



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

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November 19, 2012

Julia A. Lohman
Sheriffs' Education and Training
Standards Commission
P.O. Box 629
Raleigh, NC 27602

Re: 12 NCAC 10B .2004, .2102

Dear Ms. Lohman:

At its November 15, 2012 meeting the Rules Review Commission objected to the above-captioned rules based on ambiguity in accordance with G.S. 150B-21.10.

In Rule .2004(1)(d)(i), is not clear what is meant by "possessing a law degree under [one of the Commissions]."

In Rule .2102(1), is not clear what is meant by "possessing a law degree under [one of the Commissions]."

Please respond to this letter in accordance with the provisions of G.S. 150B-21.12. If you have any questions regarding the Commission's action, please let me know.

Sincerely,

Robert A. Bryan, Jr.
Commission Counsel

RAB:tdc

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1 12 NCAC 10B .2004 IS AMENDED AS PUBLISHED IN THE NC REGISTER, VOLUME 27, ISSUE 02,
2 PAGES 248 – 249 AS FOLLOWS:

3
4 12 NCAC 10B .2004 INSTRUCTORS

5 The following requirements and responsibilities are hereby established for instructors who conduct a Commission-
6 mandated In-Service Training Program:

7 (1) The instructors shall:

8 (a) hold General Instructor Certification as issued by the North Carolina Criminal Justice
9 Education and Training Standards Commission as set out in 12 NCAC 09B .0302, .0304,
10 and .0306;

11 (b) hold Professional Lecturer Instructor certification issued by either the Commission as set
12 out in either 12 NCAC 10B .0906 or .0916, or the Criminal Justice Education and
13 Training Standards Commission as set out in 12 NCAC 09B .0306, or General Instructor
14 Certification as issued by the North Carolina Criminal Justice Education and Training
15 Standards Commission as set out in 12 NCAC 09B .0302, .0304, and .0306, when
16 teaching a legal block of instruction;

17 (c) hold Professional Lecturer Instructor certification issued by the Criminal Justice
18 Education and Training Standards Commission as set out in 12 NCAC 09B .0306, when
19 teaching a medical or psychological block of instruction; or

20 (d) hold Specific Instructor Certification issued by the Criminal Justice Education and
21 Training Standards Commission when teaching the lesson plans published by the NC
22 Justice Academy as follows:

23 (i) Firearms range qualification must be taught by a Firearms Instructor certified in
24 accordance with 12 NCAC 09B .0304(e). The instructor who teaches the
25 classroom instruction regarding use of force may be either a Professional
26 Lecturer by virtue of possessing a law degree under this Commission or the
27 North Carolina Criminal Justice Commission or a Specific
28 Certification-Firearms issued by the North Carolina Criminal Justice Education
29 and Training Standards Commission;

30 (ii) Weapons Retention and Disarming Techniques must be taught by Subject
31 Control Arrest Techniques Instructor certified in accordance with 12 NCAC 09B
32 .0304(e);

33 (iii) Spontaneous Attack Defense and Subject Control/Arrest Techniques must be
34 taught by a Subject Control Arrest Techniques Instructor certified in accordance
35 with 12 NCAC 09B .0304(b);

- 1 (iv) Handcuffing and Impact Weapons Refresher and Subject Control Arrest
 2 Techniques: Equipment Retention must be taught by a Subject Control Arrest
 3 Techniques Instructor certified in accordance with 12 NCAC 09B .0304(e);
 4 (v) Wellness and Stress Awareness and Health and Fitness for Detention Officers
 5 must be taught by a Physical Fitness Instructor certified in accordance with 12
 6 NCAC 09B .0304(g);
 7 (vi) Law Enforcement Driver Training (classroom and practical) must be taught by
 8 a Specialized Law Enforcement Driver Training Instructor certified in
 9 accordance with 12 NCAC 09B .0304(f); and
 10 (vii) Active Shooter: Practical Refresher must be taught by a ~~Firearms Instructor~~
 11 ~~certified in accordance with 12 NCAC 09B .0304(e).~~ General Instructor as set
 12 out in subparagraph (1)(a) of this rule, who has also completed the North
 13 Carolina Justice Academy's "Rapid Deployment Instructor Training Course."

14 In addition, each instructor certified by the Criminal Justice Commission to teach in a
 15 Commission-certified course shall remain competent in his/her specific or specialty areas.
 16 Competent includes remaining current in the instructor's area of expertise, which may be
 17 demonstrated by attending and successfully completing all instructor updates issued by the
 18 Commission.

19 (e) Instructors who teach a required in-service training course must achieve a passing grade on a
 20 course-specific test developed by the North Carolina Justice Academy or by the agency delivering
 21 the training. Instructors who teach a required in-service training course online, in addition to
 22 meeting the above testing requirement, must also complete the in-service training for the course
 23 he or she will be teaching. Instructors who teach an in-service training course in a traditional
 24 classroom format will receive credit toward their own in-service training requirements, provided
 25 that they pass all required tests and have their instruction adequately documented once completed.

- 26 (2) The use of guest participants is permitted provided they are subject to the direct on-site
 27 supervision of a commission-certified instructor.
 28 (3) The instructor shall deliver the training consistent with the specifications as established in the
 29 rules in this Section.
 30 (4) The instructor shall document the successful or unsuccessful completion of training for each
 31 person attending a training program and forward a record of their completion to each person's
 32 Sheriff or Department Head.
 33

34 *History Note: Authority G.S. 17E-4; 17E-7;*
 35 *Eff. January 1, 2007;*
 36 *Amended Eff. January 1, 2013; February 1, 2012; January 1, 2011; March 1, 2010; January 1,*
 37 *2009.*

1 12 NCAC 10B .2102 IS AMENDED AS PUBLISHED IN THE NC REGISTER, VOLUME 27, ISSUE 02,
2 PAGE 251 AS FOLLOWS:

3
4 12 NCAC 10B .2102 INSTRUCTORS

5 The following requirements and responsibilities are hereby established for instructors who conduct the Deputy
6 Sheriffs' and Detention Officers' In-Service Firearms Training and Requalification Program:

7 (1) The instructor who performs the range qualification shall hold "Specific Instructor
8 Certification-Firearms" issued by the North Carolina Criminal Justice Education and Training
9 Standards Commission. The instructor who teaches the classroom instruction regarding use of force
10 may be either a Professional Lecturer by virtue of possessing a law degree under this Commission or
11 the North Carolina Criminal Justice Commission or a "Specific Certification-Firearms" issued by the
12 North Carolina Criminal Justice Education and Training Standards Commission;

13 (2) The instructor shall deliver the training consistent with the minimum specifications as established
14 by 12 NCAC 10B .2103 and .2104; and shall be present at all times during which said training is
15 being conducted to personally provide all supervision, classroom training, range training, and
16 scoring for certification purposes;

17 (3) The instructor shall document the successful or unsuccessful completion of training for each
18 officer on a commission-approved Firearms Requalification Record Form and forward such form
19 to each officer's sheriff;

20 (4) The instructor shall submit to the sheriff copies of all courses of fire used for qualification of
21 deputy sheriffs and detention officers in compliance with 12 NCAC 10B .2101(1).

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23 *History Note: Authority G.S. 17E-4; 17E-7;*

24 *Eff. January 1, 1989;*

25 *Amended Eff. January 1, 2013; January 1, 1995; January 1, 1993; January 1, 1991;*

26 *Temporary Amendment Eff. March 1, 1998;*

27 *Amended Eff. August 1, 1998.*

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