCAC 09B .0205(b)(1)(A), (b)(1)(C), (b)(1)(D), (b)(1)(F), (b)(2)(A), (b)(2)(C), (b)(2)(E), (b)(2)(F), (b)(2)(I), (b)(3)(B), (b)(3)(D), (b)(4)(E), (b)(5)(A), (b)(6)(A), (b)(6)(B), (b)(6)(C), and shall achieve a passing score on the State Comprehensive Examination pursuant to 12 NCAC 09B .0406 within 12 month probationary period. Individuals who submit to the Commission documentation of completion of training equivalent to the topics pursuant to 12 NCAC 09B .0205(b)(2)(A), (b)(2)(C), (b)(2)(E), (b)(2)(F), (b)(2)(I), (b)(3)(B), (b)(3)(D), (b)(4)(E), (b)(5)(A), (b)(6)(A), (b)(6)(B), and (b)(6)(C) shall not be required to complete those topics.

- (13) Federal law enforcement transferees other than those listed in Paragraph (12) of this Rule shall be evaluated to determine the amount and quality of their training and experience. Federal law enforcement officers shall not have a break in service exceeding three years. At a minimum, federal law enforcement officers shall have two years' full-time, sworn law enforcement

experience and have completed a basic law enforcement training course as required by their appointing federal agency. Prior to employment as a certified law enforcement officer, transferees, must complete with a passing score the employing agency's in-service firearms training and qualification program as prescribed in 12 NCAC 09E .0106. At a minimum, transferees shall complete the Legal Unit in a Commission- accredited Basic Law Enforcement Training Course as prescribed in Rule .0205(b)(1) of this Subchapter and shall achieve a passing score on the State Comprehensive Examination within 12 month probationary period.

~~(13)~~ (14) Applicants with part-time experience who have a break in service in excess of one year shall complete a Commission-accredited basic training program, as prescribed in Rule .0405 of this Section, and shall achieve a passing score on the State Comprehensive Examination prior to employment;

~~(14)~~ (15) Applicants who hold or previously held certification issued by the North Carolina Sheriffs' Education and Training Standards Commission (Sheriffs' Commission) shall be subject to evaluation based on the applicant's active or inactive certification status with the Sheriffs' Commission. A deputy sheriff certified with the Sheriffs' Commission shall be considered active if he or she has performed any law enforcement function during the previous 12 months. A deputy sheriff certified with the Sheriffs' Commission is considered inactive if he or she has not performed a law enforcement function during the previous 12 months.

(A) The Standards Division shall issue certification to an applicant holding active general certification with the Sheriffs' Commission provided that the applicant:

- (i) Does not have a break in service of greater than 12 months;
- (ii) Has completed the mandatory in-service training requirements pursuant to 12 NCAC 10B .2005 for each year certification was held; and
- (iii) Held active status with the Sheriffs' Commission within 12 months of the date the applicant achieved a passing score on the Basic Law Enforcement Training state comprehensive examination.

(B) The Standards Division shall issue certification to an applicant holding inactive certification with the Sheriffs' Commission provided that the applicant:

- (i) Holds inactive probationary or general certification with the Sheriffs' Commission;
- (ii) Has served a minimum of 24 months of full time sworn service or does not have a break in service of greater than 12 months;
- (iii) Has completed the mandatory in-service training requirements pursuant to 12 NCAC 10B .2005, with the exception of Firearms Training and Requalification, during each year certification was held; and

- (iv) Held active status with the Sheriffs' Commission within 12 months of the date the applicant achieved a passing score on the Basic Law Enforcement Training state comprehensive examination.
- (C) An applicant awarded certification with the Sheriffs' Commission by means of the Sheriffs' Standards BLET Challenge as prescribed in 12 NCAC 10B .0505(9)(b) shall meet the following requirements in order to obtain probationary certification from the Commission:
- (i) Have a minimum of 24 months of sworn, full-time law enforcement service;
 - (ii) Not have a break in service of greater than 12 months; and
 - (iii) Have completed all mandatory in-service requirements pursuant to 12 NCAC 10B .0505 during the previous 2 years.
- (D) An applicant defined as a criminal justice officer, as defined in G.S. 17C-2(3), who is elected Sheriff shall not be required to maintain certification with the Sheriffs' Commission for the time period he or she serves as Sheriff. The applicant's certification shall be reinstated by the Commission upon the conclusion of the period of service as Sheriff, and in conformance with 12 NCAC 09C .0303.
- ~~(15)~~ (16) Alcohol law enforcement agents who received basic alcohol law enforcement training prior to November 1, 1993, and transfer to another law enforcement agency in a sworn capacity shall be subject to evaluation of their prior training and experience on an individual basis. The Standards Division staff shall determine the amount of training required of these applicants, based upon the type of certification held by the applicant and the length of any break in the applicant's sworn, full-time service.
- ~~(16)~~ (17) Wildlife enforcement officers who separate from employment with the Wildlife Enforcement Division and transfer to another law enforcement agency in a sworn capacity shall be subject to evaluation of their prior training and experience on an individual basis. The Standards Division staff shall determine the amount of training required of these applicants, based upon the type of certification held by the applicant and the length of any break in the applicant's sworn, full-time service.
- ~~(17)~~ (18) Active duty, guard, or reserve military members failing to complete all of the required annual in-service training topics, as defined in 12 NCAC 09E .0105 of this Chapter, due to military obligations, are subject to the following training requirements as a condition for return to active criminal justice status. The agency head shall verify the person's completion of the appropriate training by submitting a statement, on Form F-9C, Return to Duty Request form. This form is located on the agency's website: <http://www.ncdoj.gov/getdoc/ac22954d-5e85-4a33-87af-308ba2248f54/F-9C-6-11.aspx>.
- (A) Active duty members of the armed forces eligible for probationary certification pursuant to Paragraph (18) of this Rule, and active duty, guard, or reserve military members

holding probationary or general certification as a criminal justice officer who fail to complete all of the required annual in-service training topics due to military obligations for up to a period of three years, shall complete the previous year's required in-service training topics, the current year's required in-service training topics, and complete with a passing score the appointing agency's in-service firearms training and qualification program as prescribed in 12 NCAC 09E prior to their return to active criminal justice status;

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

- (i) The person shall complete the previous year's required in-service training topics, the current year's required in-service training topics, and complete the appointing agency's in-service firearms training and qualification program as prescribed in 12 NCAC 09E prior to their return to active criminal justice status;
- (ii) The person shall achieve a passing score on the practical skills testing for the First Responder, Law Enforcement Driver Training, and Subject Control Arrest Techniques topics enumerated in Rule .0205(b)(5) of this Subchapter prior to returning to active criminal justice status. This practical skills testing may be completed either in a Commission-accredited Basic Law Enforcement Training course or under the instruction of a Commission-Certified instructor for that particular skill. The person shall complete one physical fitness assessment in lieu of the Fitness Assessment and Testing topic. The person shall also be examined by a physician per Rule .0104(b) of this Subchapter; and
- (iii) The person shall complete some of the topics in the legal unit of instruction in the Basic Law Enforcement Training course as set forth in Rule .0205(b)(1) of this Subchapter. The required topics include Motor Vehicle Law; Juvenile Laws and Procedures; Arrest, Search and Seizure/Constitutional Law; and ABC Laws and Procedures. The person shall achieve a passing score on the appropriate topic tests for each course delivery. The person may undertake each of these legal unit topics of instruction either in a Commission-accredited Basic Law Enforcement Training course or under the instruction of a Commission certified instructor for that particular topic of instruction. The person shall complete each of the enumerated topics of instruction within 12 months from the beginning of his or her return to active criminal justice status.

~~(18)~~ (19) An active duty member of the armed forces who completes the basic training course in its entirety as prescribed in Rule .0405 of this Subchapter, and annually completes the mandatory in-service

training topics as prescribed in 12 NCAC .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 Subchapter within five years of separating from active duty status shall be eligible for probationary certification as prescribed in 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 shall be completed by the individual prior to receiving probationary certification as prescribed in 12 NCAC 09E .0105.

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

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

(d) Where an evaluation of the applicant's prior training and experience determines that required attendance in the entire Basic Law Enforcement Training Course would be impractical, the Director of the Standards Division is authorized to exercise his or her discretion in determining the amount of training those persons shall complete during their probationary period.

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

- (1) Persons who hold probationary, general, or grandfather certification as local confinement personnel and separate after having completed a Commission-accredited course as prescribed in Rule .0224 or .0225 of this Subchapter and have been separated for one year or more shall complete a subsequent Commission-accredited training course and achieve a passing score on the State Comprehensive Examination during the probationary period as prescribed in Rule .0401(a) of this Section;
- (2) Persons who separated from a local confinement personnel position after having completed a Commission-accredited course as prescribed in Rule .0224 or .0225 of this Subchapter and who have been separated for less than one year shall serve a new 12 month probationary period, but shall be required to complete an additional training program;
- (3) Applicants who hold or previously held "Detention Officer Certification" issued by the North Carolina Sheriffs' Education and Training Standards Commission shall be subject to evaluation of their prior training and experience on an individual basis. No additional training shall be required where the applicant obtained certification and successfully completed the required 120 hour training course and has not had a break in service in excess of one year; and
- (4) Persons holding certification for local confinement facilities who transfer to a district or county confinement facility shall complete the course for district and county confinement facility

1 personnel, as adopted by reference in Rule .0224 of this Subchapter, and achieve a passing score
2 on the State Comprehensive Examination during the probationary period as prescribed in Rule
3 .0401(a) of this Section.

4
5 *History Note: Authority G.S. 17C-2; 17C-6; 17C-10; 93B-15.1*

6 *Eff. January 1, 1981;*

7 *Amended Eff. October 1, 2017; January 1, 2017; October 1, 2016; November 1, 2014; August 1,*
8 *2000; November 1, 1993; March 1, 1992; July 1, 1989; February 1, 1987.*

12 NCAC 09B .0410 is proposed for amendment as follows:

12 NCAC 09B .0410 CRIMINAL JUSTICE INSTRUCTOR TRAINING COURSE

(a) To acquire successful completion of the "Criminal Justice Instructor Training Course" the trainee shall:

- (1) satisfactorily complete all of the required coursework, specifically including each of the introductory trainee presentations with video taping, playback, and critique as specified in the "~~Basic~~ Instructor Training Manual" as published by the North Carolina Justice Academy. All trainee presentations must have met the criteria and conditions specified in the course orientation of the "~~Basic~~ Instructor Training Manual;" and
- (2) attain the minimum score on each performance area as specified in the course abstract of the "~~Basic~~ Instructor Manual" for the final written lesson plan and final ~~80~~ 70-minute presentation; and, presentation.
- ~~(3) achieve a score of 75 percent correct answers on the Commission-administered comprehensive written examination.~~

(b) Should a trainee fail to meet the minimum criteria on the final lesson plan or the final ~~80~~ 70-minute presentation, he/she shall be authorized one opportunity to correct either of these deficiencies by the end of the original two-week course.

*History Note: Authority G.S. 17C-6; 17C-10;
Eff. January 1, 1985;
Amended Eff. January 1, 2018; January 1, 1995; February 1, 1987.*

12 NCAC 09C .0210 is proposed for repeal as follows:

12 NCAC .09C12 NCAC 09C .0210 REQUEST FOR TRAINING COURSE ACCREDITATION

~~The Request for Training Course Accreditation, is used to obtain accreditation for a school's particular offering of a criminal justice training course. It requests information regarding the administration of the course, the particular facilities to be used, and the proposed curriculum of the course.~~

*History Note: Authority G.S. 17C-6; 150B-11;
 Eff. January 1, 1981.*

1 12 NCAC 09C .0306 is proposed for amendment as follows:

2
3 **12 NCAC 09C .0306 LATERAL TRANSFER OF LAW ENFORCEMENT OFFICERS**

4 (a) A law enforcement officer with general certification from either the Criminal Justice Education and Training
5 Standards Commission or the Sheriffs' Education and Training Standards Commission may transfer from one law
6 enforcement agency to another law enforcement agency with less than a 12 month break in law enforcement service.

7 Prior to employing the officer, the employing agency shall:

- 8 (1) verify the certification of the officer with the Criminal Justice Standards Division or the Sheriffs'
9 Standards Division.
- 10 (2) submit a new fingerprint check to the North Carolina State Bureau of Investigation, in compliance
11 with the requirements set forth in 12 NCAC 09B .0103(a) and (b), in the same manner as
12 prescribed for non-certified new applicants. No certification shall be transferred if the holder has
13 been convicted since initial certification of any offense for which revocation or suspension of
14 certification is authorized.
- 15 (3) advise the officer that he will be serving under a probationary appointment with the agency for one
16 year.
- 17 (4) notify the Commission, by submitting a Report of Appointment that the officer is being employed
18 and stating the date on which employment will commence.

19 (b) Prior to transfer of certification, the law enforcement officer shall:

- 20 (1) complete a Medical History Statement Form within one year prior to the transfer to the employing
21 agency;
- 22 (2) submit to examination by a physician licensed to practice medicine in North Carolina in the same
23 manner prescribed for non-certified new applicants in 12 NCAC 09B .0104 within one year prior
24 to the transfer to the employing agency;
- 25 (3) submit results of the physical examination to the employing agency for placement in the officer's
26 permanent personnel file;
- 27 (4) produce a negative result on a drug screen administered according to the specifications outlined in
28 12 NCAC 09B .0101(5); and
- 29 (5) either:
 - 30 (A) submit a copy of the Commission's annual in-service training report form to the
31 employing agency for placement in the officer's permanent personnel file when the duty
32 and off duty weapon(s) remain the same as those previously used to qualify. Such in-
33 service training compliance must have occurred within the 12 month period preceding
34 transfer; or
 - 35 (B) satisfactorily complete the employing agency's in-service firearms training program as
36 prescribed in 12 NCAC 09E .0105 and .0106.

(c) Officers previously certified who were not previously required to meet the educational or basic training requirements are not required to meet such requirements when laterally transferring to another agency with less than a 12-month break in law enforcement service.

(d) For currently certified full time officers with no break in service, upon written request from the department head of the agency, the Division may waive for a period of no more than 60-days from the receipt of the Report of Appointment by the Standards Division the requirements of subparagraphs of (b)(1), (b)(2), (b)(3), (b)(4), and (b)(5) of this rule. The Report of Appointment Form is located on the agency's website:
[http://www.ncdoj.gov/getdoc/64d263a3-a598-4c45-9541-04ef088cf288/F-5A-\(DJJDP\)--6-11.aspx](http://www.ncdoj.gov/getdoc/64d263a3-a598-4c45-9541-04ef088cf288/F-5A-(DJJDP)--6-11.aspx).

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

Eff. January 1, 1981;

Amended Eff. October 1, 2017; May 1, 2009; July 1, 1990; March 1, 1990; July 1, 1989; July 1, 1982.

12 NCAC 09E .0105 is proposed for amendment as follows:

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

(a) The following are established as topics, specifications, and hours to 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 18 credits, are specifically required: ~~These specifications shall be incorporated in each law enforcement agency's annual in-service training courses:~~

- (1) ~~2017~~ 2018 Firearms Training and Qualification ~~(6 credits);~~ (4 credits);
- (2) ~~2017~~ 2018 Legal Update (4 credits);
- (3) ~~2017~~ 2018 Strategies to Improve Law Enforcement Interactions and Relationships With Minority Youth ~~Positively Impacting Today's Youth~~ (2 credits);
- (4) ~~2017~~ 2018 Equality in Policing ~~Domestic Violence: Protecting Victims of Domestic Violence~~ (4 credits);
- (5) ~~2017~~ 2018 Communications Skills With Persons in Crisis – De-escalation Techniques ~~Improving Decision Making Skills~~ (4 credits); and (4 credits).

~~(6) — 2017 Department Topics of Choice (4 credits).~~ (b) All sworn law enforcement officers shall complete a minimum of 6 in-service credits, in topics identified by their respective agency heads. The Department 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 to satisfy this requirement shall not be required to be written in Instructional Systems Design format or delivered by an instructor certified by the Commission.

~~(b)(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

~~(e)(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

Salemburg, North Carolina 28385

~~(d)~~(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.

~~(e)~~(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 are required to have 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;

Amended Eff. January 1, 2018; January 1, 2017; July 1, 2016; January 1, 2016; January 1, 2015;

February 1, 2014; June 1, 2012; February 1, 2011; January 1, 2010; April 1, 2009; April 1, 2008;

February 1, 2007; January 1, 2006.

12 NCAC 09E .0106 is proposed for amendment as follows:

12 NCAC 09E .0106 ANNUAL IN-SERVICE FIREARMS QUALIFICATION SPECIFICATIONS

(a) All certified law enforcement officers shall qualify for both day and night use with their individual and department-approved service handgun(s) at least once each calendar year. For the purpose of this specification, service handgun shall include any semi-automatic pistol or revolver. In addition to the requirements specified in Rule 09E .0105 of this Subchapter, the course of fire shall not be less stringent than the "Basic Training - Law Enforcement Officers" course requirements for firearms qualification.

(b) All certified law enforcement officers who are issued or authorized to use a shotgun, rifle or automatic weapon shall qualify with each weapon respectively for both day and night use at least once each calendar year.

(c) The qualifications required by Paragraphs (a) and (b) of this Rule shall be completed with duty equipment and duty ammunition or ballistic equivalent ammunition to include lead-free ammunition that meets the same point of aim, point of impact, and felt recoil of the duty ammunition, for all weapons.

(d) All certified law enforcement officers who are authorized to carry an off-duty handgun(s) shall qualify with each such handgun consistent with the specifications as outlined in Rules .0105(1) and .0106(a) and (g) of this Section.

(e) To satisfy the training requirements for all in-service firearms qualifications, an officer shall attain at least 70 percent accuracy with each weapon.

(f) The qualifications required by Paragraphs (a) and (b) of this Rule must be achieved at least once in a single day in no more than three attempts in a single day for each course of fire and for each weapon for which qualification is required. Individuals not qualifying in a single day for each course of fire or for a certain weapon for which qualification is required shall be deemed as having failed and 12 NCAC 09E .0103(4) and (5) shall apply.

(g) The In-Service Firearms Qualification Manual as published by the North Carolina Justice Academy shall be applied as a guide for conducting the annual in-service firearms qualification. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division
North Carolina Department of Justice
~~114 West Edenton Street~~
~~Old Education Building~~
1700 Tryon Park Drive
~~Post Office Drawer 149~~
Raleigh, North Carolina ~~27602~~ 27610

and may be viewed and downloaded at no cost from the Academy's website at the following address:

<http://www.jus.state.nc.us/NCJA>

*History Note: Authority G.S. 17C-6; 17C-10;
Eff. July 1, 1989;*

1 *Amended Eff. January 1, 2019; January 1, 2006; January 1, 2005; November 1, 1998; March 1,*
2 *1992.*

12 NCAC 09G .0206 is proposed for adoption as follows:

12 NCAC 09G .0206 MORAL CHARACTER

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

- (1) not having been convicted of a felony;
- (2) not having been convicted of a misdemeanor as defined in 12 NCAC 09G .0102(10) for three years or the completion of any corrections supervision imposed by the courts whichever is later;
- (3) not having been convicted of an offense that, under 18 U.S.C. 922 (1996), which is hereby incorporated by reference and all subsequent amendments (<http://www.gpo.gov/fdsys/pkg/USCODE-2011-title18-part1-chap44-sec922.pdf>), would prohibit the possession of a firearm or ammunition;
- (4) having submitted to and produced a negative result on a drug test within 60 days of employment or any in-service drug screening required by the Department of Public Safety, Division of Adult Correction and Juvenile Justice that meets the certification standards of the Department of Health and Human Services for Federal Workplace Drug Testing Programs. A list of certified drug testing labs that meet this requirement may be obtained, at no cost, at http://workplace.samhsa.gov/DrugTesting/Level_1_Pages/CertifiedLabs.html.
- (5) submitting to a background investigation consisting of the following:
 - (a) verification of age;
 - (b) verification of education; and
 - (c) criminal history check of local, state, and national files;
- (6) being truthful in providing information to the Department of Public Safety, Division of Adult Correction and Juvenile Justice and to the Standards Division for the purpose of obtaining probationary or general certification;
- (7) not having pending or outstanding felony charges which, if convicted of, would disqualify the applicant from holding such certification, pursuant to G.S. 17C-13; and
- (8) not engage in any conduct that brings into question the truthfulness or credibility of the officer, reflects poorly on the officer's profession, or conduct that involved "moral turpitude." "Moral Turpitude" is conduct that is contrary to justice, honesty, or morality. This conduct may include conduct as defined in: re Willis, 299 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 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 their progeny.

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. October 1, 2017; April 1, 2017; January 1, 2015; June 1, 2012; April 1, 2009;*
5 *August 1, 2004.*
6

12 NCAC 09G .0313 is proposed for amendment as follows:

12 NCAC 09G .0313 CORRECTIONS INSTRUCTOR TRAINING COURSE

(a) To successfully acquire Corrections Instructor Training the trainee shall:

(1) satisfactorily complete all of the required course work, specifically including each of the trainee presentations with videotaping, playback, and critique as specified in the "Basic Instructor Training Manual" as published by the North Carolina Justice Academy. All trainee presentations must have met the criteria and conditions specified in the course orientation of the "Basic Instructor Training Manual;"

(2) attain the minimum score on each performance area as specified in the course abstract of the "Basic Instructor Manual" for the final written lesson plan and final 80-minute presentation; and,

(3) achieve a score of 75 percent correct answers on the comprehensive written examination.

(b) Should a trainee fail to meet the minimum criteria on the final lesson plan or the final ~~80-minute~~ 70- minute presentation, he/she shall be authorized one opportunity to correct either of these deficiencies by the end of the original two-week course.

*History Note: Authority G.S. 17C-6;
Temporary Adoption Eff. January 1, 2001;
Eff. January 1, 2018; ~~August 1, 2002~~.*

12 NCAC 09G .0414 is proposed for amendment as follows:

12 NCAC 09G .0414 INSTRUCTOR TRAINING

(a) The instructor training course required for general instructor certification shall consist of a minimum of 78 hours of instruction presented during a continuous period of not more than two weeks.

(b) Each instructor training course shall be designed to provide the trainee with the skills and knowledge to perform the function of a criminal justice instructor.

(c) Each instructor training course shall include as a minimum the following identified topic ~~areas~~ areas and minimum instructional hours for each area:

- | | | |
|------|--|-----------------|
| (1) | Orientation and Pretest; | <u>3 hours</u> |
| (2) | Curriculum Development: ISD Model; <u>Instructional Systems Design (ISD);</u> | <u>6 hours</u> |
| (3) | Civil Liability for Law Enforcement Trainers; <u>Law Enforcement Instructor</u> | |
| | <u>Liabilities and Legal Responsibilities;</u> | <u>3 hours</u> |
| (4) | Interpersonal Communication in Instruction; <u>Instructional Leadership</u> | <u>4 hours</u> |
| (5) | Lesson Plan Preparation: Professional Resources; | <u>3 hours</u> |
| (6) | Lesson Plan Preparation; <u>Development: Format and Objectives;</u> | <u>4 hours</u> |
| (7) | Teaching Adults; <u>Adult Learning;</u> | <u>4 hours</u> |
| (8) | Principles of Instruction: Demonstration Methods and Practical Exercise; | |
| | <u>Instructional Style and Platform Skills;</u> | <u>4 hours</u> |
| (9) | Methods and Strategies of Instruction; <u>Classroom Management;</u> | <u>4 hours</u> |
| (10) | <u>Active Learning: Demonstration and Practical Exercises;</u> | <u>6 hours</u> |
| (11) | <u>The Evaluation Process of Learning;</u> | <u>4 hours</u> |
| (12) | (11) <u>Principles of Instruction: Audio-Visual Aids;</u> | <u>4 hours</u> |
| (13) | (12) <u>Student 10-Minute 8-Minute Talk and Video Critique; and</u> | <u>6 hours</u> |
| (14) | (13) <u>Student Performance:</u> | |
| | First 30-Minute Presentation; | <u>5 hours</u> |
| | Second 30-Minute Presentation; and | <u>5 hours</u> |
| | Final 80-Minute 70-Minute Presentation; <u>Presentation and Review;</u> | <u>12 hours</u> |
| (15) | <u>Course Closing</u> | <u>1 hour</u> |

(d) The ~~"Basic Instructor Training Manual"~~ "Instructor Training Manual" as published by the North Carolina Justice Academy ~~is to~~ shall be applied as the basic curriculum for ~~delivery of basic~~ instructor training courses. Copies of this publication may be inspected at the agency:

Criminal Justice Standards Division
North Carolina Department of Justice
1700 Tryon Park Drive Post Office Drawer 149
Raleigh, North Carolina 27602

1 and may be purchased at the cost of printing and postage from the North Carolina Justice Academy at the following
2 address:

3 North Carolina Justice Academy
4 Post Office Drawer 99
5 Salemburg, North Carolina 28385
6

7 *History Note:* Authority G.S. 17C-6;
8 *Temporary Adoption Eff. January 1, 2001;*
9 *Eff. August 1, 2002;*
10 *Amended Eff. January 1, 2018; January 1, 2015.*
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12