



NORTH CAROLINA
STATE BAR

Office of the Secretary

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March 5, 2024

Ms. Dana McGhee
Office of Administrative Hearings
Rules Division
6714 Mail Service Center
Raleigh, NC 27699-6714

Dear Dana:

Enclosed are rule amendments approved by the Supreme Court on June 15, 2022. These include:

Amendments Adopted by the State Bar Council on October 8, 2021

- | | |
|--------------------------------|--|
| 27 NCAC 01D RULE .2501 | ESTABLISHMENT OF SPECIALTY FIELD |
| 27 NCAC 01D RULE .2502 | DEFINITION OF SPECIALTY |
| 27 NCAC 01D RULE .2503 | RECOGNITION AS A SPECIALIST IN CRIMINAL LAW |
| 27 NCAC 01D RULE .2505 | STANDARDS FOR CERTIFICATION AS A SPECIALIST IN STATE CRIMINAL LAW |
| 27 NCAC 01D RULE .2506 | STANDARDS FOR CONTINUED CERTIFICATION AS A SPECIALIST IN STATE CRIMINAL LAW |
| 27 NCAC 01D RULE .2507 | APPLICABILITY OF OTHER REQUIREMENTS |
| 27 NCAC 01D RULE .2508 | STANDARDS FOR CERTIFICATION AS A SPECIALIST IN JUVENILE DELINQUENCY LAW |
| 27 NCAC 01D RULE .2510* | STANDARDS FOR CERTIFICATION AS A SPECIALIST IN FEDERAL CRIMINAL LAW |
| 27 NCAC 01D RULE .2511* | STANDARDS FOR CONTINUED CERTIFICATION AS A FEDERAL CRIMINAL LAW SPECIALIST |

** Denotes a new rule.*

Please let me know if you need additional information.

Sincerely yours,

A handwritten signature in cursive script that reads "Alice Neece Mine".

Alice Mine
Executive Director

ANM/efs

**AMENDMENTS TO THE RULES AND REGULATIONS OF THE
NORTH CAROLINA STATE BAR:**

RULES GOVERNING THE PLAN OF LEGAL SPECIALIZATION

The following amendments to the Rules and Regulations and the Certificate of Organization of the North Carolina State Bar were duly adopted by the Council of the North Carolina State Bar at its quarterly meeting on October 8, 2021.

BE IT RESOLVED by the Council of the North Carolina State Bar that the Rules and Regulations of the North Carolina State Bar as set forth in 27 N.C.A.C. 1D, Section .2500, *Certification Standards for the Criminal Law Specialty*, be amended as shown on the following attachments:

ATTACHMENT A-1: 27 N.C.A.C. 1D, Section .2500, Rule .2501, *Establishment of Specialty Field*

ATTACHMENT A-2: 27 N.C.A.C. 1D, Section .2500, Rule .2502, *Definition of Specialty*

ATTACHMENT A-3: 27 N.C.A.C. 1D, Section .2500, Rule .2503, *Recognition as a Specialist in Criminal Law*

ATTACHMENT A-4: 27 N.C.A.C. 1D, Section .2500, Rule .2505, *Standards for Certification as a Specialist in State Criminal Law*

ATTACHMENT A-5: 27 N.C.A.C. 1D, Section .2500, Rule .2506, *Standards for Continued Certification as a State Criminal Law Specialist*

ATTACHMENT A-6: 27 N.C.A.C. 1D, Section .2500, Rule .2507, *Applicability of Other Requirements*

ATTACHMENT A-7: 27 N.C.A.C. 1D, Section .2500, Rule .2508, *Standards for Certification as a Specialist in Juvenile Delinquency Law*

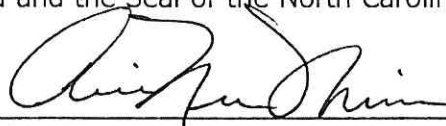
ATTACHMENT A-8: [NEW SECTION] 27 N.C.A.C. 1D, Section .2500, Rule .2510, *Standards for Certification as a Specialist in Federal Criminal Law*

ATTACHMENT A-9: [NEW SECTION] 27 N.C.A.C. 1D, Section .2500, Rule .2511, *Standards for Continued Certification as a Federal Criminal Law Specialist*

NORTH CAROLINA
WAKE COUNTY

I, Alice Neece Mine, Secretary-Treasurer of the North Carolina State Bar, do hereby certify that the foregoing amendments to the Rules and Regulations of the North Carolina State Bar were duly adopted by the Council of the North Carolina State Bar at a regularly called meeting on October 8, 2021.

Given over my hand and the Seal of the North Carolina State Bar, this the 3rd
day of February, 2022.



Alice Neece Mine, Secretary

After examining the foregoing amendments to the Rules and Regulations of the North Carolina State Bar as adopted by the Council of the North Carolina State Bar, it is my opinion that the same are not inconsistent with Article 4, Chapter 84 of the General Statutes.

This the 15th day of JUNE, 2022.



Paul M. Newby, Chief Justice

On this date, the foregoing amendments to the Rules and Regulations of the North Carolina State Bar were entered upon the minutes of the Supreme Court. The amendments shall be published in the forthcoming volume of the Advance Sheets as provided by the Act incorporating the North Carolina State Bar, and as otherwise directed by the Appellate Division Reporter.

This the 15TH day of June, 2022.



For the Court

1 27 NCAC 01D .2501 is amended without notice pursuant to G.S. 84-23 as follows:

2

3 **27 NCAC 01D .2501 ESTABLISHMENT OF SPECIALTY FIELD**

4 The North Carolina State Bar Board of Legal Specialization (the board) hereby designates criminal law(~~encompassing~~
5 ~~both federal and state criminal law~~), including the ~~subspecialty~~ subspecialties of state criminal ~~law~~law, and juvenile
6 delinquency law, and federal criminal law, as a field of law for which certification of specialists under the North
7 Carolina Plan of Legal Specialization (*see* Section .1700 of this Subchapter) is permitted.

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9 *History Note: Authority G.S. 84-23;*

10 *Readopted Eff. December 8, 1994;*

11 *Amendments Approved by the Supreme Court: March 10, 2011; August 25, 2011; June 15, 2022.*

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1 27 NCAC 01D .2502 is amended without notice pursuant to G.S. 84-23 as follows:

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3 **27 NCAC 01D .2502 DEFINITION OF SPECIALTY**

4 The specialty of criminal law is the practice of law dealing with the defense or prosecution of those charged with
5 ~~misdemeanor and felony crimes~~criminal offenses in state ~~and or~~ federal trial courts. The ~~subspecialty~~ subspecialties
6 in the field ~~is~~are identified and defined as follows:

7 (a) State Criminal Law. The practice of criminal law in state trial and appellate courts. The standards for the
8 subspecialty are set forth in Rules .2505-.2506.

9 (b) Juvenile Delinquency Law. The practice of law in state juvenile delinquency courts. The standards for the
10 subspecialty are set forth in Rules .2508-.2509.

11 (c) Federal Criminal Law. The practice of criminal law in federal trial and appellate courts. The standards for the
12 subspecialty are set forth in Rules .2510-.2511.

13

14 *History Note: Authority G.S. 84-23;*

15 *Readopted Eff. December 8, 1994;*

16 *Amendments Approved by the Supreme Court: March 10, 2011; August 25, 2011; June 15, 2022.*

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1 27 NCAC 01D .2503 is amended without notice pursuant to G.S. 84-23 as follows:

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3 **27 NCAC 01D .2503 RECOGNITION AS A SPECIALIST IN CRIMINAL LAW**

4 A lawyer may qualify as a specialist by meeting the standards for ~~criminal law or any of the subspecialties of state~~
5 ~~criminal law, or juvenile delinquency law, law, or federal criminal law.~~ If a lawyer qualifies as a specialist by
6 ~~meeting the standards for the criminal law specialty, the lawyer shall be entitled to represent that he or she is a "Board~~
7 ~~Certified Specialist in Criminal Law."~~ If a lawyer qualifies as a specialist by meeting the standards set for the
8 subspecialty of state criminal law, the lawyer shall be entitled to represent that he or she is a "Board Certified Specialist
9 in State Criminal Law." If a lawyer qualifies as a specialist by meeting the standards for the subspecialty of juvenile
10 delinquency law, the lawyer shall be entitled to represent that he or she is a "Board Certified Specialist in Criminal
11 Law – Juvenile Delinquency." If a lawyer qualifies as a specialist by meeting the standards set for the subspecialty of
12 federal criminal law, the lawyer shall be entitled to represent that he or she is a "Board Certified Specialist in Federal
13 Criminal Law." Effective June 15, 2022, any lawyer previously certified as a specialist in the state/federal criminal
14 law specialty may continue to represent that he or she is a "Board Certified Specialist in State/Federal Criminal Law"
15 until the specialist's next recertification period, at which point he or she must satisfy the requirements for continued
16 certification as a specialist in state criminal law, federal criminal law, or both.

17

18 *History Note: Authority G.S. 84-23;*

19 *Readopted Eff. December 8, 1994;*

20 *Amendments Approved by the Supreme Court: March 10, 2011; August 25, 2011; June 15, 2022.*

21

1 27 NCAC 01D .2505 is amended without notice pursuant to G.S. 84-23 as follows:

2
3 **SUBCHAPTER 01D – RULES OF THE STANDING COMMITTEES OF THE NORTH CAROLINA**
4 **STATE BAR**

5
6 **SECTION .2500 - CERTIFICATION STANDARDS FOR THE CRIMINAL LAW SPECIALTY**
7

8 **27 NCAC 01D .2505 STANDARDS FOR CERTIFICATION AS A SPECIALIST IN STATE CRIMINAL**
9 **LAW**

10 Each applicant for certification as a specialist in state criminal law ~~or the subspecialty of state criminal law~~ shall meet
11 the minimum standards set forth in Rule .1720 of this subchapter. In addition, each applicant shall meet the following
12 standards for certification:

13 (a) Licensure and Practice - An applicant shall be licensed and in good standing to practice law in North Carolina as
14 of the date of the application. During the period of certification an applicant shall continue to be licensed and in good
15 standing to practice law in North Carolina.

16 (b) Substantial Involvement - An applicant shall affirm to the board that the applicant has experience through
17 substantial involvement in the practice of state criminal law.

18 (1) Substantial involvement shall mean during the five years immediately preceding the application, the
19 applicant devoted an average of at least 500 hours a year to the practice of state criminal law, but
20 not less than 400 hours in any one year. "Practice" shall mean substantive legal work, specifically
21 including representation in criminal jury trials, done primarily for the purpose of providing legal
22 advice or representation, or a practice equivalent.

23 (2) "Practice equivalent" shall mean:

24 (A) Service as a law professor concentrating in the teaching of criminal law for one year or
25 more, which may be substituted for one year of experience to meet the five-year
26 requirement set forth in Rule .2505(b)(1) above;

27 (B) Service as a ~~federal~~, state or tribal court judge for one year or more, which may be
28 substituted for one year of experience to meet the five-year requirement set forth in Rule
29 .2505(b)(1) above;

30 (3) For the ~~specialty of criminal law~~ and the subspecialty of state criminal law, the board shall require
31 an applicant to show substantial involvement by providing information that demonstrates the
32 applicant's significant criminal trial experience such as:

33 (A) representation during the applicant's entire legal career in criminal trials concluded by jury
34 verdict;

35 (B) representation as principal counsel of record in federal felony cases or state felony cases
36 (Class G or higher);

1 (C) court appearances in other substantive criminal proceedings in criminal courts of any
2 jurisdiction; and

3 (D) representation in appeals of decisions to the North Carolina Court of Appeals, the North
4 Carolina Supreme Court, or any federal appellate court.

5 (c) Continuing Legal Education - ~~Education - In in the specialty of eriminal law and the state criminal law subspecialty,~~
6 an applicant must have earned no less than 40 hours of accredited continuing legal education credits in criminal law
7 during the three years preceding the application, which ~~40 hours~~ must include the following:

8 (1) at least 34 hours in skills pertaining to criminal law, such as evidence, substantive criminal law,
9 criminal procedure, criminal trial advocacy and criminal trial tactics; and

10 (2) at least six hours in the area of ethics ~~and eriminal law~~.

11 (d) Peer Review ~~Review -~~

12 (1) Each applicant for certification as a specialist in ~~eriminal law and the subspecialty of state criminal~~
13 law must make a satisfactory showing of qualification through peer review.

14 (2) All references must be licensed and in good standing to practice in North Carolina and must be
15 familiar with the competence and qualifications of the applicant in the specialty field. The applicant
16 consents to the confidential inquiry by the board or the specialty committee of the submitted
17 references and other persons concerning the applicant's competence and qualifications.

18 (3) Written peer reference forms will be sent by the board or the specialty committee to the references.
19 Completed peer reference forms must be received from at least five of the references. The board or
20 the specialty committee may contact in person or by telephone any reference listed by an applicant.

21 (4) Each applicant must provide for reference and independent inquiry the names and addresses of the
22 following: (i) ten lawyers ~~and/or~~ judges who practice in the field of criminal law and who are
23 familiar with the applicant's practice, and (ii) opposing counsel and the judge in eight recent cases
24 tried by the applicant to verdict or entry of order.

25 (5) ~~A reference may not be related by blood or marriage to the applicant nor may the reference be a~~
26 ~~partner or associate of the applicant at the time of the application~~ A reference may not be related by
27 blood or marriage to the applicant, may not be a partner or associate of the applicant, and may not
28 work in the same government office as the applicant at the time of the application.

29 (e) Examination - The applicant must pass a written examination designed to test the applicant's knowledge and
30 ability.

31 (1) Terms - The ~~examination(s)~~ examination shall be in written form and shall be given at such times as
32 the board deems appropriate. The ~~examination(s)~~ examination shall be administered and graded
33 uniformly by the specialty committee.

34 (2) Subject Matter - The examination shall cover the applicant's knowledge in the following topics in
35 ~~eriminal law, and/or in the subspecialty of state criminal law, as the applicant has elected:~~

36 (A) the North Carolina ~~and Federal~~ Rules of Evidence;

- 1 (B) state ~~and federal~~ criminal procedure and state ~~and federal~~ laws affecting criminal
- 2 procedure;
- 3 (C) constitutional law;
- 4 (D) appellate procedure and tactics;
- 5 (E) trial procedure and trial tactics; and
- 6 (F) criminal substantive law; law.

7 (3) Required Examination ~~Components~~ Components -

8 (A) ~~Criminal Law Specialty.~~

9 An applicant for certification in the specialty of criminal law must pass part I of the
10 examination on general topics in criminal law and part II of the examination (federal and
11 state criminal law).

12 (B) ~~State Criminal Law Subspecialty.~~

13 An applicant for certification in the subspecialty of state criminal law must pass part I of
14 the examination on general topics in criminal law and ~~part III~~ of the examination on state
15 criminal law.

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17 *History Note:* Authority G.S. 84-23;
18 *Readopted Eff. December 8, 1994;*
19 *Amendments Approved by the Supreme Court: February 5, 2004; October 6, 2004; August 23, 2007;*
20 *March 8, 2013; October 2, 2014; March 16, 2017; June 15, 2022.*

1 27 NCAC 01D .2506 is amended without notice pursuant to G.S. 84-23 as follows:

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3 **27 NCAC 01D .2506 STANDARDS FOR CONTINUED CERTIFICATION AS A SPECIALIST IN**
4 **STATE CRIMINAL LAW**

5 The period of certification is five years. A certified specialist who desires continued certification must apply for
6 continued certification within the time limit described in Rule .2506(d) below. No examination will be required for
7 continued certification. However, each applicant for continued certification as a specialist shall comply with the
8 specific requirements set forth below in addition to any general standards required by the board of all applicants for
9 continued certification.

10 (a) Substantial Involvement - The specialist must demonstrate that for the five years preceding reapplication he or
11 she has had substantial involvement in the ~~specialty or~~ subspecialty as defined in Rule .2505(b).

12 (b) Continuing Legal Education - The specialist must have earned no less than ~~65~~60 hours of accredited continuing
13 legal education credits ~~in criminal law~~ as defined in Rule .2505(c)(1), with not less than 6 credits earned in any one
14 year.

15 (c) Peer Review - The applicant must provide, as references, the names of at least six lawyers or judges, all of whom
16 are licensed and currently in good standing to practice law in this state and familiar with the competence and
17 qualification of the applicant as a specialist. For an application to be considered, completed peer reference forms must
18 be received from at least three of the references. Each applicant also must provide the names and addresses of the
19 following: (i) five lawyers ~~and~~and/or judges who practice in the field of criminal law and who are familiar with the
20 applicant's practice, and (ii) opposing counsel and the judge in four recent cases tried by the applicant to verdict or
21 entry of order. All other requirements relative to peer review set forth in Rule .2505(d) of this subchapter apply to this
22 standard.

23 (d) Time for Application - Application for continuing certification shall be made not more than 180 days nor less than
24 90 days prior to the expiration of the prior period of certification.

25 (e) Lapse of Certification - Failure of a specialist to apply for continued certification in a timely fashion will result in
26 a lapse of certification. Following such lapse, recertification will require compliance with all requirements of Rule
27 .2505 of this subchapter, including the examination.

28 (f) Suspension or Revocation of Certification - If an applicant's certification has been suspended or revoked during
29 the period of certification, then the application shall be treated as if it were for initial certification under Rule .2505 of
30 this subchapter.

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32 *History Note: Authority G.S. 84-23;*
33 *Readopted Eff. December 8, 1994;*
34 *Amendments Approved by the Supreme Court: February 5, 2004; October 6, 2004; March 27, 2019;*
35 *June 15, 2022.*
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1 27 NCAC 01D .2507 is amended without notice pursuant to G.S. 84-23 as follows:
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3 **SUBCHAPTER 01D – RULES OF THE STANDING COMMITTEES OF THE NORTH CAROLINA**
4 **STATE BAR**
5

6 **SECTION .2500 - CERTIFICATION STANDARDS FOR THE CRIMINAL LAW SPECIALTY**
7

8 **27 NCAC 01D .2507 APPLICABILITY OF OTHER REQUIREMENTS**

9 The specific standards set forth herein for certification of specialists in the criminal law ~~the subspecialty~~ subspecialties
10 of state criminal law, ~~and the subspecialty of juvenile delinquency law~~ law, and federal criminal law are subject to any
11 general requirement, standard, or procedure adopted by the board applicable to all applicants for certification or
12 continued certification.
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14 *History Note: Authority G.S. 84-23;*

15 *Readopted Eff. December 8, 1994;*

16 *Amendments Approved by the Supreme Court: March 10, 2011; August 25, 2011; June 15, 2022.*
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1 27 NCAC 01D .2508 is amended without notice pursuant to G.S. 84-23 as follows:

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3 **27 NCAC 01D .2508 STANDARDS FOR CERTIFICATION AS A SPECIALIST IN JUVENILE**
4 **DELINQUENCY LAW**

5 Each applicant for certification as a specialist in juvenile delinquency law shall meet the minimum standards set forth
6 in Rule .1720 of this subchapter. In addition, each applicant shall meet the following standards for certification:

7 (a) Licensure and Practice - An applicant shall be licensed and in good standing to practice law in North Carolina as
8 of the date of the application. During the period of certification an applicant shall continue to be licensed and in good
9 standing to practice law in North Carolina.

10 (b) Substantial Involvement - An applicant shall affirm to the board that the applicant has experience through
11 substantial involvement in the practice of juvenile delinquency law.

12 (1) Substantial involvement shall mean during the five years immediately preceding the application, the
13 applicant devoted an average of at least 400 hours a year to the practice of juvenile delinquency law,
14 but not less than 100 hours in any one year. "Practice" shall mean substantive legal work, specifically
15 including representation of juveniles or the state in juvenile delinquency court, done primarily for
16 the purpose of providing legal advice or representation, or a practice equivalent.

17 (2) "Practice equivalent" shall mean:

18 (A) Service for one year or more as a state district court judge responsible for presiding over
19 juvenile delinquency court for 250 hours each year may be substituted for one year of
20 experience to meet the five-year requirement set forth in Rule .2508(b)(1) above;

21 (B) Service on or participation in the activities of local, state, or national civic, professional or
22 government organizations that promote juvenile justice may be used to meet the
23 requirement set forth in Rule .2508(b)(1) but not to exceed 100 hours for any year during
24 the five years.

25 (C) Service as a law professor in a juvenile delinquency legal clinic at an accredited law school
26 may be used to meet the requirement set forth in Rule .2508(b)(1).

27 (D) The practice of state criminal law may be used to meet the requirement set forth in Rule
28 .2508(b)(1) but not to exceed 100 hours for any year during the five years. "Practice of
29 state criminal law" shall mean substantive legal work representing adults or the state in the
30 state's criminal district and superior courts.

31 (3) An applicant shall also demonstrate substantial involvement during the five years prior to
32 application unless otherwise noted by providing information that demonstrates the applicant's
33 significant juvenile delinquency court experience such as:

34 (A) Representation of juveniles or the state during the applicant's entire legal career
35 in juvenile delinquency hearings concluded by disposition;

36 (B) Representation of juveniles or the state in juvenile delinquency felony cases;

1 (C) Court appearances in other substantive juvenile delinquency proceedings in
2 juvenile court;

3 (D) Representation of juveniles or the state through transfer to adult court; and

4 (E) Representation of juveniles or the state in appeals of juvenile delinquency
5 decisions.

6 (c) Continuing Legal Education - An applicant must have earned no less than 40 hours of accredited continuing legal
7 education (CLE) credits in criminal and juvenile delinquency law during the three years preceding application. Of the
8 40 hours of CLE, at least 12 hours shall be in juvenile delinquency law, and the balance may be in the following
9 related fields: substantive criminal law, criminal procedure, trial advocacy, and evidence.

10 (d) Peer Review –

11 (1) Each applicant for certification as a specialist in juvenile delinquency law must make a satisfactory
12 showing of qualification through peer review.

13 (2) All references must be licensed and in good standing to practice in North Carolina and must be
14 familiar with the competence and qualifications of the applicant in the specialty field. The applicant
15 consents to the confidential inquiry by the board or the specialty committee of the submitted
16 references and other persons concerning the applicant's competence and qualifications.

17 (3) Written peer reference forms will be sent by the board or the specialty committee to the references.
18 Completed peer reference forms must be received from at least five of the references. The board or
19 the specialty committee may contact in person or by telephone any reference listed by an applicant.

20 (4) Each applicant must provide for reference and independent inquiry the names and addresses of ten
21 lawyers ~~and/or~~ judges who practice in the field of juvenile delinquency law or criminal law or
22 preside over juvenile delinquency or criminal law proceedings and who are familiar with the
23 applicant's practice.

24 (5) ~~A reference may not be related by blood or marriage to the applicant nor may the reference be a~~
25 ~~partner or associate of the applicant at the time of the application~~A reference may not be related by
26 blood or marriage to the applicant, may not be a partner or associate of the applicant, and may not
27 work in the same government office as the applicant at the time of the application.

28 (e) Examination - An applicant must pass a written examination designed to demonstrate sufficient knowledge, skills,
29 and proficiency in the field of juvenile delinquency law to justify the representation of special competence to the legal
30 profession and the public.

31 (1) Terms - The examination shall be given annually in written form and shall be administered and
32 graded uniformly by the specialty committee.

33 (2) Subject Matter - The examination shall cover the applicant's knowledge in the following topics:

34 (A) North Carolina Rules of Evidence;

35 (B) State criminal substantive law;

36 (C) Constitutional law as it relates to criminal procedure and juvenile delinquency law;

37 (D) State criminal procedure;

- 1 (E) North Carolina Juvenile Code, Subchapters II and III, and related case law; and
2 (F) North Carolina case law as it relates to juvenile delinquency law
3 (3) Examination Components - An applicant for certification in the subspecialty of juvenile delinquency
4 law must pass ~~part I~~ of the criminal law examination on general topics in criminal law and ~~part IV~~
5 of the examination on juvenile delinquency law.
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7 *History Note:* Authority G.S. 84-23;
8 Approved by the Supreme Court August 25, 2011;
9 Amendments Approved by the Supreme Court March 5, 2015; June 15, 2022.

1 27 NCAC 01D .2510 is adopted without notice pursuant to G.S. 84-23 as follows:

2
3 **27 NCAC 01D .2510 STANDARDS FOR CERTIFICATION AS A SPECIALIST IN FEDERAL**
4 **CRIMINAL LAW**

5 Each applicant for certification as a specialist in the subspecialty of federal criminal law shall meet the minimum
6 standards set forth in Rule .1720 of this subchapter. In addition, each applicant shall meet the following standards for
7 certification:

8 (a) Licensure and Practice - An applicant shall be licensed and in good standing to practice law in North Carolina as
9 of the date of the application. During the period of certification an applicant shall continue to be licensed and in good
10 standing to practice law in North Carolina.

11 (b) Substantial Involvement - An applicant shall affirm to the board that the applicant has experience through
12 substantial involvement in the practice of criminal law in the federal courts of the United States.

13 (1) Substantial involvement shall mean during the five years immediately preceding the application, the
14 applicant devoted an average of at least 600 hours a year to the practice of criminal law, but not less
15 than 400 hours in any one year. "Practice" shall mean substantive legal work, specifically including
16 the handling of matters in federal district court criminal cases, the pre-charge representation of
17 clients in matters being investigated by federal law enforcement agencies, in federal criminal
18 appeals, or otherwise providing legal advice or representation regarding such matters, or a practice
19 equivalent.

20 (2) "Practice equivalent" shall mean:

21 (A) Service as a law professor concentrating in the teaching of criminal law for one year or
22 more, which may be substituted for one year of experience to meet the five-year
23 requirement set forth in Rule .2510(b)(1) above;

24 (B) Service as an Article III or federal magistrate judge for one year or more, which may be
25 substituted for one year of experience to meet the five-year requirement set forth in Rule
26 .2510(b)(1) above;

27 (3) For the subspecialty of federal criminal law, the board shall require an applicant to show substantial
28 involvement by providing information that demonstrates the applicant's significant federal criminal
29 trial experience such as:

30 (A) representation during the applicant's entire legal career as principal counsel of record in
31 federal criminal trials, whether concluded by jury verdict or not;

32 (B) court appearances in other substantive criminal proceedings in the U.S. District Courts of
33 any jurisdiction;

34 (C) pre-charge representation in matters being investigated by federal law enforcement
35 agencies; and

36 (D) representation as principal counsel of record in criminal appeals to any federal appellate
37 court.

1 (c) Continuing Legal Education - In the federal criminal law subspecialty, an applicant must have earned no less than
2 40 hours of accredited continuing legal education credits in criminal law during the three years preceding the
3 application, which must include the following:

4 (1) at least 34 hours in skills pertaining to federal criminal law, such as evidence, substantive criminal
5 law, federal criminal procedure, criminal trial tactics, pre-trial or pre-charge advocacy, criminal
6 appeals (including any annual update pertaining to the docket of a federal appellate or the U.S.
7 Supreme Court); and

8 (2) at least 6 hours in the area of ethics.

9 (d) Peer Review -

10 (1) Each applicant for certification as a specialist in the subspecialty of federal criminal law must make
11 a satisfactory showing of qualification through peer review.

12 (2) All references must be licensed and in good standing to practice in North Carolina and must be
13 familiar with the competence and qualifications of the applicant in the specialty field. The applicant
14 consents to the confidential inquiry by the board or the specialty committee of the submitted
15 references and other persons concerning the applicant's competence and qualifications.

16 (3) Written peer reference forms will be sent by the board or the specialty committee to the references.
17 Completed peer reference forms must be received from at least five of the references. The board or
18 the specialty committee may contact in person or by telephone any reference listed by an applicant.

19 (4) Each applicant must provide for reference and independent inquiry the names and addresses of the
20 following: (i) ten lawyers and/or judges who practice in the field of criminal law and who are
21 familiar with the applicant's practice, and (ii) opposing counsel and the judge in eight recent cases
22 tried by the applicant to verdict or entry of order.

23 (5) A reference may not be related by blood or marriage to the applicant, may not be a partner or
24 associate of the applicant, and may not work in the same government office as the applicant at the
25 time of the application.

26 (e) Examination - The applicant must pass a written examination designed to test the applicant's knowledge and
27 ability.

28 (1) Terms - The examination shall be in written form and shall be given at such times as the board
29 deems appropriate. The examination shall be administered and graded uniformly by the specialty
30 committee.

31 (2) Subject Matter - The examination shall cover the applicant's knowledge in the following topics in
32 federal criminal law:

33 (A) the Federal Rules of Evidence;

34 (B) federal criminal procedure and federal laws/federal case law affecting criminal procedure;

35 (C) federal constitutional law;

36 (D) the United States Sentencing Guidelines, and the calculation and application thereof;

37 (E) trial procedure and trial tactics;

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(F) pre-charge advocacy and tactics;

(G) substantive federal criminal law; and

(H) federal appellate procedure and tactics.

(3) Required Examination Components - An applicant for certification in the subspecialty of federal criminal law must pass the examination on general topics in criminal law and the examination on federal criminal law.

*History Note: Authority G.S. 84-23;
Approved by the Supreme Court: June 15, 2022.*

1 27 NCAC 01D .2511 is adopted without notice pursuant to G.S. 84-23 as follows:

2
3 **27 NCAC 01D .2511 STANDARDS FOR CONTINUED CERTIFICATION AS A FEDERAL CRIMINAL**
4 **LAW SPECIALIST**

5 The period of certification is five years. A certified specialist who desires continued certification must apply for
6 continued certification within the time limit described in Rule .2511(d) below. No examination will be required for
7 continued certification. However, each applicant for continued certification as a specialist shall comply with the
8 specific requirements set forth below in addition to any general standards required by the board of all applicants for
9 continued certification.

10 (a) Substantial Involvement - The specialist must demonstrate that for the five years preceding reapplication he or
11 she has had substantial involvement in the subspecialty as defined in Rule .2510(b).

12 (b) Continuing Legal Education - The specialist must have earned no less than 60 hours of accredited continuing legal
13 education credits as described in .2510(c)(1), with not less than 6 credits earned in any one year.

14 (c) Peer Review - The applicant must provide, as references, the names of at least six lawyers or judges, all of whom
15 are licensed and currently in good standing to practice law in this state and familiar with the competence and
16 qualification of the applicant as a specialist. For an application to be considered, completed peer reference forms must
17 be received from at least three of the references. Each applicant also must provide the names and addresses of the
18 following: (i) five lawyers and/or judges who practice in the field of criminal law and who are familiar with the
19 applicant's practice, and (ii) opposing counsel and the judge in four recent cases tried by the applicant to verdict or
20 entry of order. All other requirements relative to peer review set forth in Rule .2510(d) of this subchapter apply to this
21 standard.

22 (d) Time for Application - Application for continuing certification shall be made not more than 180 days nor less than
23 90 days prior to the expiration of the prior period of certification.

24 (e) Lapse of Certification - Failure of a specialist to apply for continued certification in a timely fashion will result in
25 a lapse of certification. Following such lapse, recertification will require compliance with all requirements of Rule
26 .2510 of this subchapter, including the examination.

27 (f) Suspension or Revocation of Certification - If an applicant's certification has been suspended or revoked during
28 the period of certification, then the application shall be treated as if it were for initial certification under Rule .2510 of
29 this subchapter.

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31 *History Note: Authority G.S. 84-23;*
32 *Approved by the Supreme Court: June 15, 2022.*