

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: Generally, regarding each rule submitted.

DEADLINE FOR RECEIPT: Friday, September 9, 2022

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:

Any rule which has been changed since it was published in the North Carolina Register, and labeled as "with changes", should have the changed portions of the rule highlighted.

Please retype the rule accordingly and resubmit it to our office electronically.

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09A .0103

DEADLINE FOR RECEIPT: Friday, September 9, 2022

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 Item (5), what is the authority to make such a determination of conduct qualifying as a criminal offense? G.S. 17C-6(8)?

In Item (6), does the definition of "Convicted" apply to all of Chapter 12? Does this definition go beyond the scope of the limitation imposed in line 4?

In Subitem (6)(b), what is the definition of "adjudicating... official"? Is "adjudicating" defined separately?

In Item (11), what is a "regionally accredited institution of higher learning"? Can a reference be made to such standard(s)? Section .0106 addresses what documentation is necessary from educational institutions and what documents from such accredited institutions are acceptable. Consider using similar language regarding the departments of the education.

In Subitems (12)(a) and (b), what entity or entities would "approve[s]" each course?

In Item (18), "Chief Court Counselor" is a defined term referencing a title that is used to identify a specific position and should be capitalized, per the Administrative Rule Style Guide.

In Item (24), as done in page 1, line 32, "duly-enacted" needs a dash. See page 1, line 34 and page 2, lines 4, 11, and 22.

In Subitem (24)(b)(iii), who makes the determination that a traffic offense in another jurisdiction is "comparable to the traffic offenses" listed in the Manual? Additionally, what is the standard used for such a determination?

In Item (30), line 22, place an Oxford comma after "Distance".

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel

Date submitted to agency: September 2, 2022

1 12 NCAC 09A .0103 is amended as published in 36:19 NCR 1532-1554 as follows:

2
3 **12 NCAC 09A .0103 DEFINITIONS**

4 The following definitions apply throughout Subchapters 12 NCAC 09A through 12 NCAC 09F, except as modified
5 in 12 NCAC 09A .0107 for the purpose of the Commission's rule-making and administrative hearing procedures:

- 6 (1) "Active Duty Military" means, for the purpose of determining eligibility for certification pursuant
7 to 12 NCAC 09B .0401 and 12 NCAC 09B .0403, full-time duty in the active military service of the
8 United States. Such term includes full-time training duty, annual training duty, and attendance while
9 in the active military service at a school designated as a service school by law or by the Secretary
10 of the military department concerned. Such term does not include full-time National Guard duty.
- 11 (2) "Agency" or "Criminal Justice Agency" means those state and local agencies identified in G.S. 17C-
12 2(2).
- 13 (3) "Alcohol Law Enforcement Agent" means a law enforcement officer appointed by the Secretary of
14 the Department of Public Safety as authorized by G.S. 18B-500.
- 15 (4) "Chief Court Counselor" means the person responsible for administration and supervision of
16 juvenile intake, probation, and post-release supervision in each judicial district, operating under the
17 supervision of the Department of Public Safety, Division of Adult Correction and Juvenile Justice.
- 18 (5) "Commission of an offense" means a finding by the North Carolina Criminal Justice Education and
19 Training Standards Commission or equivalent regulating body from another state that a person
20 performed the acts necessary to satisfy the elements of a specified criminal offense.
- 21 (6) "Convicted" or "Conviction" means, for purposes of this Chapter, the entry of:
22 (a) a plea of guilty;
23 (b) a verdict or finding of guilt by a jury, judge, magistrate, or other adjudicating body,
24 tribunal, or official, either civilian or military; or
25 (c) a plea of no contest, nolo contendere, or the equivalent.
- 26 (7) "Criminal Justice Officer(s)" means those officers identified in G.S. 17C-2(3).~~and excluding~~
27 ~~Correctional officers and probation/parole officers.~~
- 28 (8) "Criminal Justice System" means the whole of the State and local criminal justice agencies described
29 in Item (2) of this Rule.
- 30 (9) ~~"Department Head"~~ "Agency Head" means the chief administrator of any criminal justice agency,
31 and specifically includes any chief of police or agency director. ~~"Department Head"~~ "Agency Head"
32 also includes a designee appointed in writing by the ~~Department Head.~~ Agency Head.
- 33 (10) "Director" means the Director of the Criminal Justice Standards Division of the North Carolina
34 Department of Justice.
- 35 (11) "Educational Points" means points earned toward the Professional Certificate Programs for studies
36 completed, with passing scores achieved, for semester hour or quarter hour credit at a regionally-

1 accredited institution of higher learning. Each semester hour of college credit equals one educational
2 point and each quarter hour of college credit equals two-thirds of an educational point.

3 (12) "Enrolled" means that an individual is currently actively participating in an on-going presentation
4 of a Commission-certified basic training course that has not concluded on the day probationary
5 certification expires. The term "currently actively participating" as used in this definition means:

6 (a) for law enforcement officers, that the officer is attending an approved course presentation
7 averaging a minimum of 12 hours of instruction each week; and

8 (b) for Department of Public Safety, Division of Adult Correction and Juvenile Justice
9 personnel, that the officer is attending the last or final phase of the approved training course
10 necessary for satisfying the total course completion requirements.

11 (13) "High School" means an educational program that meets the compulsory attendance requirements
12 in the jurisdiction in which the school is located.

13 (14) "In-Service Training" means all training prescribed in 12 NCAC 09E .0105 that must be completed,
14 with passing scores achieved, by all certified law enforcement officers during each full calendar
15 year of certification.

16 (15) "In-Service Training Coordinator" means the person designated by a Criminal Justice Agency head
17 to administer the agency's In-Service Training program.

18 (16) "Lateral Transfer" means the employment of a criminal justice officer by a Criminal Justice Agency
19 based upon the officer's special qualifications or experience, without following the usual selection
20 process established by the agency for basic officer positions.

21 (17) "Law Enforcement Code of Ethics" means the code adopted by the Commission on September 19,
22 1973, that reads as follows:

23 As a law enforcement officer, my fundamental duty is to serve the community; to safeguard lives and property; to
24 protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence
25 or disorder; and to respect the constitutional rights of all to liberty, equality, and justice.

26 I will keep my private life unsullied as an example to all, and will behave in a manner that does not bring discredit to
27 me or to my agency. I will maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint;
28 and be constantly mindful of the welfare of others. Honest in thought and deed both in my personal and official life, I
29 will be exemplary in obeying the law and the regulations of my department. Whatever I see or hear of a confidential
30 nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the
31 performance of my duty.

32 I will never act officiously or permit personal feelings, prejudices, political beliefs, aspirations, animosities or
33 friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I
34 will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing
35 unnecessary force or violence and never accepting gratuities.

36 I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I
37 am true to the ethics of the police service. I will never engage in acts of corruption or bribery, nor will I condone such

1 acts by other police officers. I will cooperate with all legally authorized agencies and their representatives in the pursuit
2 of justice.

3 I know that I alone am responsible for my own standard of professional performance and will take every reasonable
4 opportunity to enhance and improve my level of knowledge and competence.

5 I will constantly strive to achieve these objectives and ideals, dedicating myself before God or by affirmation to my
6 chosen profession law enforcement.

7 (18) "Juvenile Court Counselor" means a person responsible for intake services and court supervision
8 services to juveniles under the supervision of the chief court counselor.

9 (19) "Juvenile Justice Officer" means a person designated by the Secretary of the Department of Public
10 Safety, Division of Adult Correction and Juvenile Justice to provide for the care and supervision of
11 juveniles placed in the physical custody of the Department.

12 (20) "Law Enforcement Officer" means an appointee of a Criminal Justice Agency, an agency of the
13 State, or of any political subdivision of the State who, by virtue of his or her office, is empowered
14 to make arrests for violations of the laws of this State. Specifically excluded from the title "Law
15 Enforcement Officer" are sheriffs and their sworn appointees with arrest authority who are governed
16 by the provisions of G.S. 17E.

17 (21) "Law Enforcement Training Points" means points earned toward the Law Enforcement Officers'
18 Professional Certificate Program by successful completion of Commission-approved law
19 enforcement training courses. Twenty classroom hours of Commission-approved law enforcement
20 training equals one law enforcement training point.

21 (22) "LIDAR" is an acronym for "Light Detection and Ranging" and means a speed-measuring
22 instrument that electronically computes, from transmitted infrared light pulses, the speed of a vehicle
23 under observation.

24 (23) "Local Confinement Personnel" means any officer, supervisor, or administrator of a local
25 confinement facility in North Carolina as defined in G.S. 153A-217; any officer, supervisor, or
26 administrator of a county confinement facility in North Carolina as defined in G.S. 153A-218; or
27 any officer, supervisor, or administrator of a district confinement facility in North Carolina as
28 defined in G.S. 153A-219.

29 (24) "Misdemeanor" means those criminal offenses not classified under the laws, statutes, or ordinances
30 as felonies. Misdemeanor offenses are classified by the Commission as follows:

31 (a) "Class A Misdemeanor" means a misdemeanor committed or omitted in violation of any
32 common law, duly-enacted ordinance, or criminal statute of this State that is not classified
33 as a Class B Misdemeanor pursuant to Sub-item (24)(b) of this Rule. Class A Misdemeanor
34 also includes any act committed or omitted in violation of any common law, duly enacted
35 ordinance, criminal statute, or criminal traffic code of any jurisdiction other than North
36 Carolina, either civil or military, for which the maximum punishment allowable for the
37 designated offense under the laws, statutes, or ordinances of the jurisdiction in which the

1 offense occurred includes imprisonment for a term of not more than six months. Excluded
2 from "Class A Misdemeanor" criminal offenses for jurisdictions other than North Carolina
3 are motor vehicle or traffic offenses designated as misdemeanors under the laws of other
4 jurisdictions or duly enacted ordinances of an authorized governmental entity, with the
5 exception of the offense of impaired driving that is included herein as a Class A
6 Misdemeanor if the offender could have been sentenced for a term of not more than six
7 months. Also included herein as a Class A Misdemeanor is the offense of impaired driving,
8 if the offender was sentenced under punishment level three G.S. 20-179(i), level four G.S.
9 20-179(j), or level five G.S. 20-179(k). Class A Misdemeanor shall also include acts
10 committed or omitted in North Carolina prior to October 1, 1994, in violation of any
11 common law, duly enacted ordinance, or criminal statute of this State for which the
12 maximum punishment allowable for the designated offense included imprisonment for a
13 term of not more than six months.

14 (b) "Class B Misdemeanor" means an act committed or omitted in violation of any common
15 law, criminal statute, or criminal traffic code of this State that is classified as a Class B
16 Misdemeanor as set forth in the Class B Misdemeanor Manual as published by the North
17 Carolina Department of Justice, incorporated herein by reference, and shall include any
18 later amendments and editions of the incorporated material as provided by G.S. 150B-21.6.
19 The publication is available from the Commission's website:
20 [http://www.ncdoj.gov/getdoc/60bb12ca-47c0-48cb-a0e3-6095183c4c2a/Class-B-](http://www.ncdoj.gov/getdoc/60bb12ca-47c0-48cb-a0e3-6095183c4c2a/Class-B-Misdemeanor-Manual-2005.aspx)
21 [Misdemeanor-Manual-2005.aspx](http://www.ncdoj.gov/getdoc/60bb12ca-47c0-48cb-a0e3-6095183c4c2a/Class-B-Misdemeanor-Manual-2005.aspx). Class B Misdemeanor also includes any act committed
22 or omitted in violation of any common law, duly enacted ordinance, criminal statute, or
23 criminal traffic code of any jurisdiction other than North Carolina, either civil or military,
24 for which the maximum punishment allowable for the designated offense under the laws,
25 statutes, or ordinances of the jurisdiction in which the offense occurred includes
26 imprisonment for a term of more than six months but not more than two years. Excluded
27 from this grouping of "Class B Misdemeanor" criminal offenses for jurisdictions other than
28 North Carolina, are motor vehicle or traffic offenses designated as being misdemeanors
29 under the laws of other jurisdictions with the following exceptions: Class B Misdemeanor
30 includes the following:

- 31 (i) either first or subsequent offenses of driving while impaired if the maximum
32 allowable punishment is for a term of more than six months but not more than two
33 years;
34 (ii) driving while license permanently revoked or permanently suspended;
35 (iii) those traffic offenses occurring in other jurisdictions which are comparable to the
36 traffic offenses specifically listed in the Class B Misdemeanor Manual; and

- (iv) an act committed or omitted in North Carolina prior to October 1, 1994, in violation of any common law, duly enacted ordinance, criminal statute, or criminal traffic code of this State for which the maximum punishment allowable for the designated offense included imprisonment for a term of more than six months but not more than two years.
- (25) "Qualified Assistant" means an additional staff person designated by the School Director to assist in the administration of a course when an institution or agency assigns additional responsibilities to the certified School Director during the planning, development, and implementation of a certified course.
- (26) "Radar" means a speed-measuring instrument that transmits microwave energy in the 10,500 to 10,550 MHZ frequency (X) band, the 24,050 to 24,250 MHZ frequency (K) band, or the 33,400 to 36,000 MHZ (Ka) band and operates in either the stationary or moving mode.
- (27) "Resident" means any youth committed to a facility operated by the Department of Public Safety, Division of Adult Correction and Juvenile Justice.
- (28) "School" or "criminal justice school" means an institution, college, university, academy, or agency that offers criminal justice, law enforcement, or traffic control and enforcement training for criminal justice officers or law enforcement officers. "School" includes the criminal justice training course curriculum, instructors, and facilities.
- (29) "School Director" means the person designated by the sponsoring institution or agency to administer the criminal justice school.
- (30) "Speed-Measuring Instruments" (SMI) means those devices or systems, including RADAR, Time-Distance and LIDAR, approved under authority of G.S. 17C-6(a)(13) for use in North Carolina in determining the speed of a vehicle under observation and particularly includes all devices or systems described or referenced in 12 NCAC 09C .0601.
- (31) "Standards Division" means the Criminal Justice Standards Division of the North Carolina Department of Justice.
- (32) "Time-Distance" means a speed-measuring instrument that electronically computes, from measurements of time and distance, the average speed of a vehicle under observation.

History Note: Authority G.S. 17C-2; 17C-6; 17C-10; 153A-217;
Eff. January 1, 1981;
Amended Eff. November 1, 1981; August 15, 1981;
Readopted Eff. July 1, 1982;
Temporary Amendment Eff. December 14, 1983 for a period of 120 days to expire on April 12, 1984;
Amended Eff. November 1, 1993; March 1, 1990; July 1, 1989;
Temporary Amendment Eff. October 1, 1994 for a period of 180 days to expire on April 1, 1995;
Amended Eff. August 1, 2000; April 1, 1999; August 1, 1998; January 1, 1995;

1 *Temporary Amendment Eff. January 1, 2001;*
2 *Amended Eff. August 1, 2002; April 1, 2001;*
3 *Temporary Amendment Eff. April 15, 2003;*
4 *Amended Eff. January 1, 2017; February 1, 2016; January 1, 2015; January 1, 2006; June 1, 2005;*
5 *April 1, 2004;*
6 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
7 *2019.*
8 *Amended Eff. October 1, 2022*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09B .0102

DEADLINE FOR RECEIPT: Friday, September 9, 2022

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 Paragraph (a), are the requirements for the examination of the applicant's character traits, habits, and good moral character different from the standards found in 09B .0101? Does this rule only pertain to what the investigation must look into?

Are the contents or substantive requirements of Forms F-3 and F-8 prescribed by statute or another rule?

In Paragraph (c), what is the extent or standard for the "prior experience or training" necessary? Must the experience or training be in background investigations specifically to this agency and rule?

In Paragraph (d), in what or where must the employing agency "include" a Release?

In Paragraph (e), what is the agency providing the results of AOC-CR-280 to? To the applicant? The Paragraph only states the agency shall "provide the results... for each applicant".

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel

Date submitted to agency: September 2, 2022

12 NCAC 09B .0102 is amended as published in 36:19 NCR 1532-1554 as follows:

12 NCAC 09B .0102 BACKGROUND INVESTIGATION

~~(a) Any agency contemplating the employment of an applicant as a criminal justice officer shall, prior~~ Prior to employment, an agency shall complete a background investigation on ~~such applicant.~~ all applicants for certification.

The investigation shall examine the applicant's character traits and habits relevant to performance as a ~~criminal justice~~ law enforcement officer and shall determine whether the applicant is of good moral character. This examination includes completion of Commission forms Personal History Statement Form (F-3) and Mandated Background Investigation Form (F-8), ensuring the proper certification and criminal history record check required by each.

(b) Prior to the investigation, the applicant shall complete the Commission's Personal History Statement Form (F-3) to provide a basis for the investigation. The agency shall certify that the results of the background investigation are consistent with the information provided by the applicant on the Personal History Statement Form (F-3) and give the applicant the opportunity to update the Personal History Statement Form (F-3) prior to submission to the Division.

(c) The agency shall utilize an investigator with prior experience or training in conducting background investigations. The investigator shall document the results of the investigation on the Mandated Background Investigation Form (F-8) and shall include in the report of investigation:

- (1) biographical data;
- (2) family data;
- (3) scholastic data;
- (4) employment data;
- (5) criminal history data;
- (6) interviews with the applicant's references; and
- (7) a summary of the investigator's findings and conclusions regarding the applicant's moral ~~character.~~ character known to the agency or listed on the applicant's Personal History Statement (F-3). This documentation shall be included with all other documentation required in 12 NCAC 09C .0307.

(d) The employing agency shall include a signed and notarized Release Authorization Form that authorizes the Division staff to obtain documents and records pertaining to the applicant for certification that may be required in order to determine whether certification may be granted. ~~For criminal justice officers employed by the North Carolina Department of Juvenile Justice and Delinquency Prevention, the agency may use the method of documenting the results of the background investigation it deems most appropriate to its needs in accordance with the Commission form. However, the Commission's Mandated Background Investigation Form must be used as a guide of minimum information to be collected and recorded by the investigator for all other criminal justice officer applicants that are regulated by the Commission.~~

(e) The employing agency shall provide the results of a completed and processed form AOC-CR-280, Law Enforcement Application for Verification of Expunction under G.S. 15A-145.4, 15A-145.5, 15A-145.6, 15A-145.8A or 15A-146, for each applicant presented for certification. The AOC-CR-280 form is available on the Commission's website at no cost <https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/>. ~~Upon written~~

1 ~~request by the Director of the Standards Division, the employing agency shall provide the Commission with a copy~~
2 ~~of any background investigation retained by the agency.~~

3
4 *History Note: Authority G.S. 17C-6;*
5 *Eff. January 1, 1981;*
6 *Amended Eff. August 1, 2002; August 1, 1998; July 1, 1989;*
7 *Temporary Amendment Eff. April 15, 2003;*
8 *Amended Eff. April 1, 2004;*
9 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
10 *2019.*
11 *Amended Eff. October 1, 2022*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09B .0104

DEADLINE FOR RECEIPT: Friday, September 9, 2022

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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 Paragraph (a), are the contents or substantive requirements of Forms F-1 and F-2 prescribed by statute or another rule?

In Paragraph (a), can reference be made to the "rules and regulations of the United States Armed Forces" regarding authorization to practice medicine?

In Paragraph (b), under what statutory authority can CJETS regulate or place requirements on medical providers?

At the end of Subparagraph (d)(1), please add a semicolon before "and".

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel

Date submitted to agency: September 2, 2022

12 NCAC 09B .0104 is amended as published in 36:19 NCR 1532-1554 as follows:

12 NCAC 09B .0104 MEDICAL EXAMINATION

(a) Each applicant for ~~employment as a criminal justice officer~~ certification or enrollment in a basic law enforcement training course shall ~~complete~~ complete, sign, and date the Commission's Medical History Statement Form (F-1) ~~within one year prior to employment by the employing agency~~ and shall be examined by either a surgeon, physician, physician assistant, or nurse practitioner who is licensed to practice ~~medicine in~~ North Carolina or ~~by a surgeon, physician, physician assistant, or nurse practitioner~~ authorized to practice medicine in accordance with the rules and regulations of the United States Armed Forces to help determine ~~his or her the applicant's fitness in to carry~~ carrying out the physical requirements of the ~~criminal justice officer position.~~ position of law enforcement officer.

(b) ~~The examining~~ Prior to conducting the examination, the surgeon, physician, physician assistant, or nurse practitioner ~~shall; shall record the results of the examination on the Commission's Medical Examination Report Form and shall record any evidence of past or present defects, diseases, injuries, operations.~~

(1) read the "Medical Screening Guidelines for the Certification of Criminal Justice Officers in North Carolina" as published by the North Carolina Department of Justice. Copies of this publication may be obtained at no cost at <https://ncdoj.gov/law-enforcement-training/criminal-justice/>;

(2) read, sign, and date the Medical History Statement Form (F-1); and

(3) read the Instructions to Agency and Examiner for Completion of Medical Examination Report (F-2A) Form attached to the Medical Examination Report Form (F-2).

(c) The examining physician, surgeon, physician's assistant, nurse practitioner, shall record the results of the examination on the Medical Examination Report Form (F-2) and shall sign and date the form. ~~An applicant for employment as a law enforcement officer seeking general certification may not be employed or placed in a sworn law enforcement position prior to the date on which the employing agency receives the report of the results of the medical examination unless all of the following requirements are met:~~

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

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

(d) The Medical Examination Report Form (F-2) and the Medical History Statement Form (F-1) shall be valid for one year after the date the examination was conducted and shall be completed prior to:

(1) the applicant's beginning the Basic Law Enforcement Training Course and

(2) the agency submission of application for certification to the Commission.

*History Note: Authority G.S. 17C-6; 17C-10;
Eff. January 1, 1981;*

1 *Amended Eff. April 1, 2018; October 1, 2017; November 1, 1993; February 1, 1991; March 1, 1990;*
2 *April 1, 1985;*
3 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
4 *2019.*
5 *Amended Eff. October 1, 2022*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09B .0105

DEADLINE FOR RECEIPT: Friday, September 9, 2022

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

In Paragraph (a), add an Oxford comma after “skills”.

In Paragraph (a), clarify the purpose of “demonstrating potential” and whether the employing agency evaluates such. Everything after “abilities” is unclear and confusing.

In Paragraph (b), what is the standard for a “qualified staff member”? To what is this pursuant?

Please retype the rule accordingly and resubmit it to our office electronically.

1 12 NCAC 09B .0105 is amended as published in 36:19 NCR 1532-1554 as follows:

2
3 **12 NCAC 09B .0105 ~~QUALIFICATIONS APPRAISAL~~ EMPLOYMENT INTERVIEW**

4 (a) Prior to ~~employing any applicant for employment~~ employment, as a criminal justice officer, the employing agency
5 shall conduct an interview of the applicant to ~~determine~~ evaluate the applicant's knowledge, skills and abilities and
6 ~~potential for demonstrating potential for success as a criminal justice~~ law enforcement officer.

7 (b) The ~~Department~~ Agency head ~~should appoint a panel of staff members to sit as a unit with the Department head~~
8 ~~during the interview. However, the Department head may conduct the interview personally or by delegating~~ delegate
9 the responsibility to a qualified staff member or panel.

10 (c) ~~The agency may use the method of interviewing and recording the interview it deems most appropriate to its~~
11 ~~needs. The Commission's Qualifications Appraisal Interview form may be used as a guide for the interviewer.~~

12
13 *History Note: Authority G.S. 17C-6; 17C-10;*

14 *Eff. January 1, 1981;*

15 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
16 *2019.*

17 *Amended Eff. October 1, 2022*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09B .0106

DEADLINE FOR RECEIPT: Friday, September 9, 2022

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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 line 6, insert an Oxford comma after “college”.

In Paragraph (a), who makes the determination as to a “comparable out of state agency”? Can reference be made to any NCDPI standards stating such?

Similarly, who makes such determination for “scholastically comparable” curriculum in Paragraph (c)?

In Paragraph (c), what is the criteria for an “authentic transcript”?

In Paragraph (c), who must “evaluate” the requirements?

Similarly, who must evaluate on-line or correspondence courses in Paragraph (d)?

Additionally, who makes the determination as to whether a diploma meets “state and local requirements” for any given jurisdiction?

What is the “DD214” form referenced in Paragraph (f). Does it have a name?

Please retype the rule accordingly and resubmit it to our office electronically.

1 12 NCAC 09B .0106 is amended as published in 36:19 NCR 1532-1554 as follows:

2
3 **12 NCAC 09B .0106 DOCUMENTATION OF EDUCATIONAL REQUIREMENTS**

4 (a) Each applicant for ~~employment as a certification as a criminal justice law enforcement officer shall furnish to the~~
5 ~~employing agency documentary evidence that the applicant has met the educational requirements for the criminal~~
6 ~~justice field of expected employment.~~ of high school, college or university graduation to the employing agency.

7 Documentary evidence of high school graduation consists of diplomas or transcripts from public schools or private
8 schools which meet standards adopted by either the North Carolina Department of Public Instruction, the Division of
9 Non-Public Instruction, or a comparable out of state agency; or such documentation as described in Paragraphs (b),
10 (c), (d), and (e) of this Rule. Documentary evidence of college or university graduation consists of diplomas or
11 transcripts from colleges or universities accredited as such by the Department of Education of the state in which the
12 institution is located, an accredited body recognized by either the U.S. Department of Education or Council for Higher
13 Education Accreditation, or the state university of the state in which the institution is located.

14 (b) High school diplomas earned through home school programs must be accompanied by a true and accurate or
15 certified transcript and must meet the requirements of Part 3 of Article 39 of Chapter 115C of the North Carolina
16 General Statutes, or a comparable out-of-state statute. Documentary evidence of educational requirements shall consist
17 of official transcripts of courses completed or diplomas received from a school that meets the approval guidelines of
18 either the North Carolina Department of Public Instruction, the Division of Non-Public Instruction, or a comparable
19 out of state agency. Documentary evidence of college or university graduation consists of diplomas or transcripts
20 from colleges or universities accredited by the Department of Education of the state in which the institution is located,
21 from an accredited body recognized by either the U.S. Department of Education or the Council for Higher Education
22 Accreditation, or from the state university of the state in which the institution is located. High school diplomas earned
23 through correspondence enrollment in an entity that charges a fee and requires the individual to complete little or no
24 education or coursework to obtain a high school diploma shall not be recognized toward these minimum educational
25 requirements.

26 (c) Diplomas earned from high schools or equivalent institutions outside of the United States must be translated into
27 English and be accompanied by an authentic transcript. Transcripts shall be evaluated to ensure they are scholastically
28 comparable to United States curriculum requirements. Documentary evidence of having received a high school
29 equivalency credential from the issuing state shall be satisfied by a certified copy of a high school equivalency
30 credential from the issuing state.

31 (d) High school diplomas earned through on-line or correspondence courses shall be evaluated on a case by case
32 basis. Such diplomas must meet state and local requirements for the jurisdiction from which the diploma was issued.

33 (e) Documentary evidence of having earned a High School Equivalency (HSE) diploma shall be satisfied by a certified
34 copy of a high school equivalency credential or an adult high school diploma, both of which must be recognized by
35 the U.S. Department of Education, the state Department of Education, or educational agency that is authorized in the
36 state to issue High School Equivalency (HSE) diplomas.

1 (f) Documentary evidence of the attainment of satisfactory scores on any military high school equivalency
2 examination is acceptable as evidence of high school graduation if verified by a true copy of the veteran's DD214.

3
4 *History Note: Authority G.S. 17C-6; 17C-10;*

5 *Eff. January 1, 1981;*

6 *Amended Eff. April 1, 2018; February 1, 2016; November 1, 2015; June 1, 2012; August 1, 2000;*

7 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
8 *2019.*

9 *Amended Eff. October 1, 2022*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09B .0111

DEADLINE FOR RECEIPT: Friday, September 9, 2022

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 Paragraph (a), how is “shall not have committed” determined? What is the statutory authority for making this determination? By what criteria?

In line 6, insert an Oxford comma after “federal”.

Regarding the Subparagraphs in Paragraph (a), change the spacing so the numbering is one tab from Paragraph (a).

In Subparagraph (7), separate “Class A Misdemeanor” and “Class B Misdemeanor”, as each are defined separately. Also, capitalize each “Misdemeanor” accompanied by “Class A” or “Class B”.

Does G.S. 17C-2 need to be cited as authority?

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel

Date submitted to agency: September 2, 2022

1 12 NCAC 09B .0111 is amended as published in 36:19 NCR 1532-1554 as follows:

2
3 12 NCAC 09B .0111 CRIMINAL HISTORY RECORD ~~MINIMUM STANDARDS FOR LAW~~
4 ~~ENFORCEMENT OFFICERS~~

5 (a) Consistent with and subject to the requirements of 12 NCAC 09A .0204, every law enforcement officer employed
6 or certified in North Carolina shall not have committed or been convicted by a local, state, federal or military court
7 of. In addition to the requirements for criminal justice officers contained in Rule .0101 of this Section, every law
8 enforcement officer employed by an agency in North Carolina shall:

9 (1) ~~not have committed or been convicted of:~~

10 (1) ~~(a)~~ a felony;

11 (2) ~~(b)~~ a crime for which the punishment could have been imprisonment for more than two years;

12 (3) ~~(c)~~ a crime or unlawful act defined as a "Class B misdemeanor" within the five year period
13 prior to the date of ~~application~~ certification for employment;

14 (4) a crime or unlawful act defined as a "Class B Misdemeanor" and which occurred after the
15 date of certification;

16 (5) ~~(d)~~ four or more crimes or unlawful acts defined as "Class B misdemeanors" regardless of the
17 date of conviction;

18 (6) ~~(e)~~ four or more crimes or unlawful acts defined as "Class A misdemeanors" except the
19 applicant may be employed if the last conviction occurred more than two years prior to the
20 date of ~~certification~~ application for employment; or

21 (7) ~~(f)~~ a combination of four or more "Class A or B Misdemeanors" regardless of the date;

22 (8) for personnel who are authorized to carry a firearm in the execution of their duties, an
23 offense that, pursuant to 18 USC 922(g)(8), would prohibit the possession of a firearm or
24 ammunition. ammunition;

25 (b) The requirements of this Rule shall be applicable at all times during which the officer is certified by the
26 Commission and shall also apply to all applications for certification.

27 (2) ~~be a high school, college, or university graduate or have passed the General Educational~~
28 ~~Development Test indicating high school equivalency; and~~

29 (3) ~~satisfactorily complete the employing agency's in service firearms training program as prescribed~~
30 ~~in 12 NCAC 09E .0105 and .0106. Such firearms training compliance must have occurred prior to~~
31 ~~submission of the application for appointment to the Commission and must be completed using the~~
32 ~~agency approved service handgun(s) and any other weapon(s) that the applicant has been issued or~~
33 ~~authorized to use by the agency.~~

34
35 *History Note: Authority G.S. 17C-2; 17C-6; 17C-10;*
36 *Eff. January 1, 1981;*

1 *Amended Eff. November 1, 2015; April 1, 2009; August 1, 1998; December 1, 1987; October 1,*
2 *1985; January 1, 1985; January 1, 1983;*
3 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
4 *2019.*
5 *Amended Eff. October 1, 2022*
6

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09B .0114

DEADLINE FOR RECEIPT: Friday, September 9, 2022

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:

What is marked as Subitem (13) is not a rule regarding commandments ("shall") and is separate from the Paragraph in lines 4-5. Consider making it a new Paragraph, marking the Paragraph in lines 4-5 as Paragraph (a) and change (13) to Paragraph (b).

In Item (8), remove "and".

In Item (11), can a definition or reference be made to any other authority for the definition of "good moral character"? Is this covered in 12 NCAC 09B .0101(3)?

Also, what does "and later court decisions" mean? How can this be applied?

In Subitems (12)(a)-(d), were the changes from "5" days to "30" days done after publication in the Register? If so, are these substantive changes?

In Subitems (12)(a) and (b), place a comma after "event" to make a proper restrictive clause.

In Subitem (12)(c), is the rule intended to only restrict "officer(s)", rather than the two other positions, "supervisor" and "administrator", listed at the beginning of the rule?

At the end of Subitem (12)(d), add an "and".

Subitem (12)(f) does not specifically relate to notifications which shall be made in (12). Consider changing it to Item (13).

Please retype the rule accordingly and resubmit it to our office electronically.

12 NCAC 09B .0114 is amended with changes as published in 36:19 NCR 1532-1554 as follows:

12 NCAC 09B .0114 MINIMUM STANDARDS FOR LOCAL CONFINEMENT PERSONNEL

~~In addition to the requirements for criminal justice law enforcement officers contained in Rule .0101 of this Section,~~
Every officer, supervisor, or administrator employed by a local confinement facility in North Carolina shall:

~~(1) not have committed or been convicted of:~~

~~(a) a felony; or~~

~~(b) a crime for which the punishment could have been imprisonment for more than two years;~~
~~or~~

~~(c) a crime or unlawful act defined as a "Class B misdemeanor" within the five year period prior to the date of application for employment; or~~

~~(d) four or more crimes or unlawful acts defined as "Class B misdemeanors" regardless of the date of conviction; or~~

~~(e) four or more crimes or unlawful acts defined as "Class A misdemeanors" except the applicant may be employed if the last conviction occurred more than two years prior to the date of application for employment;~~

~~(2) be a high school, college, or university graduate or have passed the General Educational Development Test indicating high school equivalency.~~

(1) be a citizen of the United States;

(2) be at least 20 years of age;

(3) be a high school graduate, or the equivalent as defined in 12 NCAC 09B .0106;

(4) have been fingerprinted by the employing agency in the manner provided in 12 NCAC 09B .0103;

(5) have had a medical examination as required by 12 NCAC 09B .0104;

(6) have produced a negative result on a drug screen as described in 12 NCAC 09C .0310;

(7) have been administered a psychological screening examination in accordance with G.S. 17C-10(c). The psychological screening examination shall be valid for a period of one year from the date on which it was administered.

(8) have been interviewed as described in 12 NCAC 09B .0105; and

(9) have a background investigation conducted by the employing agency, including a personal interview as required by 12 NCAC .09B .0102;

(10) not have committed or been convicted of a crime or crimes as specified in 12 NCAC 09B .0111;

(11) be of good moral character as defined in : In re Willis 288 N.C. 1, 215 S.E. 2d 771 appeal dismissed 423 U.S. 976 (1975); State v. Harris, 216 N.C. 746, 6 S.E. 2d 854 (1940); In re Legg, 325 N.C. 658, 386 S.E. 2d 174(1989); in re Applicants for License, 143 N.C. 1, 55 S.E. 635 (1906); In re Dillingham, 188 N.C. 162, 124 S.E. 130 (1924); State v. Benbow, 309 N.C. 538, 308 S.E. 2d 647 (1983); and later court decisions.

(12) Make the following notifications:

- (a) within 30 5 days of the qualifying event notify the Standards Division and the appointing agency head in writing of all criminal offenses for which the officer is charged or arrested. This shall include traffic offenses identified in the Class B Misdemeanor Manual and offenses of driving under the influence (DUI) or driving while impaired (DWI);
- (b) within 30 5 days of the qualifying event notify the Standards Division and the appointing agency head in writing of all criminal offenses for which the officer pleads no contest, pleads guilty or of which the officer is found guilty. This shall include traffic offenses identified in the Class B Misdemeanor Manual and offenses of driving under the influence (DUI) or driving while impaired (DWI);
- (c) within 30 5 days of service, officers shall notify the Standards Division of all Domestic Violence Protective Order (G.S. 50B) and Civil No Contact Orders (G.S. 50C) that are issued by a judicial official against the officer;
- (d) within 30 5 days of the date the case was disposed of in court, the agency head, provided he or she has knowledge of the officer's arrests or criminal charges and final dispositions, shall also notify the Standards Division of arrests or criminal charges and final disposition;
- (e) within 30 5 days of the issuance of all Domestic Violence Protective Orders (G.S. 50B) and Civil No Contact Orders (G.S. 50C), the agency head, provided he or she has knowledge of the order, shall also notify the Standards Division of these orders.
- (f) The required notifications in this Rule shall be in writing and shall specify the nature of the offense or order, the court in which the case was handled, the date of the arrest, criminal charge, or service of the order, and the final disposition. The notification shall include a certified copy of the order or court documentation and final disposition from the Clerk of Court in the county of adjudication. The requirements of this Item shall be applicable at all times during which the officer is employed and certified by the Commission and shall also apply to all applicants for certification. Receipt by the Standards Division of a single notification, from the officer or the agency head, shall be sufficient notice for compliance with this Item.
- (13) The requirements of this Rule shall apply to all applicants for certification and shall also apply at all times during which the law enforcement officer is certified by the Commission.

History Note: Authority G.S. 17C-6; 17C-10;
Eff. January 1, 1981;
Amended Eff. April 1, 2018; October 1, 2017; September 1, 2001; April 1, 1999; January 1, 1995;
November 1, 1993; July 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,
2019;
Amended Eff. October 1, 2022

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09B .0116

DEADLINE FOR RECEIPT: Friday, September 9, 2022

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:

On the "Submission for Permanent Rule" form, an explanation in 9b is needed.

There should not be a space on line 8, page 1.

What is incorrectly marked as Item (14) (should be Item (13)) is not a rule that follows from "shall" and is different from the Paragraph in lines 5-7. Consider making it a new Paragraph, marking the Paragraph in lines 5-7 as Paragraph (a) and change (14) to Paragraph (b).

In line 6, capitalize "Juvenile Court Counsel" and "Chief Court Counselor".

In Item (3), what does "regionally accredited institution of higher learning" mean?

In Item (6), refer to the request below on 09C .0310. What is the statutory authority to establish a "negative result" and how is this defined?

In Item (11), can a definition or reference be made to any other authority for the definition of "good moral character"? Is this covered in 12 NCAC 09B .0101(3)? Also, what does "and later court decisions" mean? How can this be applied? At the end of Item (11), remove the period and replace it with a semi-colon,

In Subitems (12)(a)-(d), were the changes from "5" days to "30" days done after publication in the Register? If so, are these substantive changes? In Subitems (12)(a) and (b), place a comma after "event" to make a proper restrictive clause. In Subitem (12)(c), is the rule intended to only restrict "officer(s)", rather than the two other positions, "supervisor" and "administrator", listed at the beginning of the rule? At the end of Subitem (12)(d), add an "and". Subitem (12)(f) does not specifically relate to notifications which shall be made in (12). Consider changing it to Subitem (13).

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel

Date submitted to agency: September 2, 2022

12 NCAC 09B .0116 is amended with changes as published in 36:19 NCR 1532-1554 as follows:

**12 NCAC 09B .0116 MINIMUM STANDARDS FOR JUVENILE COURT COUNSELORS AND CHIEF
COURT COUNSELORS COURT COUNSELORS**

~~In addition to the requirements for criminal justice officers contained in Rule .0101 of this Section, every~~ Every
juvenile court counselor and chief court counselor employed by the North Carolina Department of Juvenile Justice
and Delinquency Prevention shall:

~~(1) not have committed or been convicted of:~~

~~(a) a felony;~~

~~(b) a crime for which the punishment could have been imprisonment for more than two years;~~

~~(c) a crime or unlawful act defined as a "Class B misdemeanor" within the five year period
prior to the date of application for employment;~~

~~(d) four or more crimes or unlawful acts defined as "Class B misdemeanors" regardless of the
date of conviction; or~~

~~(e) four or more crimes or unlawful acts defined as "Class A misdemeanors" except the
applicant may be employed if the last conviction occurred more than two years prior to the
date of application for employment; and~~

~~(2) have attained a bachelor's degree from a regionally accredited institution of higher learning.~~

~~(1) be a citizen of the United States;~~

~~(2) be at least 20 years of age;~~

~~(3) have attained a bachelor's degree from a regionally accredited institution of higher learning;~~

~~(4) have been fingerprinted by the employing agency in the manner provided in 12 NCAC 09B .0103;~~

~~(5) have had a medical examination as required by 12 NCAC 09B .0104;~~

~~(6) have produced a negative results on a drug screen as described in 12 NCAC 09C .0310;~~

~~(7) have been administered a psychological screening examination in accordance with G.S. 17C-10(c).
The psychological screening examination shall be valid for a period of one year from the date on
which it was administered;~~

~~(8) have been interviewed as described in 12 NCAC 09B .0105;~~

~~(9) use the method of documenting the results of the background investigation it deems most
appropriate to its needs in accordance with the Commission form. However, the Commission's
Mandated Background Investigation Form (F-8) must be used as a guide of minimum information
to be collected and recorded by the investigator for all other law enforcement officer applicants that
are regulated by the Commission;~~

~~(10) not have committed or been convicted of a crime or crimes as specified in 12 NCAC 09B .0111;~~

~~(11) be of good moral character as defined in : In re Willis 288 N.C. 1, 215 S.E. 2d 771 appeal dismissed
423 U.S. 976 (1975); State v. Harris, 216 N.C. 746, 6 S.E. 2d 854 (1940); In re Legg, 325 N.C. 658,~~

386 S.E. 2d 174(1989); in re Applicants for License, 143 N.C. 1, 55 S.E. 635 (1906); In re Dillingham, 188 N.C. 162, 124 S.E. 130 (1924); State v. Benbow, 309 N.C. 538, 308 S.E. 2d 647 (1983); and later court decisions.

(12) Make the following notifications:

(a) within 30 5 days of the qualifying event notify the Standards Division and the appointing agency head in writing of all criminal offenses for which the officer is charged or arrested. This shall include traffic offenses identified in the Class B Misdemeanor Manual and offenses of driving under the influence (DUI) or driving while impaired (DWI);

(b) within 30 5 days of the qualifying event notify the Standards Division and the appointing agency head in writing of all criminal offenses for which the officer pleads no contest pleads guilty or of which the officer is found guilty. This shall include traffic offenses identified in the Class B Misdemeanor Manual and offenses of driving under the influence (DUI) or driving while impaired (DWI);

(c) within 30 5 days of service, officers shall notify the Standards Division of all Domestic Violence Protective Order (G.S. 50B) and Civil No Contact Orders (G.S. 50C) that are issued by a judicial official against the officer;

(d) within 30 5 days of the date the case was disposed of in court, the agency head, provided he or she has knowledge of the officer's arrests or criminal charges and final dispositions, shall also notify the Standards Division of arrests or criminal charges and final disposition;

(e) within 30 5 days of the issuance of all Domestic Violence Protective Orders (G.S. 50B) and Civil No Contact Orders (G.S. 50C), the agency head, provided he or she has knowledge of the order, shall also notify the Standards Division of these orders.

(f) The required notifications in this Rule shall be in writing and shall specify the nature of the offense or order, the court in which the case was handled, the date of the arrest, criminal charge, or service of the order, and the final disposition. The notification shall include a certified copy of the order or court documentation and final disposition from the Clerk of Court in the county of adjudication. The requirements of this Item shall be applicable at all times during which the officer is employed and certified by the Commission and shall also apply to all applicants for certification. Receipt by the Standards Division of a single notification, from the officer or the agency head, shall be sufficient notice for compliance with this Item.

(14) The requirements of this Rule shall apply to all applicants for certification and shall also apply at all times during which the law enforcement officer is certified by the Commission.

History Note: Authority G.S. 17C-6;
Temporary Adoption Eff. April 15, 2003;
Eff. April 1, 2004;

1 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
2 *2019.*
3 *Amended Eff. October 1, 2022*
4
5
6

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09B .0117

DEADLINE FOR RECEIPT: Friday, September 9, 2022

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:

What is incorrectly marked as Subparagraph (14) is not a rule regarding commandments ("shall") and is separate from the Paragraph in lines 4-6. Consider making it a new Paragraph, marking the Paragraph in lines 4-6 as Paragraph (a) and change (14) to Paragraph (b).

In line 5, capitalize "Juvenile Justice Officer" since it is a defined title used to identify a specific position.

In Item (3), remove the comma to allow 12 NCAC 09B .0106 to define "high school graduate" as well as "the equivalent". Additionally, who makes the determination as to what an "equivalent" to a high school graduate is? Is there a standard?

In Item (6), refer to the request below on 09C .0310. What is the statutory authority to establish a "negative result" and how is this defined?

In Item (8), remove the "and".

In Item (9), what is the first sentence requiring? It is ambiguous as to whether any requirement is being made on the positions referenced.

In Item (11), can a definition or reference be made to any other authority for the definition of "good moral character"? Is this covered in 12 NCAC 09B .0101(3)? Also, what does "and later court decisions" mean? How can this be applied? At the end of Item (11), remove the period and replace it with "; and".

In Subitems (12)(a)-(d), were the changes from "5" days to "30" days done after publication in the Register? If so, are these substantive changes? In Subitems (12)(a) and (b), place a comma after "event". In Subitem (12)(c), is the rule intended to only restrict "officer(s)", rather than the two other positions, "supervisor" and "administrator", listed at the beginning of the rule? At the end of Subitem (12)(d), add an "and".

Lawrence R. Duke
Commission Counsel

Date submitted to agency: September 2, 2022

Similarly to the first request in this Rule, Subitem (12)(f) does not specifically relate to notifications which shall be made in (12). Consider changing it to Item (13).

Why is G.S. 17C-2 cited as authority?

Please retype the rule accordingly and resubmit it to our office electronically.

12 NCAC 09B .0117 is proposed amended with changes as published in 36:19 NCR 1532-1554 as follows:

12 NCAC 09B .0117 MINIMUM STANDARDS FOR JUVENILE JUSTICE OFFICERS

~~In addition to the requirements for criminal justice officers contained in Rule .0101 of this Section, every~~ Every juvenile justice officer employed by the North Carolina Department of Juvenile Justice and Delinquency Prevention shall:

~~(1) not have committed or been convicted of:~~

~~(a) a felony;~~

~~(b) a crime for which the punishment could have been imprisonment for more than two years;~~

~~(c) a crime or unlawful act defined as a "Class B misdemeanor" within the five year period prior to the date of application for employment;~~

~~(d) four or more crimes or unlawful acts defined as "Class B misdemeanors" regardless of the date of conviction; or~~

~~(e) four or more crimes or unlawful acts defined as "Class A misdemeanors" except the applicant may be employed if the last conviction occurred more than two years prior to the date of application for employment; and~~

~~(2) be a high school, college, or university graduate or have passed the General Equivalency Development Test indicating high school equivalency.~~

(1) be a citizen of the United States;

(2) be at least 20 years of age;

(3) be a high school graduate, or the equivalent as defined in 12 NCAC 09B .0106;

(4) have been fingerprinted by the employing agency in the manner provided in 12 NCAC 09B .0103;

(5) have had a medical examination as required by 12 NCAC 09B .0104;

(6) have produced a negative results on a drug screen as described in 12 NCAC 09C .0310;

(7) have been administered a psychological screening examination in accordance with G.S. 17C-10(c). The psychological screening examination shall be valid for a period of one year from the date on which it was administered.

(8) have been interviewed as described in 12 NCAC 09B .0105; and

(9) use the method of documenting the results of the background investigation it deems most appropriate to its needs in accordance with the Commission form. However, the Commission's Mandated Background Investigation Form (F-8) must be used as a guide of minimum information to be collected and recorded by the investigator for all other law enforcement officer applicants that are regulated by the Commission;

(10) not have committed or been convicted of a crime or crimes as specified in 12 NCAC 09B .0111;

(11) be of good moral character as defined in : In re Willis 288 N.C. 1, 215 S.E. 2d 771 appeal dismissed 423 U.S. 976 (1975); State v. Harris, 216 N.C. 746, 6 S.E. 2d 854 (1940); In re Legg, 325 N.C. 658, 386 S.E. 2d 174(1989); in re Applicants for License, 143 N.C. 1, 55 S.E. 635 (1906); In re

- 1 Dillingham, 188 N.C. 162, 124 S.E. 130 (1924); State v. Benbow, 309 N.C. 538, 308 S.E. 2d 647
2 (1983); and later court decisions.
- 3 (12) Make the following notifications:
- 4 (a) within 30 5 days of the qualifying event notify the Standards Division and the appointing
5 agency head in writing of all criminal offenses for which the officer is charged or arrested.
6 This shall include traffic offenses identified in the Class B Misdemeanor Manual and
7 offenses of driving under the influence (DUI) or driving while impaired (DWI);
- 8 (b) within 30 5 days of the qualifying event notify the Standards Division and the appointing
9 agency head in writing of all criminal offenses for which the officer pleads no contest,
10 pleads guilty or of which the officer is found guilty. This shall include traffic offenses
11 identified in the Class B Misdemeanor Manual and offenses of driving under the influence
12 (DUI) or driving while impaired (DWI);
- 13 (c) within 30 5 days of service, officers shall notify the Standards Division of all Domestic
14 Violence Protective Order (G.S. 50B) and Civil No Contact Orders (G.S. 50C) that are
15 issued by a judicial official against the officer;
- 16 (d) within 30 5 days of the date the case was disposed of in court, the agency head, provided
17 he or she has knowledge of the officer's arrests or criminal charges and final dispositions,
18 shall also notify the Standards Division of arrests or criminal charges and final disposition;
- 19 (e) within 30 5 days of the issuance of all Domestic Violence Protective Orders (G.S. 50B)
20 and Civil No Contact Orders (G.S. 50C), the agency head, provided he or she has
21 knowledge of the order, shall also notify the Standards Division of these orders.
- 22 (f) The required notifications in this Rule shall be in writing and shall specify the nature of the
23 offense or order, the court in which the case was handled, the date of the arrest, criminal
24 charge, or service of the order, and the final disposition. The notification shall include a
25 certified copy of the order or court documentation and final disposition from the Clerk of
26 Court in the county of adjudication. The requirements of this Item shall be applicable at all
27 times during which the officer is employed and certified by the Commission and shall also
28 apply to all applicants for certification. Receipt by the Standards Division of a single
29 notification, from the officer or the agency head, shall be sufficient notice for compliance
30 with this Item.
- 31 (14) The requirements of this Rule shall apply to all applicants for certification and shall also apply at all
32 times during which the law enforcement officer is certified by the Commission.

34 *History Note: Authority G.S. 17C-2; 17C-6; 17C-10;*
35 *Temporary Adoption Eff. April 15, 2003;*
36 *Eff. April 1, 2004;*
37 *Amended Eff. November 1, 2015;*

1 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
2 *2019.*
3 *Amended Eff. October 1, 2022*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09B .0314

DEADLINE FOR RECEIPT: Friday, September 9, 2022

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 Paragraph (a), how shall the “courses... provide the trainee with the skills and knowledge to perform the duties...”? Is there a reference to the content in the course or other requirements as to the substantive material which must be taught?

What is the “comprehensive written or online examination” referenced in Paragraph (a)? Can reference to its contents or requirements be made in this rule?

Similarly, can reference be made to “probationary or general law enforcement certification” in order to avoid any confusion?

In Paragraph (e) and its Subparagraphs, fully state “CJ Standards Division” and “NC Justice Academy”.

Subparagraphs (e)(1) and (2) should be indented by an additional tab.

At the end of Subparagraph (e)(1), add “and”.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel

Date submitted to agency: September 2, 2022

12 NCAC 09B .0314 is amended with changes as published in 36:19 NCR 1532-1554 as follows:

12 NCAC 09B .0314 CERTIFICATION OF DIVERSION INVESTIGATORS AND SUPERVISORS

(a) The diversion training courses for investigators and supervisors shall provide the trainee with the skills and knowledge to perform the duties of a law enforcement Diversion Investigator or Supervisor. The diversion training course for investigators shall be 20 classroom hours. The diversion training course for supervisors shall be administered in a four hour online training course. To be certified as a Diversion Investigator or Diversion Supervisor the trainee shall complete the respective diversion training course and achieve a minimum score of 70 percent on the comprehensive written or online examination.

(b) Applications for Diversion Investigator or Diversion Investigator Supervisor Certification shall be submitted to the Standards Division within 60 days of the date the applicant passed the State comprehensive examination administered at the conclusion of the Commission-accredited diversion training program. Persons having completed the Commission-accredited diversion training course and not having submitted the application within 60 days of the date the applicant passed the State comprehensive examination shall complete a subsequent Commission-accredited diversion training course in its entirety.

(c) Only a Sheriff, deputy sheriff, or law enforcement officer certified or appointed through the North Carolina Criminal Justice Education and Training Standards or North Carolina Sheriffs' Education and Training Standards Commissions and employed by a law enforcement agency shall be enrolled in a diversion training course. A trainee shall not be certified as a Diversion Investigator or Diversion Supervisor until the Basic Law Enforcement Training course, pursuant to Rule .0205 of this Subchapter, has been completed with passing scores and probationary or general law enforcement certification has been granted. Sheriffs and appointed deputy sheriffs shall be allowed to participate in the diversion training courses on a space available basis at the discretion of the Diversion Training Course School Director without having enrolled in, or having completed with passing scores, the Basic Law Enforcement Training course, pursuant to Rule .0205 of this Subchapter and 12 NCAC 09G .0411 and without being currently certified in a probationary status or holding justice officer certification.

(d) Special Agents with the North Carolina State Bureau of Investigation deemed Diversion Investigators as of July 1, 2019, shall be automatically granted certification under this Rule for a period of three years.

(e) The term of certification as a Diversion Investigator or Supervisor shall be three years. An application for renewal shall be received by the CJ Standards Division within 60 days from prior to the current certification date and shall include the following:

(1) proof that the applicant completed the one hour Diversion Investigator or Diversion Supervisor refresher training as provided by the NC Justice Academy.

(2) a completed Diversion Investigator/Supervisor Application, Form F-22(LE).

~~(f)~~(e) The "Diversion Training Courses" required for certification, authored by the North Carolina State Bureau of Investigation and published by the North Carolina Justice Academy, shall include the topic areas as outlined in G.S. 17C-6(a)(19) and is to be applied as the basic curriculum for the Diversion Training Courses for Diversion Investigator

1 and Diversion Supervisors as administered by the Commission. Copies of this publication may be inspected at the
2 office of the agency:

3 Criminal Justice Standards Division
4 North Carolina Department of Justice
5 1700 Tyron Park Drive
6 Post Office Drawer 149
7 Raleigh, North Carolina 27602

8 and obtained at cost from the Academy at the following address:

9 North Carolina Justice Academy
10 Post Office Box 99
11 Salemburg, North Carolina 28385
12

13 *History Note: Authority G.S. 17C-6; 17E-4; 90-113.74E;*
14 *Eff. February 1, 2020;*
15 *Amended Eff. January 1, 2021.*
16 *Amended Eff. October 1, 2022*
17

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09C .0701

DEADLINE FOR RECEIPT: Friday, September 9, 2022

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 Paragraph (a), place a comma after “17C-10.1. Additionally, use the full name for “Standards Division” and “BLET”. Are the contents or substantive requirements of Form F-21 prescribed by statute or another rule?

In Paragraph (c), remove the commas around “pursuant to... this Chapter” for consistency and as an essential portion of the sentence. In Subparagraph (c)(1), what is the “formal military basic training program” pursuant to? Can a reference be used to describe what this is? Also, is this exclusive to the United States? What is a “military police occupational specialty rating” pursuant to? Can a reference be used to describe what this is? Also, is this exclusive to the United States?

In Subparagraph (c)(2), what are “military police officer duties” pursuant to? Can a reference be used to describe what this is? Also, is this exclusive to the United States?

In Subparagraph (c)(3), what is the standard used and who determines whether the “substantially equivalent” expectation is met?

Subparagraph (d) is confusing and calls into question what is independent and dependent or modifying each other. Consider the following language: “Within one year of being issued certification pursuant to Paragraph (c) of this Rule, an applicant shall complete, with passing scores pursuant to Rule .0405(b) of this Subchapter, the following:”.

In Paragraph (f) and its Subparagraphs, what is the definition of “current or honorably discharged military police officer” or what is this pursuant to? Can a reference be used to describe who is being affected by the requirement? Also, what are the “duties” referenced in Subparagraph (f)(2)? Additionally, add an “and” at the end of Subparagraph (f)(2).

Consider altering the language of Paragraph (g) in a similar fashion to Paragraph (d).

In Subparagraph (d)(2), delete “achieve a passing score” as this is redundant.

Lawrence R. Duke
Commission Counsel

Date submitted to agency: September 2, 2022

In Paragraph (h), what is “substantially equivalent combined military training and experience” and who makes such a determination?

In Paragraph (i), spell out each of the branches of the National Guard individually and place commas between each of the three agencies.

In Paragraph (j), lines 26 and 27, change “the units” to “each unit” to avoid ambiguity with the use of plurals.

In Paragraph (k), what is the definition of an “active duty military police officer” or what is this pursuant to? Can a reference be used to describe what this is? Also, is this exclusive to the United States?

Additionally, in line 30, move “under this Rule” after “certification” to ensure the certification is what is being dictated under this Rule, rather than being on active duty.

Further, in line 35, is the reference to “Rule .0105 of this Chapter” correct? The Chapter includes multiple rules .0105. Consider “Subchapter”. Also, place a comma after “Rule .0105 of this (Subchapter)” to make the clause a proper aside and not break up the rest of the sentence or its modification.

Please retype the rule accordingly and resubmit it to our office electronically.

1 12 NCAC 09B .0701 is adopted as published in 36:19 NCR 1532-1554 as follows:

2
3 **SECTION .0700 – MILITARY TRAINED APPLICANT**
4

5 **12 NCAC 09B .0701 MILITARY TRANSFEREES**

6 (a) Pursuant to G.S. 17C-10.1 a current or honorably-discharged former military police officer seeking certification
7 as a law enforcement officer shall submit to the Standards Division a completed Form F-21, Request for Military
8 Evaluation for BLET, and copies of the individual's military law enforcement training and personnel records and
9 Certificate of Release or Discharge documentation from Military Service. Form F-21 is located on the agency's
10 website: [http://www.ncdoj.gov/getdoc/f7c44036-d56a-4c12-90a3-d73a8806493f/F-21_Military-EvalCJ_6-8-](http://www.ncdoj.gov/getdoc/f7c44036-d56a-4c12-90a3-d73a8806493f/F-21_Military-EvalCJ_6-8-15.aspx)
11 [15.aspx](http://www.ncdoj.gov/getdoc/f7c44036-d56a-4c12-90a3-d73a8806493f/F-21_Military-EvalCJ_6-8-15.aspx).

12 (b) Upon receipt of the documentation prescribed in Paragraph (a) of this Rule, the Standards Division shall evaluate
13 the applicant's combined training and experience pursuant to G.S. 93B-15.1 to determine if the applicant's combined
14 training and experience is substantially equivalent to or exceeds the minimum requirements for employment as a law
15 enforcement officer as prescribed in Rules 09B .0101, 09B .0111, and 09B .0403 of this Subchapter.

16 (c) The Division shall issue probationary certification, pursuant to Rule 09C .0303 of this Chapter, to an applicant
17 who meets the following requirements:

- 18 (1) has completed a formal military basic training program and been awarded a military police
19 occupational specialty rating;
- 20 (2) has performed military police officer duties in any of the branches of military service, active or
21 reserve, or the National Guard for not less than two of the five years preceding the date of application
22 for certification as a law enforcement officer; and
- 23 (3) whose combined training and experience is determined to be substantially equivalent to or exceeds
24 the minimum expectations for employment as a law enforcement officer as prescribed in Rules
25 .0101, .0111, and .0403(2) of this Subchapter.

26 (d) An applicant certified pursuant to Paragraph (c) of this Rule shall complete, within one year of being issued
27 certification, the following with passing scores pursuant to Rule .0405(b) of this Subchapter:

- 28 (1) the Basic Law Enforcement Training topics pursuant to Rule .0205(b)(1) and (b)(6)(A) of this
29 Subchapter; and
- 30 (2) the Basic Law Enforcement Training comprehensive written exam pursuant to Rule .0406(d) of this
31 Subchapter.

32 (e) An applicant certified pursuant to Paragraph (c) of this Rule shall complete the in-service Firearms Training and
33 Qualification course pursuant to 12 NCAC 09E .0106 prior to beginning employment with the hiring agency.

34 (f) The Division shall issue probationary certification to a current or honorably discharged military police officer
35 whose combined training and experience is not substantially equivalent to or does not exceed the minimum
36 requirements for employment as a law enforcement officer, as specified in Rule .0403 of this Subchapter, if the
37 applicant meets the following requirements:

- (1) completed a formal military basic training program and been awarded a military police occupational specialty rating;
 - (2) performed military police officer duties in any of the branches of military service, active or reserve, or the National Guard for not less than two of the five years preceding the date of application for certification as a law enforcement officer;
 - (3) meets the minimum standards for law enforcement officers as prescribed in Rule .0101 and Rule .0111 of this Subchapter;
 - ~~(4) completes with passing scores pursuant to Rule .0405(b) of this Subchapter the Basic Law Enforcement Training topics pursuant to Rule .0205(b)(1), (b)(2)(F), (b)(3)(B), (b)(3)(D), (b)(4)(F), (b)(5)(C), (b)(5)(G), (b)(6)(A), and (b)(7) of this Subchapter; and~~
 - ~~(5) achieves a passing score on the Basic Law Enforcement Training comprehensive written examination pursuant to Rule .0406(d) of this Subchapter.~~
- (g) An applicant certified pursuant to Paragraph (f) of this Rule shall complete, within one year of being issued certification, the following with passing scores pursuant to Rule 0405(b) of this Subchapter;
- (1) the Basic Law Enforcement Training topics pursuant to Rule .0205(b)(1), (b)(2)(F), (b)(3)(B), (b)(3)(D), (b)(4)(E), (b)(5)(C), (b)(5)(G), (b)(6)(A), and (b)(7) of this Subchapter; and
 - (2) achieve a passing score on the Basic Law Enforcement Training comprehensive written examination pursuant to Rule .0406(d) of this Subchapter..
- (h) The Division shall waive any training topic in Paragraph ~~(f)(4)~~(g)(1) of this Rule if the applicant provides documentation indicating he or she has completed substantially equivalent combined military training and experience in that topic.
- ~~(i)(4)~~ Members of the Air/Army National Guard and Military Reserve Components who have performed as a military police officer for not less than 1,040 hours during the five years preceding the date of application for certification shall be deemed to satisfy the requirements of Paragraph (c)(2) and Paragraph (f)(2) of this Rule.
- ~~(j)(4)~~ An applicant who, after completing the required training in Paragraph (d)(1) or ~~(f)(4)~~ (g)(1) of this Rule, fails to achieve a passing score on the Basic Law Enforcement Training comprehensive written exam may be retested in the units the applicant failed. An applicant who fails three or more units must enroll in and complete with passing scores a subsequent delivery of the Basic Law Enforcement Training course in its entirety in order to be eligible for certification.
- ~~(k)(4)~~ An active duty military police officer who obtains certification while on active duty under this Rule may retain the certification for the duration of active duty provided the officer continues to perform military police officer duties and complies with the in-service training requirements, as specified in Rule .0105 of this Chapter. An active duty military police officer who is unable to complete annual in-service requirements due to deployment or overseas assignment shall have 12 months from the time the officer returns to the United States in which to complete the in-service training requirements, as specified in Rule .0105 of this Chapter for each year he or she was unable to complete due to overseas assignment. The officer shall retain the certification for a period of one year following separation from active duty.

1 ~~(1)(e)~~ When completing the required training topics specified in Paragraph (d)(1) or Paragraph ~~(f)(4)~~ (g)(1) of this
2 Rule, the individual shall meet all requirements specified in Rule .0203 and Rule .0405 of this Subchapter.

3
4 *History Note: Authority G.S. 17C-2; 17C-6; 17C-10; 93B-15.1;*

5 *Eff. July 1, 2016;*

6 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
7 *2019.*

8 *Amended Eff. October 1, 2022*
9

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09C .0310

DEADLINE FOR RECEIPT: Friday, September 9, 2022

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

The Subparagraphs (a)(1)-(6) should be aligned one tab to the right of Paragraph (a).

In Paragraph (a), change “shall have produced” to the present tense, “shall produce”, in order to avoid any issues with when such drug screen is to be produced. When must the drug screen be produced and what does “produced” entail? Also, what does “a negative result” mean? Paragraph (d) references “positive”, but not “negative”. What is the standard for a “negative result” in relation to, say, Subparagraph (a)(4)’s threshold values for the drugs listed in Subparagraph (a)(3)? In Subparagraph (a)(3), what is meant by “chain of custody”? Can reference be made to describe the phrase? Also, what is CJETS’s statutory authority to regulate a testing facility after collection of the sample? At the end of Subparagraph (a)(3), add an “and”.

In the second sentence of Paragraph (b), lines 25 through 27, what is being regulated under this rule? Are applicants being given the opportunity to explain any positive results? Is this only pursuant to this Rule? Must a determination by the medical review officer be made? Also, should “medical review officer” be capitalized, as it is a title used to identify a specific position.

Similar to the second sentence of Paragraph (b), lines 25 through 27, in Paragraph (c), lines 30 through 32, what is being regulated under this rule?

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel

Date submitted to agency: September 2, 2022

12 NCAC 09C .0310 is amended as published in 36:19 NCR 1532-1554 as follows:

12 NCAC 09C .0310 AGENCY REPORTING OF DRUG SCREENING RESULTS

(a) Every law enforcement officer shall have produced a negative result on a drug screen administered according to the following specifications:

- (1) the drug screen shall be a urine test consisting of an initial screening test using an immunoassay method and a confirmatory test on an initial positive result using a gas chromatography/mass spectrometry (GC/MS) or other initial and confirmatory tests authorized or mandated by the Department of Health and Human Services for Federal Workplace Drug Testing Programs;
- (2) a chain of custody shall be maintained on the specimen from collection to the eventual discarding of the specimen;
- (3) the drug screen shall test for the presence of at least cannabis, cocaine, phencyclidine (PCP), opiates, and amphetamines or their metabolites;
- (4) the test threshold values meet the requirements established by the Department of Health and Human Services for Federal Workplace Drug Testing Programs, as found in 82 FR 7920 (2017) incorporated by reference, including later amendments and editions found at no cost at <https://www.federalregister.gov/documents/2017/01/23/2017-00979/mandatory-guidelines-for-federal-workplace-drug-testing-programs>;
- (5) conduct the test within 90 days of certification;
- (6) the laboratory conducting the test shall be certified for federal workplace drug testing programs, and shall adhere to applicable federal rules, regulations, and guidelines pertaining to the handling, testing, storage, and preservation of samples.

(b) Each agency shall report in writing to the Criminal Justice Standards Division all refusals and all positive results of required drug screening obtained from applicants and lateral transfers. If the positive result were explained to the satisfaction of the agency's medical review officer, who shall be a licensed physician, the positive results are not required to be reported.

~~(c)(b)~~ Each agency, if it conducts a drug screen for in-service officers, shall report in writing positive results or refusals to submit to an in-service drug screening to the Criminal Justice Standards Division within 30 days of the positive result or refusal, unless the positive result has been explained to the satisfaction of the agency's medical review officer-officer, who shall be a licensed physician, to the extent the drug screen conducted conforms to the specifications of this Rule. 12 NCAC 09B .0101(5)(a), (b), (c), (d), and (f).

~~(d)(e)~~ For reporting purposes, a result is considered "positive" only in those cases where the drug screen reveals the presence of an illegal drug at a level equal to or greater than the threshold value as established by the Department of Health and Human Services for Federal Workplace Drug Testing Programs and incorporated by reference in this Rule.

1 ~~(c)(4)~~ All written reports required to be submitted to the Criminal Justice Standards Division by this Rule shall contain
2 the individual's name, date of birth, either the date the test was administered or the date of the refusal, and a copy of
3 the drug screen panel with the results of the medical officer review.
4

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

6 *Eff. July 1, 1990;*

7 *Amended Eff. October 1, 2018; May 1, 2009;*

8 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
9 *2019.*

10 *Amended Eff. October 1, 2022*