

Burgos, Alexander N

To: Liebman, Brian R; Henderson, Russell
Subject: RE: [External] CJ Commission 12 NCAC 09B, 09C, and 09G Requests for Changes - September 2023 RRC

From: Liebman, Brian R <brian.liebman@oah.nc.gov>
Sent: Friday, September 15, 2023 6:10 PM
To: Henderson, Russell <rhenderson@ncdoj.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] CJ Commission 12 NCAC 09B, 09C, and 09G Requests for Changes - September 2023 RRC

Russell,

I have several follow up questions and suggestions about your rules. Below, I've gotten through Rules .0209 and .0403. I will likely look at the rest over the weekend, or 1st thing Monday, and get more notes to you. I thought I should send what I have so you can get started, or if you want, decide to take an extension on all the rules.

I'll copy the request, your response, and then my reply in red, below.

Rule .0209

Recommended Change #1: *"In (a), line 6, what does "of no more than 15 business days" modify? Is that the time "required to conduct? practical exercises..." or is that the time the whole course must be taught in?"*

Response: This is the time the whole course (classroom instruction and practical skills) must be taught in.

Thanks for clarifying, but it would be helpful to change the rule to make that clearer. Consider ending the sentence at "testing", and then making a new sentence saying "The Instructor Training Course shall be presented during a period of no more than 15 business days." Alternatively, consider "...and post testing, and shall be presented during a period of no more than 15 business days."

Recommended Change #3: *In (b), line 20, what are the "functions of a criminal justice instructor"? Are these defined somewhere?*

Response: The function of a criminal justice instructor is to provide Commission-approved training, utilizing Commission approved lessons plans. Their role is identified in:

12 NCAC 09B .0202(a)(2)-(5), and 12 NCAC 09B .0301(a)(b) and (c)

Rule .0202 governs the duties of school directors, and the duties in (2)-(5) seem more appropriate for a director than an instructor. I'm not sure this is correct. Regardless, I think a cross reference needs to be added to the text of this rule so it is clear what the agency means when it says "the functions of a criminal justice instructor."

Recommended Change #4: *In (c)(14), p.2, lines 1-3, who determines what number of hours are "required to complete this portion of the curriculum"?*

Response: The Instructor Training School Director makes this determination.

I think this needs to be said in the rule, then.

Recommended Change #6: *In (d), line 11, does the Academy require a certain method of payment? Check, money order, credit card, cash?*

Response: The Academy accepts cash, money order, or credit card.

I think this needs to be said in the rule, then.

Rule .0403

Recommended Change #1: *Throughout the Rule, there is a distinction between full time and part time. Are these terms defined in your Rules?*

Response: There is no specific definition for full time or part time.

Then how does staff make the determination required by this rule? This needs to be defined somewhere in your rules.

Recommended Change #2: *In (a), line 5, please define equivalent training? Under what standards does the staff make this determination?*

Response: Equivalent training is the topics of instruction successfully completed at a federal, military, or out of state law enforcement training academy. Staff receive a copy of that basic law enforcement training program's curriculum, and compare the curriculum topics and course hours to determine if the training provided is substantially equivalent or exceeds minimum requirements of the Commission-accredited Basic Law Enforcement Training Course. This makes sense. However, it isn't stated in the Rule. Please add the details laid out here somewhere in your Rule. For instance, add a sentence to (a) saying "for the purposes of this Rule, "equivalent training" means" That would help with (a)(13), below, as well.

Recommended Change #5: *In (a)(1), line 16, as written it appears that an officer who intentionally delays in applying for certification is eligible for a waiver. Is that the Commission's intention?*

Response: The current rule indicates "unless the Director determines that a delay in applying for certification was not due to neglect of the part of the applicant...."

Right, and so neglect typically means someone *unintentionally* missed the deadline. So if someone intentionally missed the deadline, that would not be due to neglect, and then the director "shall accept" the course over 1 year old. Hence my question.

Recommended Change #8: *In (a)(4), line 9, this Rule says that the officer shall not have been "convicted" of an offense listed in Rule .0111(1). Two issues here: First, there is no Rule .0111(1). The Rule has subparagraphs (a), (b), and (c), but only (a) has an item (1). Did you mean Rule 0111(a)(1), which is a "felony"? Second, Rule .0111 says that a LEO "shall not have committed or been convicted" of a crime, and defines "commission" pursuant to 09A .0103. The instant rule only says that the officer shall not have been "convicted". Is this intentional?*

Response: Rule language clarified to reflect correct rule reference.

OK, to be clear, you're restricting the disqualifying crimes here to felonies? The other crimes in Rule .0111(a) do not disqualify someone under this language. Also, the definition of "committed" is in 12 NCAC 09A .0103(5), and is cross-referenced in Rule .0111(b). There is no reference to either .0111(b) or 09A .0103(5) in this Rule. Is this what you meant to do? Because you'll need to either define "committed" here, or add a cross-reference at the very least.

In (a)(7), (8), and (9), on p.3, lines 8, 13, and 19, respectively, please add "been" between "have" and "separated".

The point was to make all instances of "have separated" say "have been separated" I obviously screwed up the line numbers (sorry about that), But I see in (7), line 13, and in (8), lines 19-20 it currently says "persons who been separated..." Add the "have" in there. Also see (d)(2), p. 8, line 32.

Recommended Change #10: *In (a)(5), line 36, please define "out of the law enforcement profession". Is this different than being "separated from a sworn position" in (8). Is there a distinction here?*

Response: Rule language made consistent.

Thanks for fixing this. I didn't explicitly point it out, but in (a)(6), it also says "persons out of the law enforcement profession". I think it needs to be changed there and anywhere else that language appears.

Recommended Change #16: *In(a) (13), lines 8-9, is “G.S.-1811 series” a document? Are you incorporating it by reference? Where can you regulated public find it? I ask because I could not find it.*

Response: The G.S. 1811 is a Federal Criminal Investigator position as defined in the U.S. Office of Personnel Management, General Schedule Qualification Standards.

Thanks for clearing that up. But if you’re using a definition from a federal policy document like this, you need to incorporate it by reference under G.S. 150B-21.6. I would like to see a specific URL to the definition, because again, I had a hard time locating it – the OPM website isn’t exactly the most user friendly.

Recommended Change #17: *In (a)(13), line 12, on what basis will this evaluation be made?*

Response: Equivalent training is the topics of instruction successfully completed at a federal, military, or out of state law enforcement training academy. Staff receive a copy of that basic law enforcement training program’s curriculum, and compare the curriculum topics and course hours to determine if the training provided is substantially equivalent or exceeds minimum requirements of the Commission-accredited Basic Law Enforcement Training Course. See recommended change #2.

In (a)(13), line 12, you need to add “and” at the beginning of the line so that the sentence without the large deletion reads “...classification system, and who have not had a break...”

You still have a problem here. On line 25, the sentence ends at “Qualification Standards.” The next text that isn’t struck through is on line 28, and it is “who have not had a break...” with “who” in lower case. I think you just need to delete the period after “Qualification Standards”.

Recommended Change #20: *In (a)(16), pg. 5, line 7, is the evaluation based on the standards in (A)-(D) or are there other criteria?*

Response: Yes. The evaluation is based on the standards in (A)-(D).

OK, good to know. But, you need to make that clear in your rule. I know this seems pedantic, but it just says he evaluation is based on the active or inactive certification, and then there’s this list of (A) through (D) that isn’t actually introduced. So consider saying “...based on the applicant’s active or inactive certification status with the Sheriff’s Commission and the standards contained in Parts (A) through (D) of this Subparagraph.”

Recommended Change #30: *In (b), line 35, what standards do you use to judge whether prior training is “equivalent” to the Commission’s standards? And what standards do you mean? Rule .0405? Rule .0105?*

Response: We compare the individual’s training received in his successfully completed basic law enforcement training academy to those topics outlined in Rule .0405. The curriculum content and hours of instruction are compared with the curriculum content and hours of instruction outlined in Rule .0405 to determine equivalency. You need to say this in the Rule.

Recommended Change #33: *In (d), lines 3 and 4, under what criteria are these two determinations made?*

Response: We compare the individual’s training received in his successfully completed basic law enforcement training academy to those topics outlined in Rule .0405. The curriculum content and hours of instruction are compared with the curriculum content and hours of instruction outlined in Rule .0405 to determine equivalency. An individual will not be required to complete those topics that are equivalent in curriculum content and course hours in a Commission-accredited Basic Law Enforcement Training Course.

You need to say this in the Rule. Also, after re-reading these, how are (b) and the new paragraph (c) different?

Recommended Change #36: *In (e)(2) (now (d)(2)), line 17 (now line 35), what “additional training program” are you requiring?*

Response: Language corrected to reflect "Commission-accredited basic training course".

I have a few additional questions after this change. Maybe it's the way it's phrased, with the "but" clause that is confusing me, but it seems like you're just saying that if you completed the basic training course and were separated for less than a year, you have to retake the course AND serve a new 12 month probationary period. Why not just say that?

Also, are local confinement personnel included in the definition of criminal justice officers? If so, aren't they also supposed to be charged with the completed portion of the 12 month probationary period, just as a "sworn law enforcement" officer in (a)(8), if they're still within the probationary period? That isn't specified here, and maybe it needs be.

Brian Liebman
Counsel to the North Carolina Rules Review Commission
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(984)236-1948
brian.liebman@oah.nc.gov

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Burgos, Alexander N

Subject: FW: [External] Request for Extension on Rule 09b .0501 Review

From: Liebman, Brian R <brian.liebman@oah.nc.gov>
Sent: Friday, September 15, 2023 11:32 AM
To: Henderson, Russell <rhenderson@ncdoj.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] Request for Extension on Rule 09b .0501 Review

Hi Russell,

Thanks for the request. I will recommend approval of your extension request to the Commission at next week's meeting.

Best,
Brian

Brian Liebman
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From: Henderson, Russell <rhenderson@NCDOJ.GOV>
Sent: Thursday, September 14, 2023 11:19 AM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>
Subject: [External] Request for Extension on Rule 09b .0501 Review

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Brian,

We would like to formally request an extension to review 09b .0501 prior to RRC so we can clean up the proposed language. There should be no interconnectivity issues with any other rules currently in the review process.

Russell.



Russell A. Henderson

Research & Planning Specialist

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Burgos, Alexander N

Subject: FW: [External] CJ Commission 12 NCAC 09B, 09C, and 09G Requests for Changes - September 2023 RRC

From: Liebman, Brian R <brian.liebman@oah.nc.gov>

Sent: Thursday, September 14, 2023 11:01 AM

To: Henderson, Russell <rhenderson@ncdoj.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Subject: RE: [External] CJ Commission 12 NCAC 09B, 09C, and 09G Requests for Changes - September 2023 RRC

Russell,

Yes, you can request an extension on just the one rule, if that's what you'd like to do. An email to me requesting the extension is all you need. Please let me know if there are any interconnectivity concerns with separating these rules in your email.

Thanks!

Brian

Brian Liebman

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Burgos, Alexander N

Subject: FW: [External] CJ Commission 12 NCAC 09B, 09C, and 09G Requests for Changes - September 2023 RRC

From: Henderson, Russell <rhenderson@NCDOJ.GOV>

Sent: Wednesday, September 13, 2023 3:44 PM

To: Liebman, Brian R <brian.liebman@oah.nc.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Subject: Re: [External] CJ Commission 12 NCAC 09B, 09C, and 09G Requests for Changes - September 2023 RRC

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Thank you. It's 09b 0501. I will get an update as fast as possible...I think they just wanted one more staff member to have a crack at it before it got locked in.

Russell.



Russell A. Henderson

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Burgos, Alexander N

From: Liebman, Brian R
Sent: Wednesday, September 13, 2023 1:43 PM
To: Henderson, Russell
Cc: Burgos, Alexander N
Subject: RE: [External] CJ Commission 12 NCAC 09B, 09C, and 09G Requests for Changes - September 2023 RRC

Hi Russell,

Yeah, the due date was yesterday, but if you need an extra day to continue looking at one of the rules, that's fine. Which one, so I don't work on that rule while you're still revising?

Best,
Brian

Brian Liebman
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(984)236-1948
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From: Henderson, Russell <rhenderson@NCDOJ.GOV>
Sent: Tuesday, September 12, 2023 4:38 PM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: [External] CJ Commission 12 NCAC 09B, 09C, and 09G Requests for Changes - September 2023 RRC

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Brian,

Michelle Schilling asked me to forward these to you on behalf of CJ Standards as she is out of the office this week. I saw where the RCC said it was due on 9/12, so I'm sending it out today...Michelle had told me 9/13, if there is additional time there is one item we'd like to look at further tomorrow, if not it can go as it is. Please let me know.

Thanks,
Russell.



Russell A. Henderson

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Burgos, Alexander N

From: Henderson, Russell <rhenderson@NCDOJ.GOV>
Sent: Tuesday, September 12, 2023 4:38 PM
To: Liebman, Brian R
Cc: Burgos, Alexander N
Subject: [External] CJ Commission 12 NCAC 09B, 09C, and 09G Requests for Changes - September 2023 RRC
Attachments: RRC Requested Change.zip

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Brian,

Michelle Schilling asked me to forward these to you on behalf of CJ Standards as she is out of the office this week. I saw where the RCC said it was due on 9/12, so I'm sending it out today...Michelle had told me 9/13, if there is additional time there is one item we'd like to look at further tomorrow, if not it can go as it is. Please let me know.

Thanks,
Russell.



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REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Criminal Justice Education and Training Standards Commission

RULE CITATION: All Forms

DEADLINE FOR RECEIPT: Tuesday, September 12, 2023.

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In Box 9B, the agency has provided no explanation for rulemaking. Please resubmit the forms explaining the reason for rulemaking.

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

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09B .0209

DEADLINE FOR RECEIPT: Tuesday, September 12, 2023.

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In (a), line 6, what does “of no more than 15 business days” modify? Is that the time “required to conduct practical exercises...” or is that the time that the whole course must be taught in?

In (a)(1)-(5), put the first word of each item of the list into lower case.

In (a)(3), line 12, should that read, “called into action”?

On line 16, add a colon following “website”.

In (b), line 20, what are the “functions of a criminal justice instructor”? Are these defined somewhere?

In (c)(14), p.2, lines 1-3, who determines what number of hours are “required to complete this portion of the curriculum”?

In (d), line 11, the text is centered. Please correct to align from the left margin.

In (d), line 11, what is the cost of printing and postage?

In (d), line 11, does the Academy require a certain method of payment? Check, money order, credit card, cash?

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

Brian Liebman
Commission Counsel
Date submitted to agency: August 29, 2023

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09B .0403

DEADLINE FOR RECEIPT: Tuesday, September 12, 2023.

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Throughout the Rule, there is a distinction between full time and part time. Are these terms defined in your Rules?

Throughout the Rule, I believe the Commission uses several different terms to refer to the BLET. Some instances refer to the BLET by name, others by reference to Rule .0205, others by reference to .0405, and then there are references to "a Commission-accredited training course". Please review and revise for consistency.

In (a), line 5, please define "equivalent" training? Under what standards does the staff make this determination?

In (a)(1), line 11, what does it mean to have "completed" the program?

In (a)(1), line 11, is a "Commission-accredited basic training program" the BLET? If so, why not just say that here and anywhere else across the rule, for consistency?

In (a)(1), line 16, as written it appears that an officer who intentionally delays in applying for certification is eligible for the waiver. Is that the Commission's intention?

In (a)(1), line 19, to be clear, an officer who completes the course, but does not apply for certification—for any reason other than neglect—within 1 year may receive a 30 day extension, correct?

In (a)(3), p.2, line 4, what rules in 12 NCAC 09E are you requiring compliance with? Same question for (a)(4)(A), line 16, and (a)(19)(B)(i), p. 7, line 4.

In (a)(4), line 9, the Rule says that the officer shall not have been "convicted" of an offense listed in Rule .0111(1). Two issues here:

First, there is no Rule .0111(1). The Rule has subparagraphs (a), (b), and (c), but only (a) has an item (1). Did you mean Rule .0111(a)(1), which is "a felony"?

Brian Liebman
Commission Counsel

Date submitted to agency: August 29, 2023

Second, Rule .0111 says that a LEO “shall not have committed or been convicted” of a crime, and defines “commission” pursuant to 09A .0103. The instant rule only says that an officer shall not have been “convicted”. Is this intentional?

In (a)(4)(A), (B), and (C), is there a distinction between being a “certified law enforcement officer” and between being “issued probationary certification”?

In (a)(5), line 36, please define “out of the law enforcement profession”. Is this different than being “separated from a sworn position” as in (a)(4)?

In (a)(5) and (a)(6), are you basically requiring that these former officers retake the BLET?

In (a)(7), (8), and (9), on p.3, lines 8, 13, and 19, respectively, please add “been” between “have” and “separated”.

In (a)(7) and (8), the rule refers to “law enforcement employment” in (7) and “sworn law enforcement position” in (8). Is there a distinction here?

In (a)(8), it appears the requirement that a law enforcement officer who separated during his or her probationary period and was separated for less than a year begin a new probationary period is contrary to G.S. 17C-10(b). The statute says that upon reappointment “...an officer who has separated from an agency within the probationary period... shall be charged with the cumulative amount of time served during his initial or subsequent appointments and allowed the remainder of the probationary period to complete the Commission’s requirements.” This contrasts with the next sentence, which says that an officer who has been out of service for more than one year “shall be allowed another probationary period to satisfy the Commission’s requirements.”

Also, in (a)(8), in prescribing the time for the probationary period for law enforcement officers, the Rule refers to 09B .0401(a), which explicitly exempts law enforcement officers. Please correct your reference.

In (a)(13), p.4, lines 7-8, the term “Criminal Investigator” does not appear in 5 USC 5541(3) or anywhere else in that statute. Please correct.

In (a)(13), lines 8-9, is “G.S.-1811 series” a document? Are you incorporating it by reference? Where can your regulated public find it? I ask because I could not find it.

In (a)(13), line 12, you need to add “and” at the beginning of the line so that the sentence without the large deletion reads “...classification system, and who have not had a break...”

In (a)(13), line 12, on what basis will this evaluation be made?

Brian Liebman
Commission Counsel

Date submitted to agency: August 29, 2023

In (a)(13), line 13, what is a “federal law enforcement officer”? Where is this term defined?

In (a)(13), line 24, did the Commission omit (b)(1)(A) on purpose? It is included in the list at line 19.

In (a)(16), p.5, line 7, is the evaluation based on the standards in (A)-(D) or are there other criteria?

In (a)(16), lines 9 and 11, what is a “law enforcement function”? Is this term defined?

In (a)(16)(B)(iii), line 26, when must the applicant complete these training requirements?

In (a)(16)(C)(iii), p.6, lines 1-2, is the reference to Rule 10B .0505 correct? That rule is for training waivers, not in service requirements.

In (a)(16)(D), line 5, to confirm, the elected sheriff who returns to being a criminal justice officer goes back to probationary status? That’s how I’m interpreting the reference to Rule 09C .0303.

Are the requirements relating to military service members and veterans ((a)(19) and (a)(20)) in agreement with G.S. 17C-10.1? The statute requires the BLET and other training be waived under certain circumstances, is that taken into account here?

In (a)(19), line 22, has the Form F-9C gone through rulemaking, or are its contents or substantive requirements described in another Rule or statute?

*In (a)(19)(B)(iii), p.7, line 14, what are you requiring by saying “some of the topics”? I see on Line 16 that the “required topics **include...**” a list of classes. The language here is all open-ended, as if there are other requirements unstated here. Please be specific about what you are requiring applicants to do.*

In (a)(19)(B)(iii), line 18, what are the “appropriate” topic tests?

In (a)(20), line 25, is the “basic training course” the BLET?

In (b), line 35, what standards do you use to judge whether prior training is “equivalent” to the Commission’s standards? And what standards do you mean? Rule .0405? Rule .0105?

In (c), p. 8, line 1, what is this language doing? Unless I’m reading it wrong, it sounds redundant. Oversimplifying, I read this to say whenever the Commission requires satisfactory performance on an exam, the Commission shall require an exam. If it isn’t redundant, then it’s unclear, because I can’t figure out another way to read this.

In (d), line 3, use the active tense in the clause: “If an evaluation... determines...” An evaluation by whom?

Brian Liebman
Commission Counsel

Date submitted to agency: August 29, 2023

In (d), lines 3 and 4, under what criteria are these two determinations made?

In (e)(1), line 11, what is a "Commission-accredited training course"?

In (e)(1), line 13, and in (e)(4), line 27, I believe you mean "Subchapter" instead of "Section".

In (e)(2), line 17, what "additional training program" are you requiring?

In your History Note, why the reference to 17C-2?

In your History Note, should there be a reference to 17C-10.1, with respect to certification of military members and veterans?

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

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09B .0501

DEADLINE FOR RECEIPT: Tuesday, September 12, 2023.

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In (b)(1), line 10, is the General Instructor certification governed by another Rule or statute?

In (b)(2), line 13, to whom must the applicant furnish this information?

In (b)(2), line 16, add hyphens to "out of state". See also (b)(2)(A), line 25.

In (b)(2)(B), lines 29-30, please define "comparable to United States curriculum requirements." As far as I am aware, there is no unified national high school curriculum.

In (b)(2)(C), line 32, what will staff evaluate the courses for? What standards will they use?

In (b)(2)(E), starting on p.2, line 11, the text that has not been edited (starting with "and has acquired...") does not seem to fit here.

In (b)(2)(E), line 12, and (b)(2)(F), line 17, define "directly related".

In (b)(2)(E), line 14, define "actively participating".

In (b)(2)(F), line 19, define "directly participating". Also, how is this different from "actively participating" as used in (E)?

In (b)(2)(G), lines 21-22, what is a "regionally accredited institution of higher learning"? As a side note, it appears you changed the equivalent language in 09G .0405(b)(2)(G). You may want to consider doing so here as well.

In (b)(3), line 23, is the "orientation" defined or required elsewhere?

In (b)(4), what are you requiring? This is wordy and unclear.

Brian Liebman
Commission Counsel

Date submitted to agency: August 29, 2023

In (c)(2),p.3, line 4, what is a “General Instructor” certification? Is it defined elsewhere? How does one become certified?

In (c)(3), line 5, is the “Instructor Training Orientation” different than the “orientation” described in (b)(3)? Is this orientation defined or required elsewhere?

In your History Note, drop the newly added language down to its own line.

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

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09B .0502

DEADLINE FOR RECEIPT: Tuesday, September 12, 2023.

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In (a), line 7, I believe you mean "Subchapter" instead of "Section".

In (a), line 7, to be clear, the School Director has to submit his or her educational credentials and attend an orientation every time they apply for renewal?

In (a), line 7, what "documentation" are you requiring to show that the applicant attended the orientation?

In (b)(1), what training are you requiring? Is this defined somewhere?

In (b)(2) and (3), what are these documents? Are they Commission documents? Are they eligible for incorporation by reference under G.S. 150B-21.6?

In (b)(4), how is the applicant to demonstrate that they have "performed" these duties? What are you requiring in the application?

In (c)(1), what training are you requiring? Is this defined somewhere?

In (c)(2), what is this document? Is it a Commission document? Is it eligible for incorporation by reference under G.S. 150B-21.6?

In (c)(3), how is the applicant to demonstrate that they have "performed" these duties? What are you requiring in the application?

In (d), line 25, what are "exceptional circumstances"?

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

Brian Liebman
Commission Counsel

Date submitted to agency: August 29, 2023

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09C .0306

DEADLINE FOR RECEIPT: Tuesday, September 12, 2023.

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In (a)(5), line 19, I am confused by the language “applicants for certification”. According to (a) and (a)(1), this Rule applies to officers who are already certified—(a) talks about an officer “with general certification” and (a)(1) asks the employing agency to “verify the certification”. What is being required of whom here?

In (b)(1) and (2), it appears you’re essentially repeating the requirements of Rule .0104. Why not just eliminate these two items and say that the officer shall “comply with the requirements of 12 NCAC 09B .0104”?

In (b)(1), line 22, has the Medical History Statement Form gone through rulemaking, or are its contents or substantive requirements described in another rule or statute?

In (b)(4), line 30, 12 NCAC 09B .0101(6) points to 09C .0310. Why not simplify the reference?

In (b)(5), line 32, has the form gone through rulemaking, or are its contents or substantive requirements described in another rule or statute?

In (d), p.2, line 5, delete the hyphen between “60” and “days”.

In (d), line 7, has the form gone through rulemaking, or are its contents or substantive requirements described in another rule or statute?

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

Brian Liebman
Commission Counsel

Date submitted to agency: August 29, 2023

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09G .0405

DEADLINE FOR RECEIPT: Tuesday, September 12, 2023.

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Note: to the extent that 09B .0501 and this Rule are identical, the change requests are also identical. There are some requests that are unique to this Rule, however.

In (b)(1), line 10, is the General Instructor certification governed by another Rule or statute?

In (b)(2), line 12, to whom must the applicant furnish this information?

In (b)(2), line 16, add hyphens to "out of state". See also (b)(2)(A), lines 24-25.

In (b)(2)(A), lines 24 and 25, there appear to be extra spaces between "Article" and "39" and "state" and "statute". Also in (b)(2)(D), line 36, there's an extra space between "Education," and "the".

In (b)(2)(B), lines 28-29, please define "comparable to United States curriculum requirements." As far as I am aware, there is no unified national high school curriculum.

In (b)(2)(C), line 31, what will staff evaluate the courses for? What standards will they use?

In (b)(2)(E), starting on p.2, line 14, the text that has not been edited (starting with "and has acquired...") does not seem to fit here.

In (b)(2)(E), line 16, and (b)(2)(F), line 25, define "directly related".

In (b)(2)(E), line 17, define "actively participating".

In (b)(2)(F), line 26, define "directly participating". Also, how is this different from "actively participating" as used in (E)?

Brian Liebman
Commission Counsel

Date submitted to agency: August 29, 2023

In (b)(3), line 23, is the “orientation” defined or required elsewhere?

In (b)(4), p.3, line 1, has the Form F-10(SD) gone through rulemaking, or are its contents or substantive requirements described in another rule or statute?

In (c)(1), lines 8-9, what is a “regionally accredited institution of higher learning”?

In (c)(2), line 12, what is a “General Instructor” certification? Is it defined elsewhere? How does one “hold” it?

In (c)(3), lines 14-15, is the “Instructor Training Orientation” different than the “orientation” described in (b)(3)? Is this orientation defined or required elsewhere?

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

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09G .0406

DEADLINE FOR RECEIPT: Tuesday, September 12, 2023.

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In (a), line 7, to be clear, the School Director has to submit his or her educational credentials and attend an orientation every time they apply for renewal?

In (a), line 7, what "documentation" are you requiring to show that the applicant attended the orientation?

In (b), line 8, how is the applicant to demonstrate that they have "performed" these duties? What are you requiring in the application?

In (c), line 10, what "annual training" are you requiring? Is this defined somewhere?

In (c), line 10, "commission" should be capitalized.

In (c), line 12, what are "exceptional circumstances"?

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

Brian Liebman
Commission Counsel

Date submitted to agency: August 29, 2023

RESPONSE TO REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09B .0209

Recommended Change #1: *"In (a), line 6, what does "of no more than 15 business days" modify? Is that the time "required to conduct? practical exercises..." or is that the time the whole course must be taught in?"*

Response: This is the time the whole course (classroom instruction and practical skills) must be taught in.

Recommended Change #2: *"In (a)(3), line 12, should that read, "called into action"?"*

Response: Language corrected.

Recommended Change #3: *In (b), line 20, what are the "functions of a criminal justice instructor"? Are these defined somewhere?"*

Response: The function of a criminal justice instructor is to provide Commission-approved training, utilizing Commission approved lessons plans. Their role is identified in:

12 NCAC 09B .0202(a)(2)-(5), and 12 NCAC 09B .0301(a)(b) and (c)

Recommended Change #4: *In (c)(14), p.2, lines 1-3, who determines what number of hours are "required to complete this portion of the curriculum"?"*

Response: The Instructor Training School Director makes this determination.

Recommended Change #5: *In (d), line 11, what is the cost of printing and postage?"*

Response: The printing costs vary based on the costs associated with paper, ink, etc, which all change on a regular basis.

Recommended Change #6: *In (d), line 11, does the Academy require a certain method of payment? Check, money order, credit card, cash?"*

Response: The Academy accepts cash, money order, or credit card.

**All indicated technical changes have been made.

1 **12 NCAC 09B .0209 is amended, with changes, as published in 37:19 NCR 1927-1940**

2
3 **12 NCAC 09B .0209 CRIMINAL JUSTICE INSTRUCTOR TRAINING**

4 (a) The Instructor Training course required for General Instructor certification shall consist of a minimum of ~~40~~ **38**
5 hours of classroom instruction, plus the time required to conduct practical exercises, student presentations, and post
6 testing presented during a period of no more than 15 business days. If the Governor declares a State of Emergency
7 pursuant to G.S. 166A-19.3(19), the Director of the Criminal Justice Standards Division shall allow additional breaks
8 in a specific course delivery when the Director determines that doing so is necessary based on consideration of the
9 following factors:

- 10 (1) ~~Whether~~ **whether** instruction has begun in the course or whether course initiation may be postponed;
11 (2) ~~The~~ **the** risk of harm to students that may be caused by continuation of the course;
12 (3) ~~Whether~~ **whether** those enrolled in the course have been or will likely be called ~~on~~ **into** action to
13 help address the State of Emergency;
14 (4) ~~The~~ **the** specific need for the waiver; and
15 (5) ~~The~~ **the** degree of benefit to the public in allowing a break in instruction.

16 Notice of waivers granted pursuant to the Section shall be posted on the CJETS ~~website~~ **website:**
17 <https://ncdoj.gov/law-enforcement-training/criminal-justice/>. The waivers granted pursuant to this Section
18 shall only apply to courses that began during the effective period of the State of Emergency.

19 (b) Each Instructor Training course shall be designed to provide the trainee with the skills and knowledge to perform
20 the functions of a criminal justice instructor.

21 (c) Each Instructor Training course shall include the following identified topic areas and minimum instructional hours
22 for each area:

- | | | | |
|----|------|---|-----------------------------|
| 23 | (1) | Orientation and Pre-Test | 4 2 Hour |
| 24 | (2) | Instructional Systems Design (ISD) | 5 3 Hours |
| 25 | (3) | Law Enforcement Instructor Liabilities and Legal Responsibilities | 2 Hours |
| 26 | (4) | Criminal Justice Instructional Leadership | 4 Hours |
| 27 | (5) | Lesson Plan Preparation: Professional Resources | 2 Hours |
| 28 | (6) | Lesson Plan Development and Formatting | 3 Hours |
| 29 | (7) | Adult Learning | 2 Hours |
| 30 | (8) | Instructional Styles and Platform Skills | 5 Hours |
| 31 | (9) | Classroom Management | 3 Hours |
| 32 | (10) | Active Learning: Demonstration and Practical Exercises | 3 Hours |
| 33 | (11) | The Evaluation Process of Learning | 4 3 Hours |
| 34 | (12) | Audio Visual Aids | 5 Hours |
| 35 | (13) | Course Closing and Post-test | 1 Hour |

1 (14) Completion of tasks associated with practical exercises, student presentations, and post testing; the
2 number of hours required to complete this portion of the curriculum shall be based on the number
3 of enrolled students, available facilities, and number of instructors.

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

6 Criminal Justice Standards Division
7 North Carolina Department of Justice
8 1700 Tryon Park Drive
9 Post Office Drawer 149
10 Raleigh, North Carolina 27602

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

12 North Carolina Justice Academy
13 Post Office Drawer 99
14 Salemburg, North Carolina 28385

15
16 *History Note:* Authority G.S. 17C-6;
17 Eff. January 1, 1981;
18 Amended Eff. July 1, 2018; April 1, 2018; January 1, 2018; January 1, 2015; December 1, 2009;
19 August 1, 2005; November 1, 1998; January 1, 1995; March 1, 1990; July 1, 1989; January 1,
20 1985;
21 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,
22 2019;
23 Amended Eff. October 1, 2023; April 1, 2022; July 1, 2021; January 1, 2021.

1 12 NCAC 09B .0403 is amended, with changes, as published in 37:19 NCR 1927-1940

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

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

11 (1) Persons having completed a Commission-accredited ~~basic training program~~ Basic Law Enforcement
12 Training Course and not having been duly appointed and sworn as a law enforcement officer within
13 one year of completion of the ~~program course~~ shall complete a subsequent Commission-accredited
14 ~~basic training program~~, Basic Law Enforcement Training Course, as prescribed in Rule .0405(a) of
15 this Section, and shall achieve a passing score on the State Comprehensive Examination prior to
16 obtaining probationary law enforcement certification, unless the Director determines that a delay in
17 applying for certification was not due to neglect on the part of the applicant, in which case the
18 Director shall accept a Commission-accredited ~~basic training program~~ Basic Law Enforcement
19 Training Course that is over one year old. The appointing agency shall request in writing the
20 extension of the one year period, which shall not exceed 30 days from the first year anniversary of
21 the passing of the State Comprehensive Examination;

22 (2) Out-of-state transferees shall be evaluated to determine the amount and quality of their training and
23 experience. Out-of-state transferees shall not have a break in service exceeding three years. At a
24 minimum, out-of-state transferees shall have two years' full-time, sworn law enforcement
25 experience and have completed a basic law enforcement training course accredited by the
26 transferring state. An individual's attendance at his or her basic law enforcement class shall not count
27 towards the two years' full-time sworn law enforcement experience. Prior to employment as a
28 certified law enforcement officer, out-of-state transferees shall complete with a passing score the
29 employing agency's in-service firearms training and qualification program as prescribed in 12
30 NCAC 09E .0106. In addition, out-of-state transferees shall complete the Legal Unit in a
31 Commission-accredited Basic Law Enforcement Training Course as prescribed in Rule .0205(b)(1)
32 of this Subchapter and shall achieve a passing score on the State Comprehensive Examination within
33 the 12 month probationary period;

34 (3) Persons who have completed a 369-hour ~~basic law enforcement training program~~ Commission-
35 accredited Basic Law Enforcement Training Course ~~accredited by the Commission~~ under guidelines
36 administered beginning October 1, 1984, have been separated from a sworn position for over one
37 year but less than three years, and who have had a minimum of two years' experience as a full-time,

1 sworn law enforcement officer in North Carolina shall complete the Legal Unit in a
2 Commission-accredited Basic Law Enforcement Training Course as prescribed in Rule .0205(b)(1)
3 of this Subchapter and shall achieve a passing score on the State Comprehensive Examination within
4 the 12 month probationary period. Prior to employment as a certified law enforcement officer, these
5 persons shall complete with a passing score the employing agency's in-service firearms training and
6 qualification program as prescribed in 12 NCAC ~~09E; 09E .0106;~~

7 (4) Persons who have completed a 396-hour ~~basic law enforcement training program accredited by the~~
8 ~~Commission~~ Commission-accredited Basic Law Enforcement Training Course under guidelines
9 administered beginning October 1, 1984, have been separated from a sworn position more than one
10 year but less than five years and who have a minimum of two years' experience as a full-time, sworn
11 law enforcement officer in North Carolina, who have not ~~committed or~~ been convicted of a
12 disqualifying criminal offense as listed in Rule ~~.0111(4)~~ .0111(a) of this Subchapter, and who have
13 successfully completed the mandatory in-service training requirements pursuant to 12 NCAC 09E
14 .0105 or 12 NCAC 10B .2005, with the exception of Firearms Training and Requalification, during
15 each year the person was separated from a sworn position prior to employment as a certified law
16 enforcement officer shall complete the topic areas within the following time frames:

17 (A) Prior to employment as a certified law enforcement officer, the person shall complete the
18 appointing agency's in-service firearms training and qualification program as prescribed in
19 12 NCAC ~~09E; 09E .0106;~~

20 (B) Prior to employment as a certified law enforcement officer, the person shall achieve a
21 passing score on the practical skills testing for the First Responder, Law Enforcement
22 Driver Training, and Subject Control Arrest Techniques topics set forth in Rule .0205(b)(5)
23 of this Subchapter. The person shall also successfully complete the Police Officer Physical
24 Abilities Test. The practical skills testing and the Police Officer Physical Abilities Test
25 may be completed either in a Commission-accredited Basic Law Enforcement Training
26 ~~course~~ Course or under the instruction of a Commission-certified instructor for that
27 particular skill. The person shall also meet the requirements per Rule .0101 of this
28 Subchapter; and

29 (C) Within 12 months of being issued probationary certification, the person shall complete the
30 remaining topics in the legal unit of instruction in the ~~Commission-accredited~~ Basic Law
31 Enforcement Training ~~course~~ Course as set forth in Rule .0205(b)(1) of this Subchapter.
32 The person shall achieve a passing score on the appropriate topic tests for each course. The
33 person may undertake each of these legal unit topics of instruction either in a Commission-
34 accredited Basic Law Enforcement Training ~~course~~ Course or under the instruction of a
35 Commission-certified instructor for that particular topic of instruction.

36 An individual's attendance at his or her basic law enforcement class shall not count towards the two
37 years' full-time sworn law enforcement experience. Persons who meet the criteria of this Part shall

1 be processed as a probationary certification and shall serve a one-year probationary period as
2 defined in 12 NCAC 09C .0303;

3 (5) Persons ~~out of the law enforcement profession who have been separated from a sworn position~~ for
4 over one year but less than three years who have had less than two years' experience as a full-time,
5 sworn law enforcement officer in North Carolina shall complete a Commission-accredited ~~basic~~
6 ~~training program, Basic Law Enforcement Training Course,~~ as prescribed in Rule .0405(a) of this
7 Section, and achieve a passing score on the State Comprehensive Examination;

8 (6) Persons out of the law enforcement profession for over three years who do not meet the criteria of
9 Subparagraph (4) of this Paragraph shall complete a Commission-accredited ~~basic training program,~~
10 ~~Basic Law Enforcement Training Course, basic training program,~~ as prescribed in Rule .0405(a) of
11 this Section, regardless of prior training or experience, and shall achieve a passing score on the State
12 Comprehensive Examination;

13 (7) Persons who ~~been~~ separated from ~~law enforcement employment a sworn law enforcement position~~
14 during their probationary period after having completed a Commission-accredited ~~basic training~~
15 ~~program Basic Law Enforcement Training Course~~ and who have ~~been~~ separated from a sworn law
16 enforcement position for more than one year shall complete a subsequent Commission-accredited
17 ~~basic training program Commission-accredited Basic Law Enforcement Training Course~~ and shall
18 achieve a passing score on the State Comprehensive Examination;

19 (8) ~~Upon reappointment to the same agency or appointment to another agency, persons~~ ~~Persons~~ who
20 ~~been~~ separated from a sworn law enforcement position during their probationary period after having
21 completed a Commission-accredited ~~basic training program~~ ~~Basic Law Enforcement Training~~
22 ~~course Course shall be charged with the cumulative amount of time served during his initial or~~
23 ~~subsequent appointments and allowed the remainder of the probationary period to complete~~
24 ~~Commission requirements, but shall not be required to complete an additional Commission-~~
25 ~~accredited Basic Law Enforcement Training Course; and who have been separated from a sworn~~
26 ~~law enforcement position for less than one year shall serve a new 12-month probationary period as~~
27 ~~prescribed in Rule .0401(a) of this Section, but shall not be required to complete an additional~~
28 ~~training program;~~

29 (9) Persons who have completed a minimum 160-hour basic law enforcement training program
30 accredited by the North Carolina Criminal Justice Training and Standards Council under guidelines
31 administered beginning on July 1, 1973, and continuing through September 30, 1978, and who have
32 ~~been~~ separated from a sworn law enforcement position for over one year but less than two years
33 shall complete the Legal Unit and the topical area entitled "Law Enforcement Driver Training" of a
34 Commission-accredited Basic Law Enforcement Training Course as prescribed in Rule .0205(b)(1)
35 and .0205(b)(5)(C) of this Subchapter and shall achieve a passing score on the State Comprehensive
36 Examination within the 12 month probationary period;

- 1 (10) Persons who have completed a minimum 160-hour basic law enforcement training program
2 accredited by the North Carolina Criminal Justice Training and Standards Council under guidelines
3 administered beginning on July 1, 1973, and continuing through September 30, 1978, and have been
4 separated from a sworn law enforcement position for two or more years shall complete a
5 Commission-accredited basic training program, as prescribed in Rule .0405 of this Section,
6 regardless of training and experience, and shall achieve a passing score on the State Comprehensive
7 Examination;
- 8 (11) Persons who have completed a minimum 240-hour Commission-accredited Basic Law Enforcement
9 Training Course ~~accredited by the Commission~~ under guidelines administered beginning October 1,
10 1978, and continuing through September 30, 1984, and have been separated from a sworn position
11 over one year but less than three years shall complete the Legal Unit in a Commission-accredited
12 Basic Law Enforcement Training Course as prescribed in Rule .0205(b)(1) of this Subchapter and
13 shall achieve a passing score on the State Comprehensive Examination within the 12 month
14 probationary period;
- 15 (12) Persons previously holding law enforcement certification in accordance with G.S. 17C-10(a) who
16 have been separated from a sworn law enforcement position for over one year and who have not
17 previously completed a minimum basic training program accredited by either the North Carolina
18 Criminal Justice Training and Standards Council or the Commission shall complete a Commission-
19 accredited basic training program, Basic Law Enforcement Training Course, as prescribed in Rule
20 .0405 of this Section, and shall achieve a passing score on the State Comprehensive Examination
21 prior to employment;
- 22 (13) Individuals seeking certification with the Commission who have been appointed performed duties
23 for the Federal Government as a Criminal Investigator (GS 1811) ~~[, as defined in 5 U.S.C. 5541(3)~~
24 ~~and] as defined in the Office of Personnel Management [GS 1811-series in the] General Schedule~~
25 ~~[Classification system,] Qualification Standards. Special Agents with the Federal Bureau of~~
26 ~~Investigation; United States Secret Service; Bureau of Alcohol, Tobacco and Firearms; and Drug~~
27 ~~Enforcement Administration; as well as United States Marshals and Deputy United States Marshals,~~
28 who have not had a break in service exceeding three years, shall be evaluated to determine the
29 amount and quality of their training and experience. At a minimum, federal law enforcement officers
30 individuals shall have two years' full-time, sworn law enforcement experience and have completed
31 a basic law enforcement training course as required by their appointing federal agency. Prior to
32 employment as a certified law enforcement officer, these individuals shall complete with a passing
33 score the employing agency's in-service firearms training and qualification program as prescribed
34 in 12 NCAC 09E .0106. These individuals shall complete the Basic Law Enforcement Training
35 topics pursuant to 12 NCAC 09B .0205(b)(1)(A), (b)(1)(C), (b)(1)(D), (b)(1)(F), (b)(2)(A),
36 (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),
37 (b)(6)(B), (b)(6)(C), and shall achieve a passing score on the State Comprehensive Examination

1 pursuant to 12 NCAC 09B .0406 within the 12 month probationary period. Individuals who submit
2 to the Commission documentation of completion of training equivalent to the topics set forth in 12
3 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),
4 (b)(5)(A), (b)(6)(A), (b)(6)(B), and (b)(6)(C) shall not be required to complete those topics;

5 (14) Federal law enforcement transferees other than those listed in Paragraph (13) of this Rule who have
6 not had a break in service exceeding three years shall be evaluated to determine the amount and
7 quality of their training and experience. At a minimum, federal law enforcement officers shall have
8 two years' full-time, sworn law enforcement experience and have completed a basic law
9 enforcement training course as required by their appointing federal agency. Prior to employment as
10 a certified law enforcement officer, transferees shall complete with a passing score the employing
11 agency's in-service firearms training and qualification program as prescribed in 12 NCAC 09E
12 .0106. At a minimum, transferees shall complete the Legal Unit in a Commission-accredited Basic
13 Law Enforcement Training Course as prescribed in Rule .0205(b)(1) of this Subchapter and shall
14 achieve a passing score on the State Comprehensive Examination within 12 month probationary
15 period;

16 (15) Applicants with part-time experience who have a break in service in excess of one year shall
17 complete a Commission-accredited ~~basic training program,~~ Commission-accredited Basic Law
18 Enforcement Training Course, as prescribed in Rule .0405 of this Section, and shall achieve a
19 passing score on the State Comprehensive Examination prior to employment;

20 (16) Applicants who hold or previously held certification issued by the North Carolina Sheriffs'
21 Education and Training Standards Commission (Sheriffs' Commission) shall be subject to
22 evaluation based on the applicant's active or inactive certification status with the Sheriffs'
23 Commission. A deputy sheriff certified with the Sheriffs' Commission shall be considered active if
24 he or she has been employed in a full-time, sworn law enforcement position ~~performed any law~~
25 ~~enforcement function~~ during the previous 12 months. A deputy sheriff certified with the Sheriffs'
26 Commission shall be considered inactive if he or she has not been employed in a full-time, sworn
27 law enforcement position ~~performed a law enforcement function~~ during the previous 12 months.

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

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

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

- 1 (i) Holds inactive probationary or general certification with the Sheriffs'
2 Commission;
- 3 (ii) Has served a minimum of 24 months of full time sworn service or does not have
4 a break in service of greater than 12 months;
- 5 (iii) Has completed the mandatory in-service training requirements pursuant to 12
6 NCAC 10B .2005, with the exception of Firearms Training and Requalification;
7 ~~during each year certification was held~~; and
- 8 (iv) Held active status with the Sheriffs' Commission within 12 months of the date the
9 applicant achieved a passing score on the Basic Law Enforcement Training State
10 Comprehensive Examination.
- 11 (C) An applicant awarded certification with the Sheriffs' Commission by means of the Sheriffs'
12 Standards BLET Challenge as prescribed in 12 NCAC 10B .0505(6)(b) shall meet the
13 following requirements in order to obtain probationary certification from the Commission:
- 14 (i) Have a minimum of 24 months of sworn, full-time law enforcement service;
- 15 (ii) Not have a break in service of greater than 12 months; and
- 16 (iii) Have completed all mandatory in-service requirements pursuant to 12 NCAC 10B
17 ~~.0505~~ .2005 during the previous two years.
- 18 (D) An applicant who is a criminal justice officer, as defined in G.S. 17C-2(3), and who is
19 elected Sheriff shall be reinstated by the Commission upon the conclusion of the period of
20 service as Sheriff and in conformance with 12 NCAC 09C .0303;
- 21 (17) Alcohol law enforcement agents who received basic alcohol law enforcement training prior to
22 November 1, 1993, and transfer to another law enforcement agency in a sworn capacity shall be
23 subject to evaluation of their prior training and experience on an individual basis. The Standards
24 Division staff shall determine the amount of training required of these applicants, based upon the
25 type of certification held by the applicant and the length of any break in the applicant's sworn, full-
26 time service;
- 27 (18) Wildlife enforcement officers who separate from employment with the Wildlife Enforcement
28 Division and transfer to another law enforcement agency in a sworn capacity shall be subject to
29 evaluation of their prior training and experience on an individual basis. The Standards Division staff
30 shall determine the amount of training required of these applicants, based upon the type of
31 certification held by the applicant and the length of any break in the applicant's sworn, full-time
32 service;
- 33 (19) Active duty, guard, or reserve military members failing to complete all of the required annual in-
34 service training topics, as defined in 12 NCAC 09E .0105 of this Chapter, due to military obligations
35 are subject to the following training requirements as a condition for return to active criminal justice
36 status. The agency head shall verify the person's completion of the appropriate training by
37 submitting a statement, on Form F-9C, Return to Duty Request form. This form is located on the

1 agency's website: [https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-](https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/)
2 publications/;

3 (A) Active duty members of the armed forces eligible for probationary certification pursuant
4 to this Paragraph and active duty, guard, or reserve military members holding probationary
5 or general certification as a criminal justice officer who fail to complete all of the required
6 annual in-service training topics due to military obligations for up to a period of three years
7 shall complete the previous year's required in-service training topics, the current year's
8 required in-service training topics, and complete with a passing score the appointing
9 agency's in-service firearms training and qualification program as prescribed in 12 NCAC
10 09E prior to their return to active criminal justice status;

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

15 (i) The person shall complete the previous year's required in-service training topics,
16 the current year's required in-service training topics, and complete the appointing
17 agency's in-service firearms training and qualification program as prescribed in
18 12 NCAC ~~09E~~ 09E .0106 prior to their return to active criminal justice status;

19 (ii) The person shall achieve a passing score on the practical skills testing for the First
20 Responder, Law Enforcement Driver Training, and Subject Control Arrest
21 Techniques topics enumerated in Rule .0205(b)(5) of this Subchapter prior to
22 returning to active criminal justice status. This practical skills testing may be
23 completed either in a Commission-accredited Basic Law Enforcement Training
24 ~~course~~ Course or under the instruction of a Commission-certified instructor for
25 that particular skill. The person shall complete one physical fitness assessment in
26 lieu of the Fitness Assessment and Testing topic. The person shall also be
27 examined by a physician per Rule .0104(b) of this Subchapter; and

28 (iii) The person shall complete ~~required topics some of the topics~~ in the legal unit of
29 instruction in the ~~Commission-accredited~~ Basic Law Enforcement Training
30 ~~course~~ Course as set forth in Rule .0205(b)(1) of this Subchapter. The required
31 topics include Motor Vehicle Law; Juvenile Laws and Procedures; Arrest, Search
32 and Seizure/Constitutional Law; and ABC Laws and Procedures. The person shall
33 achieve a passing score on the ~~appropriate~~ topic tests for each course. The person
34 may undertake each of these legal unit topics of instruction either in a
35 Commission-accredited Basic Law Enforcement Training ~~course~~ Course or under
36 the instruction of a Commission-certified instructor for that particular topic of
37 instruction. The person shall complete each of the enumerated topics of

1 instruction within 12 months from the beginning of his or her return to active
2 criminal justice status; and

3 (20) An active duty member of the armed forces who completes ~~the basic training course~~ Commission-
4 accredited Basic Law Enforcement Training Course in its entirety as prescribed in Rule .0405 of
5 this Subchapter, annually completes the mandatory in-service training topics as prescribed in 12
6 NCAC 09E .0105, with the exception of the Firearms and Qualification testing requirements
7 contained in 12 NCAC 09E .0105(a)(3) for each year subsequent to the completion of the basic
8 training course, Commission-accredited Basic Law Enforcement Training Course, and achieves a
9 passing score on the State Comprehensive Examination as prescribed in Rule .0406 of this
10 Subchapter within five years of separating from active duty status shall be eligible for probationary
11 certification as prescribed in 12 NCAC 09C .0303 for a period of 12 months from the date he or she
12 separates from active duty status in the armed forces. All mandatory in-service training topics as
13 prescribed in 12 NCAC 09E .0105 shall be completed by the individual prior to receiving
14 probationary certification.

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

18 ~~(e) If certifications issued by the Commission require satisfactory performance on a written examination as part of~~
19 ~~the training, the Commission shall require the examinations for the certification.~~

20 ~~(d) (c)~~ If an evaluation ~~evaluation~~, conducted by Standards Division staff, of the applicant's prior training and
21 experience determines that required attendance in the entire Commission-accredited Basic Law Enforcement Training
22 Course is unnecessary, the Director of the Standards Division shall determine the amount of training the individual
23 shall complete during his or her probationary period.

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

26 (1) Persons who hold probationary, general, or grandfather certification as local confinement personnel
27 and separate after having completed a Commission-accredited basic training course as prescribed in
28 Rule .0224 or .0225 of this Subchapter and have been separated for one year or more shall complete
29 a subsequent Commission-accredited basic training course and achieve a passing score on the State
30 Comprehensive Examination during the probationary period as prescribed in Rule .0401(a) of this
31 Section; Subchapter;

32 (2) Persons who separated from a local confinement personnel position after having completed a
33 Commission-accredited basic training course as prescribed in Rule .0224 or .0225 of this Subchapter
34 and who have been separated for less than one year shall serve a new 12 month probationary period,
35 but shall be required to complete an additional Commission-accredited basic training program;
36 course;

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

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

11
12 *History Note:* Authority G.S. ~~17C-2~~; 17C-6; 17C-10; 17C-10.1; 93B-15.1;
13 *Eff. January 1, 1981;*
14 *Amended Eff. October 1, 2017; January 1, 2017; October 1, 2016; November 1, 2014; August 1,*
15 *2000; November 1, 1993; March 1, 1992; July 1, 1989; February 1, 1987;*
16 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
17 *2019;*
18 *Amended Eff. October 1, 2023; July 1, 2021.*

RESPONSE TO REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09B .0403

Recommended Change #1: *Throughout the Rule, there is a distinction between full time and part time. Are these terms defined in your Rules?*

Response: There is no specific definition for full time or part time.

Recommended Change #2: *In (a), line 5, please define equivalent training? Under what standards does the staff make this determination?*

Response: Equivalent training is the topics of instruction successfully completed at a federal, military, or out of state law enforcement training academy. Staff receive a copy of that basic law enforcement training program's curriculum, and compare the curriculum topics and course hours to determine if the training provided is substantially equivalent or exceeds minimum requirements of the Commission-accredited Basic Law Enforcement Training Course.

Recommended Change #3: *In (a)(1), line 11, what does it mean to have completed the program?*

Response: It means the individual has successfully passed all blocks of instruction to include classroom requirements, practical skills assessments, and end of block testing for each lesson.

Recommended Change #4: *In (a)(1), line 11, is a "Commission-accredited basic training program" the BLET? If so, why not just say that here and anywhere else across the rule, for consistency?*

Response: Rule language changed for consistency.

Recommended Change #5: *In (a)(1), line 16, as written it appears that an officer who intentionally delays in applying for certification is eligible for a waiver. Is that the Commission's intention?*

Response: The current rule indicates "unless the Director determines that a delay in applying for certification was not due to neglect of the part of the applicant....."

Recommended Change #6: *In (a)(1), line 19, an officer who completes the course, but does not apply for certification-for any reason other than neglect within 1 year may receive a 30 day extension, correct?*

Response: Yes, that is correct.

Recommended Change #7: *In (a), pg. 2, line 4, what rules in 12 NCAC 09E are you requiring compliance with? Same question for (a)(4)(A), line 16, and (a)(19)(B)(i), p. 7, line 4.*

Response: Rule clarified.

Recommended Change #8: *In (a)(4), line 9, this Rule says that the officer shall not have been "convicted" of an offense listed in Rule .0111(1). Two issues here: First, there is no Rule .0111(1). The Rule has subparagraphs (a), (b), and (c), but only (a) has an item (1). Did you mean Rule 0111(a)(1), which is a "felony"? Second, Rule .0111 says that a LEO "shall not have committed or been convicted" of a crime, and defines "commission" pursuant to 09A .0103. The instant rule only says that the officer shall not have been "convicted". Is this intentional?*

Response: Rule language clarified to reflect correct rule reference.

Recommended Change #9: *In (a)(4)(A), (B), and (C), is there a distinction between being a “certified law enforcement officer” and between being “issued probationary certification”?*

Response: No. After a one year break in service, each individual receives probationary certification and is then a certified law enforcement officer.

Recommended Change #10: *In (a)(5), line 36, please define “out of the law enforcement profession”. Is this different than being “separated from a sworn position” in (8). Is there a distinction here?*

Response: Rule language made consistent.

Recommended Change #11: *In (a)(5) and (a)(6), are you basically requiring that these former officers retake the BLET?*

Response: Yes.

Recommended Change #12: *In (a)(7) and (8), the rule refers to “law enforcement employment” in (7) and “sworn law enforcement position” in (8). Is there a distinction here?*

Response: Rule language made consistent.

Recommended Change #13: *In (a)(8), it appears the requirement that a law enforcement officer who separated during his or her probationary period and was separated for less than a year begin a new probationary period is contrary to G.S. 17C-10(b). The statute says that upon reappointment “...an officer who has separated from an agency within the probationary period....shall be charged with the cumulative amount of time served during his initial or subsequent appointments and allowed the remainder of the probationary period to complete the Commission’s requirements”. This contrasts with the next sentence, which says that an officer who has been out of service for more than one year “shall be allowed another probationary period to satisfy the Commission’s requirements.*

Response: Rule language corrected.

Recommended Change #14: *Also, in (a)(8) in prescribing time for the probationary period for law enforcement officers, the Rule refers to 09B .0401(a), which explicitly exempts law enforcement officers. Please correct your reference.*

Response: Rule language corrected.

Recommended Change #15: *In (a)(13), p.4, lines 7-8, the term “Criminal Investigator” does not appear in 5 USC 5541(3) or anywhere else in that statute. Please correct.*

Response: Corrected.

Recommended Change #16: *In(a) (13), lines 8-9, is “G.S.-1811 series” a document? Are you incorporating it by reference? Where can you regulated public find it? I ask because I could not find it.*

Response: The G.S. 1811 is a Federal Criminal Investigator position as defined in the U.S. Office of Personnel Management, General Schedule Qualification Standards.

Recommended Change #17: *In (a)(13), line 12, on what basis will this evaluation be made?*

Response: Equivalent training is the topics of instruction successfully completed at a federal, military, or out of state law enforcement training academy. Staff receive a copy of that basic law enforcement training program's curriculum, and compare the curriculum topics and course hours to determine if the training provided is substantially equivalent or exceeds minimum requirements of the Commission-accredited Basic Law Enforcement Training Course.

Recommended Change #18: *In (a)(13), line 13, what is a "federal law enforcement officer"? Where is the term defined?*

Response: Language corrected.

Recommended Change #19: *In (a)(13), line 24, did the Commission omit (b)(1)(A) on purpose? It is included in the list at line 19.*

Response: Yes, (b)(1)(A) are required legal topics that must be completed regardless of the individual's previous training.

Recommended Change #20: *In (a)(16), pg. 5, line 7, is the evaluation based on the standards in (A)-(D) or are there other criteria?*

Response: Yes. The evaluation is based on the standards in (A)-(D).

Recommended Change #21: *In (a)(16), lines 9 and 11, what is a "law enforcement function"? Is this term defined?*

Response: Rule language corrected for consistency purposes.

Recommended Change #22: *In (a)(16)(B)(iii), line 26, when must the applicant complete these training requirements?*

Response: The training must be completed before certification is issued.

Recommended Change #23: *In (a)(16)(C)(iii), p. 6, lines 1-2, is the reference to the Rule 10B .0505 correct? That rule is for training waivers, not service requirements.*

Response: The reference has been corrected.

Recommended Change #24: *In (a)(16)(D), line 5, to confirm, the elected sheriff who returns to being a criminal justice officer goes back to a probationary status? That's how I'm interpreting the reference to Rule 09C .0303.*

Response: Yes. That is correct. Sheriff's are elected officials and are not certified as law enforcement officers by the NC Sheriff's Education and Training Standards Commission.

Recommended Change #25: *Are the requirements relating to military service members and veterans ((a)(1) and (a)(20)) in agreement with G.S. 17C-10.1? The statute requires the BLET and other training be waived under certain circumstances, is that taken into account here?*

Response: Yes.

Recommended Change #26: *In (a)(1), line 22, has the Form F-9C gone through rule-making, or are its contents or substantive requirements described in another Rule or statute?*

Response: Yes. The requirements for Form F-9C are provided in 12 NCAC 09# .0107(c).

Recommended Change #27: *In (a)(19)(B)(iii), p. 7. Line 14, what are you requiring by saying “some of the topics”? I see on Line 16 that the “required topics include....” a list of classes. The language here is all open-ended, as if there are other requirements unstated here. Please be specific about what you are requiring applicants to do.*

Response: Language clarified.

Recommended Change #28: *In (a)(19)(B)(iii), line 18, what are the “appropriate” topic tests?*

Response: Language corrected.

Recommended Change #29: *In (a)(2), line 25, is the “basic training course” the BLET?*

Response: Yes. Language made consistent.

Recommended Change #30: *In (b), line 35, what standards do you use to judge whether prior training is “equivalent” to the Commission’s standards? And what standards do you mean? Rule .0405? Rule .0105?*

Response: We compare the individual’s training received in his successfully completed basic law enforcement training academy to those topics outlined in Rule .0405. The curriculum content and hours of instruction are compared with the curriculum content and hours of instruction outlined in Rule .0405 to determine equivalency.

Recommended Change #31: *In (c), p. 8, line 1, what is this language doing? Unless I’m reading it wrong, it sounds redundant. Oversimplifying, I read this to say whenever the Commission requires satisfactory performance on an exam, the Commission shall require an exam. If it isn’t redundant, then it’s unclear because I can’t figure out another way to read this.*

Response: Language is redundant and is removed.

Recommended Change #32: *In (d), line 3, use the active tense in the clause: “If an evaluation....determines...” An evaluation by whom?*

Response: Evaluations are conducted by Division staff. Rule language corrected.

Recommended Change #33: *In (d), lines 3 and 4, under what criteria are these two determinations made?*

Response: We compare the individual's training received in his successfully completed basic law enforcement training academy to those topics outlined in Rule .0405. The curriculum content and hours of instruction are compared with the curriculum content and hours of instruction outlined in Rule .0405 to determine equivalency. An individual will not be required to complete those topics that are equivalent in curriculum content and course hours in a Commission-accredited Basic Law Enforcement Training Course.

Recommended Change #34: *In (e)(1), line 11, what is a "Commission-accredited training course"?*

Response: Language corrected to reflect "Commission-accredited basic training course".

Recommended Change #35: *In (e)(1), line 13, and in (e)(4), line 27, I believe you mean "Subchapter" instead of "Section".*

Response: Corrected.

Recommended Change #36: *In (e)(2), line 17, what "additional training program" are you requiring?*

Response: Language corrected to reflect "Commission-accredited basic training course".

Recommended Change #37: *In your History Note, why the reference to 17C-2?*

Response: History Note corrected.

Recommended Change #38: *In your History Note, should there be a reference to 17C 10.1, with respect to certification of military members and veterans?*

Response: History Note corrected.

*All recommended technical corrections have been made.

1 **12 NCAC 09B. 0501 is amended, with changes, as published in 37:19 NCR 1927-1940**

2
3 **12 NCAC 09B .0501 CERTIFICATION OF SCHOOL DIRECTORS**

4 (a) Any person designated to act as, or who performs the duties of, a School Director in the delivery or presentation
5 of a Commission-certified criminal justice training course shall be and continuously remain certified by the
6 Commission as a school director.

7 (b) To qualify for initial certification as a School Director, an applicant shall:

8 (1) ~~Attend and complete a Commission-certified instructor training course or an equivalent instructor~~
9 ~~training program as determined by the Commission (if certified after July 1, 2004);~~ Hold current
10 General Instructor certification as issued by the North Carolina Criminal Justice Education and
11 Training Standards Commission;

12 (2) ~~Present documentary evidence showing that the applicant:~~

13 Furnish documentary evidence to the Standards Division of high school, college, or university
14 graduation to the employing agency. Documentary evidence of high school graduation consists of
15 diplomas or transcripts from public schools or private schools which meet standards adopted by
16 either the North Carolina Department of Public Instruction, the Division of Non-Public Instruction,
17 or a comparable “out of state agency”; or such documentation as described in Paragraphs (A), (B),
18 (C), (D) and (E) of this Rule. Documentary evidence of college or university graduation consists of
19 diplomas or transcripts from colleges or universities accredited as such by the Department of
20 Education of the state in which the institution is located, an accredited body recognized by either
21 the U.S. Department of Education or Council for Higher Education Accreditation, or the state
22 university of the state in which the institution is located.

23 (A) High school diplomas earned through home school programs must be accompanied by a
24 true and accurate or certified transcript and must meet the requirements of Part 3 of Article
25 39 of Chapter 115C of the North Carolina General Statutes, or a comparable “out-of-state”
26 statute.

27 (B) Diplomas earned from high schools or equivalent institutions outside of the United States
28 must be translated into English and be accompanied by an authentic transcript. The
29 Division's staff shall evaluate the transcripts to ensure they are scholastically comparable
30 to [United States curriculum requirements.] the Standard Course of Study as defined by the
31 North Carolina Department of Public Instruction.

32 (C) The Division's staff shall evaluate high school diplomas earned through on-line or
33 correspondence courses on a case by case [basis. Such diplomas must] basis to ensure
34 diplomas meet state and local requirements for the jurisdiction from which the diploma
35 was issued.

36 (D) Documentary evidence of having earned a High School Equivalency (HSE) diploma shall
37 be satisfied by a certified copy of a high school equivalency credential or an adult high

1 school diploma, both of which must be recognized by the U.S. Department of Education,
2 the state Department of Education, or educational agency that is authorized in the state to
3 issue High School Equivalency (HSE) diplomas.

4 (E) Documentary evidence of the attainment of satisfactory scores on any military high school
5 equivalency examination is acceptable as evidence of high school graduation if verified by
6 a true copy of the veteran's DD214, Certificate of Release from Active [Duty.] Duty;
7 is a high school, college, or university graduate or has received a high school equivalency
8 credential as [awarded from colleges or universities accredited by the Department of
9 Education of the state in which the institution is located, from an accredited body
10 recognized by either the U.S. Department of Education or the Council for Higher Education
11 Accreditation, or from the state university of the state in which the institution is located]
12 recognized by the issuing state and has acquired five years of practical experience as a
13 criminal justice officer or as an administrator or specialist in a field directly related to the
14 criminal justice system. At least one year of the required five years experience must have
15 been while actively participating in criminal justice training as a Commission-certified
16 instructor; or

17 (B)(F) has been awarded an associate degree from colleges or universities accredited by the
18 Department of Education of the state in which the institution is located, from an accredited
19 body recognized by either the U.S. Department of Education or the Council for Higher
20 Education Accreditation, or from the state university of the state in which the institution is
21 located, and has acquired four years of practical experience as a criminal justice officer or
22 as an administrator or specialist in a field directly related where the skills and experience
23 can be applied to the criminal justice system. At least one year of the required four years
24 experience must have been while directly participating in criminal justice training as a
25 Commission-certified instructor; or

26 (C)(G) has been awarded a baccalaureate degree from a regionally accredited institution of higher
27 learning; degree from colleges or universities accredited by the Department of Education
28 of the state in which the institution is located, from an accredited body recognized by either
29 the U.S. Department of Education or the Council for Higher Education Accreditation, or
30 from the state university of the state in which the institution is located;

31 (3) Attend or must have attended the most current offering of the School Director's orientation as
32 developed and presented by the Commission staff, otherwise an individual orientation with a staff
33 member shall be required; and

34 (4) Submit a written request for the issuance of such certification executed by the executive officer of
35 the institution or agency currently certified, or which may be seeking certification, by the
36 Commission to make presentation of certified training programs and for whom the applicant will be
37 the designated School Director. Submit a completed Form F-10(SD), Request for School Director

1 Certification to the Commission for the issuance of such certification. This request shall be executed
2 by the executive officer of the Commission-accredited course delivery site. The Form F-10(SD) is
3 located on the agency's website: [http://ncdoj.gov/getdoc/f23e5e4d-d56d-4aba-af1e-
4 44712690d5d5/F-10\(SD\)-6-11.aspx](http://ncdoj.gov/getdoc/f23e5e4d-d56d-4aba-af1e-44712690d5d5/F-10(SD)-6-11.aspx).

5 (c) To qualify for certification as a School Director in the presentation of the Criminal Justice Instructor Training
6 Course, an applicant shall:

- 7 (1) Document that he or she has been awarded a baccalaureate degree from colleges or universities
8 accredited by the Department of Education of the state in which the institution is located, from an
9 accredited body recognized by either the U.S. Department of Education or the Council for Higher
10 Education Accreditation, or from the state university of the state in which the institution is located;
11 a regionally accredited institution of higher learning;
12 (2) ~~Present evidence showing completion of a Commission certified instructor training course or an~~
13 ~~equivalent instructor training course utilizing the Instructional Systems Design model, an~~
14 ~~international model with applications in education, military training, and private enterprise;~~
15 (3)(2) Be currently certified as a criminal justice General Instructor instructor by the Commission; and
16 (4)(3) Document completion of ~~a special program~~ the Instructor Training Orientation presented by the
17 North Carolina Justice Academy on delivery of the instructor training course and trainee evaluation.
18

19 *History Note:* Authority G.S. 17C-6;
20 Eff. January 1, 1985;
21 Amended Eff. February 1, 2016; November 1, 2015; July 1, 2004;
22 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,
23 2019;
24 Amended Eff. October 1, 2023.
25

RESPONSE TO REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09B .0501

Recommended Change #1: *In (b)(1), line 10, is the General Instructor certification governed by another Rule of statute?*

Response: Yes, 12 NCAC 09B .0302.

Recommended Change #2: *In (b)(2), line 13, to whom must the applicant furnish this information?*

Response: To the Standards Division. Rule language clarified.

Recommended Change #3: *In (b)(2)(B), lines 29-30, please define “comparable to United States curriculum requirements”. As far as I am aware, there is no unified national high school curriculum.*

Response: Language corrected to reflect North Carolina Department of Instruction’s Standard Course of Study for high school education as the comparable source.

Recommended Change #4: *In (b)(2)(C), line 32, what will staff evaluate the courses for? What standards will they use?*

Response: Language clarified.

Recommended Change #5: *In (b)(2)(F), line 17, define “directly related”.*

Response: Language clarified.

Recommended Change #6: *In (b)(2)(F), line 19, define “actively participating”.*

Response: Language clarified.

Recommended Change #7: *In (b)(2)(G), lines 21-22, what is a “regionally accredited institution of higher learning”? As a side note, it appears you changed the equivalent language in 09G .0405(b)(2)(G). You may want to consider doing so here as well.*

Response: Language corrected.

Recommended Change #8: *In (b)(3), line 23, is the “orientation” defined or required elsewhere?*

Response: New School Director orientation provides information regarding the roles and responsibilities of School Directors as identified in the 09B .0202. This orientation allows new School Directors to be presented information from Division staff regarding the administration of Commission-accredited classes.

Recommended Change #9: *In (b)(4), what are you requiring? This is wordy and unclear.*

Response: Language corrected.

Recommended Change #10: *In (c)(2), line 12, what is a “General Instructor” certification? Is it defined elsewhere? How does one hold it?*

Response: Outlined in 12NCAC 09B .0301 and 09B .0302.

Recommended Change #11: *In (c)(3), lines 5, is the “Instructor Training Orientation” different that the “orientation” described in (b)(3)? Is this orientation defined or required elsewhere?*

Response: Yes. It is a different course. The Instructor Training Orientation must be attended by those individuals who are applying to be certified School Directors for the Commission-accredited Instructor Training Course. The Course is described in 12 NCAC 09B .0202.

**Technical corrections has been made.

RESPONSE TO REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09B .0502

Recommended Change #1: In (a), line 7, I believe you mean “Subchapter” instead of “Section”.

Response: Corrected.

Recommended Change #2: *In (a), line 7, to be clear, the School Director has to submit his or her educational credentials and attend an orientation very time they apply for renewal?*

Response: No, that is for initial certification. Rule language has been clarified.

Recommended Change #3: *In (a), line 7, what “documentation” are you requiring to show that the applicant has attend the orientation?*

Response: This language has been removed.

Recommended Change #4: *In (b), line 1, what “annual training” are you requiring? Is this defined somewhere”?*

Response: Annual training is developed to keep School Directors informed of current trends and information relative to the criminal justice profession. It allows them opportunities to network and to hear impactful criminal justice speakers. This annual training can be provided in conference, classroom, or virtual format, as decided by the Commission. The annual training also provides Commission staff the opportunity to update certified School Directors on upcoming Administrative Code changes, issues being identified at Commission-accredited delivery sites, an updates on current Standards Division initiatives. The content of this annual training varies each year to meet the needs of our certified School Directors. It is not defined elsewhere.

Recommended Change #5: *In (b)(2) and (3), what are these documents? Are they Commission documents? Are they eligible for incorporation by reference under G.S. 150B-21.6?*

Response: Rule language corrected to remove redundancy with language in 09B .0202.

Recommended Change #6: *In (b)(4), how is the applicant to determine that they have “performed” these duties? What are you requiring in the application?*

Response: During the administration of a Commission-accredited course, the certified School Director is the sole individual responsible for performing all of the duties as required in 09B

.0202 for each course. As the certified School Director, he is the sole individual held accountable for carrying out these duties.

Recommended Change #7: *In (c)(1), what training are you requiring? Is this defined somewhere”?*

Response: Annual training is developed to keep School Directors informed of current trends and information relative to the criminal justice profession. It allows them opportunities to network and to hear impactful criminal justice speakers. This annual training can be provided in conference, classroom, or virtual format, as decided by the Commission. The annual training also provides Commission staff the opportunity to update certified School Directors on upcoming Administrative Code changes, issues being identified at Commission-accredited delivery sites, an updates on current Standards Division initiatives. The content of this annual training varies each year to meet the needs of our certified School Directors. It is not defined elsewhere.

Recommended Change #8: *In (c), what are these documents? Are they Commission documents? Are they eligible for incorporation by reference under G.S. 150B-21.6?*

Response: Rule language corrected to remove redundancy with language in 09B .0202.

Recommended Change #9: *In (c)(3), how is the applicant to determine that they have “performed” these duties? What are you requiring in the application?*

Response: Language removed due to redundancy with 09B .0202.

Recommended Change #10: *In (c), line 12, what are “exceptional” circumstances?*

Response: Language corrected.

1 12 NCAC 09B .0502 is amended, with changes, as published in 37:19 NCR 1927-1940

2
3 **12 NCAC 09B .0502 TERMS AND CONDITIONS OF SCHOOL DIRECTOR CERTIFICATION**

4 (a) The term of certification as a School Director is two years from the date the Commission issues the certification,
5 unless earlier terminated by action of the Commission. Upon application, the certification may subsequently be
6 renewed by the Commission for three-year periods. ~~The application for renewal shall contain documentation meeting~~
7 ~~the requirements of Rule .0501(b)(2) and (3) of this Section. The application for renewal, F-10 School~~
8 ~~Director/Qualified Assistant Application, shall contain documentation meeting the requirements of 12 NCAC 09G~~
9 ~~.0405(b)(2) and (b)(3). can be located on the agency's website: [11 \(b\) To retain certification as a ~~Basic Law Enforcement Training~~ School Director, the School Director shall:](https://ncdoj.gov/law-enforcement-training/criminal-
10 justice/forms-and-publications.</p></div><div data-bbox=)~~

- 12 (1) Participate in annual training conducted by ~~commission~~ Commission staff;
- 13 ~~(2) Maintain and comply with the current version of the "Basic Law Enforcement Training Course~~
14 ~~Management Guide";~~
- 15 ~~(3) Maintain and ensure compliance with the current version of the "Basic Law Enforcement Training~~
16 ~~Instructor Notebook" assigned to each certified school; and mandatory instructional materials;~~
- 17 ~~(4) (2)~~ Perform the duties and responsibilities of a School Director as specifically required in Rule .0202
18 of this ~~Subchapter. Subchapter; and~~
- 19 ~~(3) Hold current General Instructor Certification as issued by the North Carolina Criminal Justice~~
20 ~~Education and Training Standards Commission.~~

21 ~~(c) To retain certification as a Speed Measuring Instrument, Instructor Training, or Specialized Instructor Training,~~
22 ~~School Director, Juvenile Justice, or Diversion Investigator/Supervisor Training School Director, the school director~~
23 ~~shall:~~

- 24 ~~(1) Participate in annual training conducted by commission staff;~~
- 25 ~~(2) Maintain and ensure compliance with the current version of the specific speed measuring instrument~~
26 ~~or Instructor Training notebook assigned to each certified school; and~~
- 27 ~~(3) Perform the duties and responsibilities of a School Director as specifically required in Rule .0202~~
28 ~~of this Subchapter. Subchapter.~~
- 29 ~~(4) Hold current General Instructor Certification as issued by the North Carolina Criminal Justice~~
30 ~~Education and Training Standards Commission.~~

31 ~~(d)~~ (c) The Director may grant a waiver of attendance at the annual training for just cause. For purposes of this Rule,
32 just cause means accident, illness, emergency, or other [exceptional] circumstances, which precluded the
33 School Director from attending the scheduled annual training. School Directors who receive a waiver of
34 attendance shall be required to complete a make up training session prior to the end of the calendar year in
35 which the training requirement applies.

36
37 *History Note: Authority G.S. 17C-6;*
38 *Eff. January 1, 1985;*

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2
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Amended Eff. February 1, 2016; May 1, 2014; April 1, 2009;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,
2019;
Amended Eff. October 1, 2023.

RESPONSE TO REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09C .0306

Recommended Change #1: *In (a)(5), line 19, I am confused by the language “applicants for certification”. According to (a) and (a)(1), this Rule applies to officers who are already certified-(a) talks about an officer “with general certification” and (a)(1) asks the employing agency to “verify the certification”. What is being required of whom here?*

Response: “certification” changed to “employment”

Recommended Change #2: *In (b)(1) and (2), it appears you’re essentially repeating the requirements of Rule .0104. Why not just eliminate these two items and say that the officer shall “comply with the requirements of 12 NCAC 09B .0104”?*

Response: Language corrected.

Recommended Change #3: *In (b)(1), line 22, has the Medical History Statement Form gone through rulemaking or are its contents or substantive requirements described in another rule or statute?*

Response: Yes. The Medical History Statement was approved by the full Commission on November 4, 2022 after Rulemaking.

Recommended Change #4: *In (b)(4), line 30, 12 NCAC 09B .0101(6) points to 09C .0310. Why not simplify the reference?*

Response: Language simplified.

Recommended Change #5: *In (b)(5), line 32, has the form gone through rulemaking, or are its contents or substantive requirements described in another rule or statute?*

Response: Yes. The contents or substantive requirements are described in 09E .0106.

Recommended Change #6: *In (d), line 7, has the form gone through rulemaking, or are its contents or substantive requirements described in another rule or statute?*

Response: Yes. The Medical History Statement was approved by the full Commission on November 4, 2022 after Rulemaking.

1 **12 NCAC 09C .0306 is amended, with changes, as published in 37:19 NCR 1927-1940**

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 prescribed
12 for non-certified new applicants. No certification shall be transferred if the holder has been
13 convicted since initial certification of any offense for which revocation or suspension of certification
14 is authorized;
- 15 (3) advise the officer that he will be serving under a probationary appointment with the agency for one
16 year; ~~and~~
- 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; and
- 19 (5) complete a background investigation on all applicants for [certification,] employment as set forth in
20 12 NCAC 09B .0102.

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

- 22 (1) complete a Medical History Statement Form within one year prior to the transfer to the employing
23 agency;
- 24 (2) submit to examination by a surgeon, physician, physician assistant, or nurse practitioner licensed to
25 practice medicine in North Carolina in the same manner prescribed for non-certified new applicants
26 in 12 NCAC 09B .0104 within one year prior to the transfer to the employing agency;
27 comply with the requirements of 12 NCAC 09B .0104;
- 28 (3) (2) submit results of the physical examination to the employing agency for placement in the officer's
29 permanent personnel file;
- 30 (4) (3) produce a negative result on a drug screen administered according to the specifications outlined in
31 12 NCAC 09B .0101 [(5)-(6);] 09C .0310. and
- 32 (5) (4) either:
 - 33 (A) submit a copy of the Commission's annual in-service training report form to the employing
34 agency for placement in the officer's permanent personnel file when the duty and off duty
35 weapons remain the same as those previously used to qualify. Such in-service training
36 compliance shall have occurred within the 12 month period preceding transfer; or

1 (B) satisfactorily complete the employing agency's in-service firearms training program as
2 prescribed in 12 NCAC 09E .0105 and .0106.

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

6 (d) For currently certified full time officers with no break in service, upon written request from the department head
7 of the hiring agency, the Division shall waive for a period of no more than ~~60 days~~ 60 days from the receipt of the
8 Report of Appointment by the Standards Division the requirements of Subparagraphs of (b)(1), (b)(2), (b)(3), (b)(4),
9 and (b)(5) of this Rule. The Report of Appointment Form is located on the agency's website:
10 [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).

11
12 *History Note: Authority G.S. 17C-6; 17C-10;*
13 *Eff. January 1, 1981;*
14 *Amended Eff. April 1, 2018; October 1, 2017; May 1, 2009; July 1, 1990; March 1, 1990; July 1,*
15 *1989; July 1, 1982;*
16 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
17 *2019;*
18 *Amended Eff. October 1, 2023.*
19

1 12 NCAC 09G .0405 is amended, with changes, as published in 37:19 NCR 1927-1940

2
3 12 NCAC 09G .0405 CERTIFICATION OF SCHOOL DIRECTORS

4 (a) Any person designated to act as, or who performs the duties of, a School Director in the delivery or presentation
5 of a Commission-certified corrections training course shall be and continuously remain certified by the Commission
6 as a School Director.

7 (b) To qualify for initial certification as a corrections School Director, an applicant shall:

8 (1) ~~Attend and successfully complete a Commission-certified instructor training course or an equivalent~~
9 ~~instructor training program as determined by the Commission (if certified after January 1, 2006);~~
10 Hold current General Instructor Certification as issued by the North Carolina Criminal Justice
11 Education and Training Standards Commission;

12 (2) ~~present documentary evidence showing that the applicant:~~ Furnish documentary evidence to the
13 Standards Division of high school, college, or university graduation. Documentary evidence of high
14 school graduation consists of diplomas or transcripts from public schools or private schools which
15 meet standards adopted by either the North Carolina Department of Public Instruction, the Division
16 of Non-Public Instruction, or a comparable "out of state" agency; or such documentation as
17 described in Paragraphs (A), (B), (C), (D) and (E) of this Rule. Documentary evidence of college or
18 university graduation consists of diplomas or transcripts from colleges or universities accredited as
19 such by the Department of Education of the state in which the institution is located, an accredited
20 body recognized by either the U.S. Department of Education or Council for Higher Education
21 Accreditation, or the state university of the state in which the institution is located.

22 (A) High school diplomas earned through home school programs must be accompanied by a
23 true and accurate or certified transcript and must meet the requirements of Part 3 of
24 Article 39 of Chapter 115C of the North Carolina General Statutes, or a comparable out-
25 of-state statute.

26 (B) Diplomas earned from high schools or equivalent institutions outside of the United States
27 must be translated into English and be accompanied by an authentic transcript. The
28 Division's staff shall evaluate the transcripts to ensure they are scholastically comparable
29 to [United States curriculum requirements.] the Standard Course of Study as defined by the
30 North Carolina Department of Public Instruction.

31 (C) The Division's staff shall evaluate high school diplomas earned through on-line or
32 correspondence courses on a case by case [basis. Diplomas must] basis to ensure diplomas
33 meet state and local requirements for the jurisdiction from which the diploma was issued.

34 (D) Documentary evidence of having earned a High School Equivalency (HSE) diploma
35 shall be satisfied by a certified copy of a high school equivalency credential or an adult
36 high school diploma, both of which must be recognized by the U.S. Department of

1 Education, the state Department of Education, or educational agency that is
2 authorized in the state to issue High School Equivalency (HSE) diplomas.

3 (E) Documentary evidence of the attainment of satisfactory scores on any military high
4 school equivalency examination is acceptable as evidence of high school graduation if
5 verified by a true copy of the veteran's DD214, Certificate of Release from Active
6 [Duty.] Duty;

7 is a high school, college, or university graduate or has received a high school equivalency
8 credential as [awarded from colleges or universities accredited by the Department of
9 Education of the state in which the institution is located, from an accredited body
10 recognized by either the U.S. Department of Education or the Council for Higher Education
11 Accreditation, or from the state university of the state in which the institution is located]

12 (A) is a high school graduate or has received a high school equivalency credential
13 [awarded by the Department of Education of the state in which the institution is located, or
14 from an accredited body recognized by either the U.S. Department of Education or the
15 Council for Higher Education Accreditation] recognized by the issuing state and has
16 acquired five years of practical as recognized by the issuing state and has acquired five
17 years of practical experience as a criminal justice officer, corrections officer, or as an
18 administrator or specialist in a field directly related to the corrections system. At least one
19 year of the required five years experience must have been while actively participating in
20 corrections training as a Commission certified instructor;

21 (B)(F) has been awarded an associate degree from colleges or universities accredited by the
22 Department of Education of the state in which the institution is located, from an accredited
23 body recognized by either the U.S. Department of Education or the Council for Higher
24 Education Accreditation, or from the state university of the state in which the institution is
25 located recognized by the issuing state and has acquired four years of practical experience
26 as a criminal justice officer, corrections officer, or as an administrator or specialist in a
27 field directly related where the skills and experience can be applied to the corrections
28 system. At least one year of the required four years experience must have been while
29 directly participating in corrections training as a Commission-certified instructor; or

30 (C)(G) has been awarded a baccalaureate degree from colleges or universities accredited by the
31 Department of Education of the state in which the institution is located, from an accredited
32 body recognized by either the U.S. Department of Education or the Council for Higher
33 Education Accreditation, or from the state university of the state in which the institution is
34 located; recognized by the issuing state a regionally accredited institution of higher
35 learning;

- 1 (3) attend or have attended the most current offering of the School Director's orientation as developed
2 and presented by the Commission staff, otherwise an individual orientation with a staff member
3 shall be required; ~~and~~
- 4 (4) submit a completed Form F-10(SD), Request for School Director Certification to the Commission
5 for the issuance of such certification. This request shall be executed by the executive officer of the
6 Office of Staff Development and Training of the North Carolina Department of ~~Public Safety,~~
7 ~~Division of Adult~~ **Correction Correction.** ~~and Juvenile Justice.~~ The Form F-10(SD) is located on
8 the agency's website: [http://ncdoj.gov/getdoc/f23e5e4d-d56d-4aba-af1e-44712690d5d5/F-10\(SD\)-](http://ncdoj.gov/getdoc/f23e5e4d-d56d-4aba-af1e-44712690d5d5/F-10(SD)-6-11.aspx)
9 [6-11.aspx](http://ncdoj.gov/getdoc/f23e5e4d-d56d-4aba-af1e-44712690d5d5/F-10(SD)-6-11.aspx).

10 (c) To qualify for certification as a School Director in the presentation of the "Criminal Justice Instructor Training
11 Course" an applicant shall:

- 12 (1) document that he or she has been awarded a baccalaureate degree from ~~a regionally accredited~~
13 ~~institution of higher learning; has been awarded a baccalaureate degree from~~ colleges or universities
14 accredited by the Department of Education of the state in which the institution is located, from an
15 accredited body recognized by either the U.S. Department of Education or the Council for Higher
16 Education Accreditation, or from the state university of the state in which the institution is located;
- 17 (2) ~~present evidence showing successful completion of a Commission certified instructor training~~
18 ~~course or an equivalent instructor training program as determined by the Commission; Hold current~~
19 General Instructor certification; and,
- 20 (3) ~~be currently certified as a criminal justice instructor by the Commission; and~~
- 21 (4)(3) document ~~successful participation in a special program~~ successful completion of Instructor Training
22 Orientation presented by the Justice Academy for purposes of familiarization and supplementation
23 relevant to delivery of the instructor training course and trainee evaluation.
24

25 *History Note: Authority G.S. 17C-6;*
26 *Temporary Adoption Eff. January 1, 2001;*
27 *Temporary Adoption Expired December 20, 2001;*
28 *Temporary Adoption Eff. April 15, 2003;*
29 *Eff. April 1, 2004;*
30 *Amended Eff. February 1, 2016; January 1, 2006;*
31 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
32 *2019.*
33 *Amended Eff. October 1, 2023*
34

RESPONSE TO REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09G. 0406

Recommended Change #1: *In (b)(1), line 10, is the General Instructor certification governed by another Rule of statute?*

Response: Yes, 12 NCAC 09B .0302.

Recommended Change #2: *In (b)(2), line 12, to whom must the applicant furnish this information?*

Response: To the Standards Division. Rule language clarified.

Recommended Change #3: *In (b)(2)(B), lines 28-29, please define “comparable to United States curriculum requirements”. As far as I am aware, there is no unified national high school curriculum.*

Response: Language corrected to reflect North Carolina Department of Instruction’s Standard Course of Study for high school education as the comparable source.

Recommended Change #4: *In (b)(2)(C), line 1, what will staff evaluate the courses for? What standards will they use?*

Response: Language clarified.

Recommended Change #5: *In (b)(2)(F), line 25, define “directly related”.*

Response: Language clarified.

Recommended Change #6: *In (b)(2)(F), line 26, define “actively participating”.*

Response: Language clarified.

Recommended Change #7: *In (b)(3), line 23, is the “orientation” defined or required elsewhere?*

Response: New School Director orientation provides information regarding the roles and responsibilities of School Directors as identified in the 09B .0202. This orientation allows new School Directors to be presented information from Division staff regarding the administration of Commission-accredited classes.

Recommended Change #8: *In (b)(4), p. 3, line 1, has the Form F-10(SD) gone through rulemaking, or are its contents or substantive requirements described in another rule or statute?*

Response: Yes. Form F-10(SD) was approved by the full Commission on February 24, 2023 during the initial Rule Making Authority and subsequent Rule Making Hearing on May 11, 2023.

Recommended Change #9: *In (c)(1), lines 8-9, what is a “regionally accredited institution of higher learning?”*

Response: Language clarified.

Recommended Change #10: *In (c)(2), line 12, what is a “General Instructor” certification? Is it defined elsewhere? How does one hold it?*

Response: Outlined in 12NCAC 09G .0308 and .0309.

Recommended Change #11: *In (c)(3), lines 14-15, is the “Instructor Training Orientation” different than the “orientation” described in (b)(3)? Is this orientation defined or required elsewhere?*

Response: Yes. It is a different course. The Instructor Training Orientation must be attended by those individuals who are applying to be certified School Directors for the Commission-accredited Instructor Training Course. The Course is described in 12 NCAC 09B .0202.

**Technical corrections has been made.

1 12 NCAC 09G .0406 is amended, with changes, as published in 37:19 NCR 1927-1940

2
3 12 NCAC 09G .0406 TERMS AND CONDITIONS OF SCHOOL DIRECTOR CERTIFICATION

4 (a) The term of certification as a School Director is two years from the date the Commission issues the certification,
5 unless earlier terminated by action of the Commission. Upon application the certification may subsequently be
6 renewed by the Commission for two-year periods. The application for renewal, F-10 School Director/Qualified
7 Assistant Application, shall contain documentation meeting the requirements of 12 NCAC 09G .0405(b)(2) and (b)(3).
8 can be located on the agency's website: [10 \(b\) To retain certification as a School Director, the School Director shall perform the duties and responsibilities of a
11 School Director as specifically required in 12 NCAC 09G .0408.](https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-</u>
9 <u>publications.</u></p></div><div data-bbox=)

12 (c) To retain certification, School Directors must participate in annual training conducted by [commission]
13 Commission staff. The Director may grant a waiver of attendance at the annual training for just cause. For purposes
14 of this Rule, just cause means accidents, illness, emergency, or other [exceptional] circumstances which precluded the
15 School Director from attending the scheduled annual training. School Directors who receive a waiver of attendance
16 shall be required to complete a make up training session prior to the end of the calendar year in which the training
17 requirement applies.

18
19 *History Note: Authority G.S. 17C-6;*
20 *Temporary Adoption Eff. January 1, 2001;*
21 *Temporary Adoption Expired December 20, 2001;*
22 *Temporary Adoption Eff. April 15, 2003;*
23 *Eff. April 1, 2004;*
24 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
25 *2019; Amended Eff. October 1, 2023.*
26

RESPONSE TO REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09G. 0406

Recommended Change #1: *In (a), line 7, to be clear, the School Director has to submit his or her educational credentials and attend an orientation very time they apply for renewal?*

Response: No, that is for initial certification. Rule language has been clarified.

Recommended Change #2: *In (a), line 7, what “documentation” are you requiring to show that the applicant has attend the orientation?*

Response: This language has been removed.

Recommended Change #3: *In (b), line 8, how is the applicant to determine that they have “performed” these duties? What are you requiring in the application?*

Response: During the administration of a Commission-accredited course, the certified School Director is the sole individual responsible for performing all of the duties as required in 09G .0408 for each course. As the certified School Director, he is the sole individual held accountable for carrying out these duties.

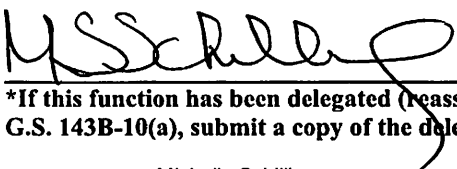
Recommended Change #4: *In (c), line 10, what “annual training” are you requiring? Is this defined somewhere”?*

Response: Annual training is developed to keep School Directors informed of current trends and information relative to the criminal justice profession. It allows them opportunities to network and to hear impactful criminal justice speakers. This annual training can be provided in conference, classroom, or virtual format, as decided by the Commission. The annual training also provides Commission staff the opportunity to update certified School Directors on upcoming Administrative Code changes, issues being identified at Commission-accredited delivery sites, an updates on current Standards Division initiatives. The content of this annual training varies each year to meet the needs of our certified School Directors. It is not defined elsewhere.

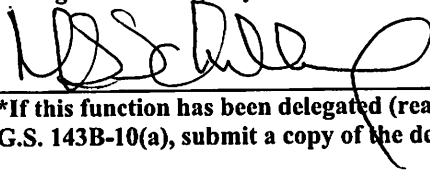
Recommended Change #5: *In (c), line 12, what are “exceptional” circumstances?*

Response: Language corrected.

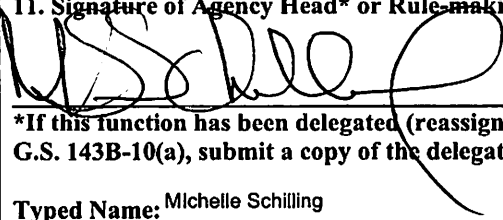
SUBMISSION FOR PERMANENT RULE

1. Rule-Making Agency: NC Criminal Justice Education & Training Standards Commission	
2. Rule citation & name (name not required for repeal): 12 NCAC 09B .0209 Criminal Justice Instructor Training	
3. Action: <input type="checkbox"/> ADOPTION <input checked="" type="checkbox"/> AMENDMENT <input type="checkbox"/> REPEAL <input type="checkbox"/> READOPTION <input type="checkbox"/> REPEAL THROUGH READOPTION	
4. Rule exempt from RRC review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No	5. Rule automatically subject to legislative review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No
6. Notice for Proposed Rule: <input checked="" type="checkbox"/> Notice Required Notice of Text published on: April 3, 2023 Link to Agency notice: https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/ Hearing on: August 9, 2023 Adoption by Agency on: August 11, 2023 <input type="checkbox"/> Notice not required under G.S.: Adoption by Agency on:	
7. Rule establishes or increases a fee? (See G.S. 12-3.1) <input type="checkbox"/> Yes Agency submitted request for consultation on: Consultation not required. Cite authority: <input checked="" type="checkbox"/> No	8. Fiscal impact. Check all that apply. <input type="checkbox"/> This Rule was part of a combined analysis. <input type="checkbox"/> State funds affected <input type="checkbox"/> Local funds affected <input type="checkbox"/> Substantial economic impact (≥\$1,000,000) <input type="checkbox"/> Approved by OSBM <input checked="" type="checkbox"/> No fiscal note required
9. REASON FOR ACTION	
9A. What prompted this action? Check all that apply: <input checked="" type="checkbox"/> Agency <input type="checkbox"/> Court order / cite: <input type="checkbox"/> Federal statute / cite: <input type="checkbox"/> Federal regulation / cite: <input type="checkbox"/> Legislation enacted by the General Assembly Cite Session Law: <input type="checkbox"/> Petition for rule-making <input type="checkbox"/> Other:	
9B. Explain: To update number of instructional course hours.	
10. Rulemaking Coordinator: Michelle Schilling Michelle Schilling Phone: 919-779-8205 E-Mail: MSchilling@ncdoj.gov Additional agency contact, if any: Phone: E-Mail:	11. Signature of Agency Head* or Rule-making Coordinator:  <hr/> *If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form. Typed Name: Michelle Schilling Title: Deputy Director
RRC AND OAH USE ONLY	
Action taken: <input type="checkbox"/> RRC extended period of review: <input type="checkbox"/> RRC determined substantial changes: <input type="checkbox"/> Withdrawn by agency <input type="checkbox"/> Subject to Legislative Review <input type="checkbox"/> Other:	

SUBMISSION FOR PERMANENT RULE

1. Rule-Making Agency: NC Criminal Justice Education & Training Standards Commission	
2. Rule citation & name (name not required for repeal): 12 NCAC 09B .0502 Terms and Conditions of School Director Certification	
3. Action: <input type="checkbox"/> ADOPTION <input checked="" type="checkbox"/> AMENDMENT <input type="checkbox"/> REPEAL <input type="checkbox"/> READOPTION <input type="checkbox"/> REPEAL THROUGH READOPTION	
4. Rule exempt from RRC review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No	5. Rule automatically subject to legislative review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No
6. Notice for Proposed Rule: <input checked="" type="checkbox"/> Notice Required Notice of Text published on: April 3, 2023 Link to Agency notice: https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/ Hearing on: August 9, 2023 Adoption by Agency on: August 11, 2023 <input type="checkbox"/> Notice not required under G.S.: Adoption by Agency on:	
7. Rule establishes or increases a fee? (See G.S. 12-3.1) <input type="checkbox"/> Yes Agency submitted request for consultation on: Consultation not required. Cite authority: <input checked="" type="checkbox"/> No	8. Fiscal impact. Check all that apply. <input type="checkbox"/> This Rule was part of a combined analysis. <input type="checkbox"/> State funds affected <input type="checkbox"/> Local funds affected <input type="checkbox"/> Substantial economic impact (≥\$1,000,000) <input type="checkbox"/> Approved by OSBM <input checked="" type="checkbox"/> No fiscal note required
9. REASON FOR ACTION	
9A. What prompted this action? Check all that apply: <input checked="" type="checkbox"/> Agency <input type="checkbox"/> Legislation enacted by the General Assembly <input type="checkbox"/> Court order / cite: Cite Session Law: <input type="checkbox"/> Federal statute / cite: <input type="checkbox"/> Petition for rule-making <input type="checkbox"/> Federal regulation / cite: <input type="checkbox"/> Other:	
9B. Explain: To update requirements for the terms and conditions of School Director certification.	
10. Rulemaking Coordinator: Michelle Schilling Michelle Schilling Phone: 919-779-8205 E-Mail: MSchilling@ncdoj.gov Additional agency contact, if any: Phone: E-Mail:	11. Signature of Agency Head* or Rule-making Coordinator:  *If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form. Typed Name: Michelle Schilling Title: Deputy Director
RRC AND OAH USE ONLY	
Action taken: <input type="checkbox"/> RRC extended period of review: <input type="checkbox"/> RRC determined substantial changes: <input type="checkbox"/> Withdrawn by agency <input type="checkbox"/> Subject to Legislative Review <input type="checkbox"/> Other:	

SUBMISSION FOR PERMANENT RULE

1. Rule-Making Agency: NC Criminal Justice Education & Training Standards Commission	
2. Rule citation & name (name not required for repeal): 12 NCAC 09G .0405 Certification of School Directors	
3. Action: <input type="checkbox"/> ADOPTION <input checked="" type="checkbox"/> AMENDMENT <input type="checkbox"/> REPEAL <input type="checkbox"/> READOPTION <input type="checkbox"/> REPEAL THROUGH READOPTION	
4. Rule exempt from RRC review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No	5. Rule automatically subject to legislative review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No
6. Notice for Proposed Rule: <input checked="" type="checkbox"/> Notice Required Notice of Text published on: April 3, 2023 Link to Agency notice: https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/ Hearing on: August 9, 2023 Adoption by Agency on: August 11, 2023 <input type="checkbox"/> Notice not required under G.S.: Adoption by Agency on:	
7. Rule establishes or increases a fee? (See G.S. 12-3.1) <input type="checkbox"/> Yes Agency submitted request for consultation on: Consultation not required. Cite authority: <input checked="" type="checkbox"/> No	8. Fiscal impact. Check all that apply. <input type="checkbox"/> This Rule was part of a combined analysis. <input type="checkbox"/> State funds affected <input type="checkbox"/> Local funds affected <input type="checkbox"/> Substantial economic impact (≥\$1,000,000) <input type="checkbox"/> Approved by OSBM <input checked="" type="checkbox"/> No fiscal note required
9. REASON FOR ACTION	
9A. What prompted this action? Check all that apply: <input checked="" type="checkbox"/> Agency <input type="checkbox"/> Court order / cite: <input type="checkbox"/> Federal statute / cite: <input type="checkbox"/> Federal regulation / cite: <input type="checkbox"/> Legislation enacted by the General Assembly Cite Session Law: <input type="checkbox"/> Petition for rule-making <input type="checkbox"/> Other:	
9B. Explain: To update requirements for School Director certification, and make educational requirements consistent with existing rule.	
10. Rulemaking Coordinator: Michelle Schilling Michelle Schilling Phone: 919-779-8205 E-Mail: MSchilling@ncdoj.gov Additional agency contact, if any: Phone: E-Mail:	11. Signature of Agency Head* or Rule-making Coordinator:  *If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form. Typed Name: Michelle Schilling Title: Deputy Director
RRC AND OAH USE ONLY	
Action taken: <input type="checkbox"/> RRC extended period of review: <input type="checkbox"/> RRC determined substantial changes: <input type="checkbox"/> Withdrawn by agency <input type="checkbox"/> Subject to Legislative Review <input type="checkbox"/> Other:	

Burgos, Alexander N

From: Schilling, Michelle <mschilling@ncdoj.gov>
Sent: Tuesday, August 29, 2023 1:38 PM
To: Liebman, Brian R
Cc: Burgos, Alexander N
Subject: [External] RE: 12 NCAC 09B, 09C, and 09G Requests for Changes - September 2023 RRC

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Thank you, Brian.

I'll start working on these and have them submitted by the indicated date.

Michelle



MICHELLE SCHILLING
Deputy Director
Criminal Justice Standards Division
Office: (919) 779-8205
Fax: (919) 779-8210
MSchilling@ncdoj.gov
1700 Tryon Park Drive
Raleigh, NC 27602-0149
ncdoj.gov

Please note messages to or from this address may be public records.

From: Liebman, Brian R <brian.liebman@oah.nc.gov>
Sent: Tuesday, August 29, 2023 1:34 PM
To: Schilling, Michelle <mschilling@ncdoj.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: 12 NCAC 09B, 09C, and 09G Requests for Changes - September 2023 RRC

Good afternoon,

I'm the attorney who reviewed the Rules submitted by the Commission for the September 2023 RRC meeting. The RRC will formally review these Rules at its meeting on Thursday, September 21, 2023, at 9:00 a.m. The meeting will be a hybrid of in-person and WebEx attendance, and an evite should be sent to you as we get closer to the meeting. If there are any other representatives from your agency who will want to attend virtually, let me know prior to the meeting, and we will get evites out to them as well.

Please submit the revised Rules and forms to me via email, no later than 5 p.m. on Tuesday, September 12, 2023.

In the meantime, please do not hesitate to reach out via email with any questions or concerns.

Thanks,

Brian

Brian Liebman
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984)236-1948
brian.liebman@oah.nc.gov

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